

South Asian Positions in the WTO Doha Round

In Search of A True Development Agenda

Volume 2

 **CUTS**
International

CUTS Centre for International
Trade, Environment & Environmental
CUTS CITEE



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*South Asian Positions
in the WTO Doha Round*

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Volume 2

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Table of Contents

Preface	i
Acknowledgements	v
Notes on Contributors	vi
Abbreviations & Acronyms	viii
Summary	1
 <i>Chapter 1</i>	 49
Special Products and Special Safeguard Mechanism in WTO Agriculture Negotiation <i>In Search of a Common South Asian Position – Mehnaz Ajmal</i>	
 <i>Chapter 2</i>	 121
Negotiations on Non-Tariff Barriers under NAMA <i>The Major South Asian Concerns – Chandan Mukherjee, Pranav Kumar and Simi T B</i>	
 <i>Chapter 3</i>	 177
Services Trade Negotiations after WTO Hong Kong Ministerial <i>The South Asian Perspective – Selim Raihan and M A Razzaque</i>	
 <i>Chapter 4</i>	 199
Hong Kong Duty-Free Quota-Free Market Access Decision <i>Implications for South Asian LDCs – Posh Raj Pandey</i>	
 <i>Chapter 5</i>	 239
Preference Erosion and Aid for Trade <i>A South Asian Perspective – Janaka Wijayasiri and Shihana Samad</i>	
 <i>Annexure 1</i> Hong Kong Ministerial Declaration	 303
 <i>Annexure 2</i> Recommendations of The Task Force on Aid for Trade	 357

Preface

CUTS Centre for International Trade, Economics & Environment (CUTS CITEE) had initiated the phase-I of collaborative project entitled, “WTO Doha Round & South Asia: Linking Civil Society with Trade Negotiations” (SAFIT- I) in January 2005 with support from Oxfam Novib, The Netherlands. The project was launched on the premises that the outcome of the Doha Round will have significant implications on international trade and national development, and this is more so for developing countries. Under SAFIT-I, research analysis on five key issues of ‘July Framework Agreement’ was undertaken. As an outcome of the project, a book entitled, ‘*South Asian Position in the WTO Doha Round: In Search of a True Development Agenda*’ was published, which was released at Hong Kong, during the 6th WTO Ministerial Conference.

As per the Framework Agreement, the Doha Round of negotiations was to come to an end by December 2005, when the sixth Ministerial Conference of the WTO took place at Hong Kong, China. However, given the realpolitik of negotiations, predictably the Doha Development Agenda (DDA) could not be concluded in Hong Kong Ministerial, but it did invite some more pertinent issues for future research and advocacy. Hence, post-Hong Kong becomes more challenging.

In the post-Hong Kong period, much remains to be done, particularly in settling the negotiating modalities in agriculture and non-agriculture market access (NAMA) and in putting some flesh onto the bones of General Agreement on Trade in Services (GATS). This unfinished business includes: intractable issues of the relevant liberalisation thresholds for developed and developing countries; the treatment of sensitive products; developing countries’ self-designated Special Products (SPs); the Special Safeguard Mechanism (SSM); and disciplines on food aid.

Since agriculture has become more complex an issue it would be beneficial to take up a focused study on SPs and SSM. Both SPs and SSM have been major demands of South Asian countries as they have large number of small and marginal farmers who are not in a position to face competition in the international market.

In NAMA, as in agriculture, the core modalities remain to be negotiated within the same time period, including the vexed questions of the number of coefficients in the ‘Swiss Formula’, the meaning of ‘less than full reciprocity’ for developing countries, the development of sectoral initiatives and the treatment of preference erosion.

In services, there seems to have been even a step backward. The new text, instead of obliging members to enter into plurilateral market access negotiations, simply requires that they “shall consider such requests”. Genuine progress in the GATS will call for an

intensified request-offer process augmented by action within plurilateral groups with shared sectoral interests, leading through to multilateral commitments. Opportunities might be taken to draw on approaches embodied in the Basic Telecommunications and Financial Services Agreements. Besides, there might be a role for some form of quantitative targets. None of these ideas was however advanced during Hong Kong Ministerial.

Even in trade facilitation, there remains considerable unfinished business. While negotiating modalities were broadly agreed prior to Hong Kong, developing countries are not ready to move to legal drafting on the substantive provisions of the agreement before further progress can be made on the issue of technical assistance and capacity building. In addition, further clarity is needed on how commitments from developing country would relate to issues such as their development needs and implementation capacities.

Finally, the commitment in respect to the market access for products of LDCs is weakened by the fact that the obligation relates only to the 97 percent of products originating from LDCs (defined at the tariff line level), and there is no deadline set for the call to progressively achieve compliance with the Hong Kong obligation. The three percent reservation would account for some 330 tariff lines and for some developing countries this could effectively deprive them of market access for all their products. For example, it would be highly restrictive on products such as textiles from Bangladesh.

At the centre of the challenge ahead is the fact that the impediments that Doha Round negotiations experienced before the Hong Kong Ministerial still maintain the *status quo*. Most critically, some parties (e.g. EU) say they will not move further on agriculture until others move on services and NAMA, while others (some developing countries) say just the opposite. Also, there are stand-offs within sectors, for example, in services, where developing countries' demands on Mode 4 (the movement of natural persons) are pitted against developed countries' expectations on Mode 3 (commercial presence). However, stand-offs are not an exclusively North-South affair. In agriculture, the demands of some countries of Organisation for Economic Cooperation and Development (OECD) notably the US that others (notably the EU) do more on market access are matched by demands from some (notably the EU) that others (notably the US) do more to discipline food aid.

Maintaining the positive outlook, the Hong Kong Ministerial text is seemingly a move forward over the "July Package", adopted at Geneva in 2004 and it gives rise to a lot of core issues for further study. There is much at stake if the momentum of multilateral liberalisation stalls: analysis reveals the risk of both major opportunities forgone and multilateral trading framework strained systematically. Hence, charting the way ahead will require that trade policy needs to be seen in a broader domestic context. This in turn recognises that market opening works best when it is backed up by sound macroeconomic policies, flexible labour markets, a culture of competition and strong institutions, etc. Facilitating through this lens, trade reform can be promoted as a necessary tool of growth and development rather than as a concession paid to others.

As a consequence, the Hong Kong Ministerial did offer some more crucial issues for future research and advocacy. Hence, based on this Ministerial Declaration, five cross-cutting core issues have been selected for further research work under phase II of this project (SAFIT-II). Research and advocacy were carried out by the five research partners in the five South Asian countries. The researchers tried to analyse the possible changes that could take place in the negotiating position of a country in the light of Hong Kong Ministerial Declaration which would help to further consolidate the positions of the South Asian countries.

The five different issues that are covered in this book as five different chapters are: Agriculture; Special Products (SPs) and Special Safeguard Measures (SSM), Non-tariff barriers (NTBs) on industrial products (as part of the NAMA negotiations), Services; Operationalisation of LDC modalities and Article IV of GATS; Developmental implications of duty-free and quota-free (DFQF) market access for LDCs; and Preference erosion and aid for trade. On each issue, the research has taken into consideration concerns and perceptions of different stakeholders such as NGOs, trade bodies, industry bodies, trade unions, WTO experts, women group, etc.

Chapter One on Agriculture begins with the importance of agriculture and attempts to identify the criteria for designation of SPs followed by a discussion on the importance of SSM. It further elaborates the modalities like type of SSM, elements in the design of the SSM, the duration of safeguard action (time limits), transparency provision etc. Chapter Two on Non-tariff Barriers on industrial products focus on the elements like identification, and categorisation of NTBs; examination of notified NTBs; different approaches to NTBs negotiations. Chapter Three discusses the broad focal elements including: operationalisation of Article IV such as special & differential treatment (S&DT) of GATS; operationalisation of LDCs Modalities; disciplines on domestic regulation and building regulatory capacity and targeted technical assistance to LDCs.

Developmental implications of duty-free and quota-free market access (DQFMA) for LDCs is discussed in Chapter Four that covers the issues like DQFMA from developed countries perspective; DQFMA from large developing countries like India; exclusion of certain products from DQFMA; Rules of Origin (RoO) and Financial and Technical support aimed at diversification of LDC economies. Chapter Five on Preference Erosion and Aid for Trade is based on elements including: the challenges faced by preference erosion; assessment of the problem; and using aid for trade for minimising loss as a result of preference erosion.

Thus, the book is a well researched effort by a group of civil society organisations (CSOs) in South Asia, to come out with a small but vital collection on five broad issues authored by experts in the field of trade and WTO issues. The increasing demand for better understanding and the lack of a readily accessible single source of information on these five specific topics have been the motivating force for the creation of this book. The core focus of this book is to provide state-of-the-art information on trade issues that are of vital importance within the South Asian region. Hence, the book would appeal to policy makers and others interested in the policy options in the South Asian region. No doubt, this research work will also be of great interest to research institutions, individuals working on policy related issues for further research and deliberations.

I hope that this book can be of great help in supplying ideas and concepts to bring about policy changes at the national and international levels that can better serve the purpose of building capacity of different stakeholders to deal with intricacies involved in trade issues affecting developing countries and their population. All suggestions and views are welcome for further improvement.

I appreciate and thank all those who strove hard in bringing out this valuable collection.

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Bipul Chatterjee
Deputy Executive Director

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Abbreviations and Acronyms

AAI	: Action Aid International
ACP	: African Caribbean and Pacific
ADP	: Annual Development Plan
AGOA	: African Growth and Opportunity Act
AMS	: Aggregate Measure of Support
AoA	: Agreement on Agriculture
APEC	: Asia Pacific Economic Cooperation
ASEAN	: Association of South East Asian Nations
BoP	: Balance of Payment
BOTT	: Board of Tariff and Trade
BPO	: Business Process Outsourcing
CAP	: Common Agricultural Policy
CARIBCAN	: Caribbean-Canada Trade Agreement
CBI	: Caribbean Basin Initiative
CENTAD	: Centre for Trade & Development
CFE	: Compensating Financing Facility
CECA	: Comprehensive Economic Cooperation Agreement
CMT	: Cut, Make and Trim
CNL	: Competitive Needs Limit
CPS	: Commodity Producing Sector
CTS	: Council of Trade in Services
CRPRID	: Centre for Research on Poverty Reduction and Income Distribution
CVD	: Countervailing Duties
DDA	: Doha Development Agenda
DDS	: Duty Drawback Scheme
DFID	: Department for International Development
DFQF	: Duty-free Quota-free
DSB	: Dispute Settlement Body
DSU	: Dispute Settlement Understanding
DWP	: Doha Work Programme
EBA	: Everything But Arms
ENT	: Economic Needs Test
EU	: European Union
FAO	: Food and Agriculture Organisation
FCI	: Food Corporation of India
FDI	: Foreign Direct Investment
FIC	: Forum Island Country

GATS	: General Agreement on Trade in Services
GATT	: General Agreement on Tariffs and Trade
GDP	: Gross Domestic Product
GPT	: Generalised Preferential Tariff
GSTP	: Global System of Trade Preferences
HPLCMS	: High Performance Liquid Chromatograph Mass Spectroscopy
HTSUS	: Harmonised Tariff Schedule of the United States
ICTSD	: International Centre for Trade and Sustainable Development
IGTN	: International Gender and Trade Network
IMF	: International Monetary Fund
IMS	: Aggregate Measure of Support
IPRs	: Intellectual Property Rights
ITA	: Information Technology Agreement
JDPC	: Jute Diversification Promotion Centre
LDCs	: Least Developed Countries
LDCT	: Least Developed Country Tariff
MCL	: Maximum Contingency Levy
MDGs	: Millennium Development Goals
MFA	: Multi Fibre Agreement
MFN	: Most Favoured Nation
MTDF	: Mid Term Development Framework
NAFTA	: North American Free Trade Agreement
NAMA	: Non Agricultural Market Access
NGMA	: Negotiating Group on Market Access
NGOs	: Non Governmental Organisations
NIP	: New Industrial Policy
NTBs	: Non-tariff barriers
NTCs	: Non Trade Concerns
NTMs	: Non Trade Measures
NWFP	: North West Frontier Province
ODA	: Official Development Assistance
OECD	: Organisation for Economic Cooperation and Development
OGL	: Open General Licence
OPEC	: Organisation of the Petroleum Exporting Countries
OTDS	: Overall Trade Distorting Support
QRs	: Quantitative Restrictions
PDS	: Public Distribution System
PECC	: Poverty Reduction Strategy Papers
PIHS	: Pakistan Integrated Household Survey
PPP	: Public Private Partnership
PSLM	: Pakistan Social and Living Standards Measurement

PTFY	: Polyester Texuarised Filament Yarn
PTY	: Polyester Texuarised Yarn
RCA	: Revealed Comparative Advantage
RIP	: Revised Industrial Policy
RMG	: Readymade Garments
RoO	: Rules of Origin
RSP	: Retail Sales Price
RTA	: Regional Trade Agreement
SA	: Social Accountability
SAARC	: South Asian Association for Regional Cooperation
SADC	: South African Development Community
SAFTA	: South Asian Free Trade Area
SAPTA	: South Asian Preferential Trade Agreement
SCM	: Subsidies and Countervailing Measures
S&DT	: Special and Differential Treatment
SFD	: Special Fund for Diversification
SME	: Square Metre Equivalent
SPS	: Sanitary and Phyto-Sanitary
SPV	: Service Provider Visa
SPs	: Special Products
SSA	: Sub-Saharan Africa
SSG	: Special Agricultural Safeguard
SSM	: Special Safeguard Mechanism
T&C	: Textiles & Clothing
TCBDB	: Trade Capacity Building Database
TBT	: Technical Barriers to Trade
TDAP	: Trade Development Authority of Pakistan
TF	: Trade Facilitation
TIM	: Trade Integration Mechanism
TNC	: Trade Negotiation Committee
TPA	: Trade Promotion Authority
TRAINS	: Trade Analysis and Information System
TRIMs	: Trade Related Investment Measures
TRIPs	: Trade Related Aspects of Intellectual Property Rights
TRQ	: Tariff Rate Quota
TRTA	: Trade Related Technical Assistance
UCF	: Unbleached Cotton Fabrics
UNCTAD	: United Nations Conference on Trade and Development
UNDP	: United Nations Development Programme
USC	: Utility Stores Coporation
USTR	: United States Trade Representative
WSSD	: World Summit on Sustainable Development
WTO	: World Trade Organisation
XPB	: Export Performance Benefit

Summary

Special Products and Special Safeguard Mechanism in WTO Agriculture Negotiation *In Search of a Common South Asian Position!*

Introduction

As part of the Doha Round of negotiation by the World Trade Organisation (WTO) Members on agriculture it has been agreed, while final modalities and measures are yet to be decided, that developing countries would have a category of agricultural products as Special Products (SPs), which would be exempted from tariff cuts (new market access commitments as part of a Doha deal) and there will also be Special Safeguard Mechanism (SSM), which would allow them to increase their import tariff levels when there is an import surge.¹ The objectives of these measures are to ensure food security and rural development in developing countries, and to protect the small farmers against the volatility of world prices in agricultural commodities.

Article 41 of the July 2004 Framework of the Doha Round of negotiation provides developing countries the responsibility to define SPs in order to designate certain agricultural products based on the criteria of food security, livelihood concerns and rural development.² Though explicitly provided, in actual practice it is a very complex and tricky process having many nuances. Till date a common consensus is yet to be developed in the Doha negotiation by the developing and developed countries for the designation of SPs and SSM.³

The Hong Kong Ministerial also allowed developing countries to self-designate an appropriate number of tariff lines (agricultural products) as SPs and develop SSM to protect farmers from import surges.⁴ The complexity of these issues can be gauged from Annex A of the Hong Kong Ministerial Conference of the WTO. A list of such complexities is given below.

- **Special Products:** Some Members have considered that SPs should be fully exempt from any new market access commitments whatsoever and have automatic access to the SSM. Others have argued there should be some degree of market opening for these products, albeit reflecting more flexible treatment than for other products.
- **Special Safeguard Mechanism:** There is no material disagreement with the view that it should have a quantity trigger. Nor is there disagreement with the view that it should at least be capable of addressing effectively what might be described as import “surges”. Divergence remains over whether, or if so how, situations that are lesser than “surge” are to be dealt with. There is, however, agreement that any remedy should be of a temporary nature. There remains strong divergence however

on whether, or if so how, a special safeguard should be “price-based” to deal specifically with price effects.

Given this context and complexity, there is a need to analyse the possible changes that could take place in the negotiating stance of some South Asian countries on SPs and SSM and to explore a common South Asian position at the Doha Round of negotiation on the basis of this analysis.

A Glimpse of the Sector in South Asia⁵

Bangladesh

The Bangladeshi economy is highly dependent on agriculture and this sector contributes around 31.6 percent of its gross domestic product (GDP). It provides 63.2 percent of employment. The crop sector contributes about 72 percent of total agricultural production and fisheries, livestock and forestry contribute about 10.33 percent, 10.11 percent and 7.33 percent, respectively. The agriculture sector as a whole contributes between 10 to 15 percent of the country’s total export. Principal crops are rice, jute, sugarcane, potato, pulses, wheat, tea and tobacco.

In the of four-year period prior to the WTO Agreement on Agriculture (AoA) coming into force, agricultural export increased to US\$139mn from US\$128mn. But during 1999-2002 there was a significant decline in such exports. On the other hand, import of agricultural products increased during this period: from US\$1.25bn to 1.62bn.⁶

Though Bangladesh will not have to take any tariff reduction commitments at this stage (as per the Doha Round of negotiation), in future there may be a pressure on the LDCs

Table 1: Bangladesh’s Export and Import of Agricultural Products (in US\$ mn)

Trade	1991-1994	1994-1998	1999-2002
Import			
<i>Cotton Lint</i>	89.8	167.6	197.9
<i>Rice</i>	5.6	186.7	193.4
<i>Sugar (Raw Equiv.)</i>	18.2	40.2	66.1
<i>Wheat + Flour, Wheat Equiv.</i>	164.2	185.5	259.5
<i>Dairy Products + Eggs</i>	69.0	58.0	84.0
<i>Fixed Vegetable Oils</i>	137.7	293.8	391.7
<i>Oil of Palm</i>	37.4	70.3	109.6
<i>Oil of Soya Beans</i>	94.6	217.1	273.8
<i>Oilseed Cake Meal</i>	0.1	1.7	19.1
<i>Oilseeds</i>	47.8	91.1	83.9
Export			
<i>Fruit + Vegetables</i>	5.9	11.3	12.1
<i>Jute</i>	75.2	82.4	69.2
<i>Tea</i>	39.7	35.0	16.6
<i>Source: http://www.wider.unu.edu/research/2004-2005/2004-2005-4/papers/chand.pdf</i>			

to take on at least some tariff reduction commitments on a 'voluntary' basis and to bind their tariffs at lower levels. Thus, although Bangladesh may not be directly concerned about SPs and SSM, it might still be in its interest to participate in this negotiation relating to setting the criteria for designation, identification and, treatment of SPs, setting up of SSM, and linking SPs and SSM.

India

According to the latest Trade Policy Review of India at the WTO (held in 2002), due to trade liberalisation and structural reforms the Indian economy is growing rapidly with real GDP growth averaging about six percent in the last five years.

India is the largest producer in the world of milk, fruits, pulses, cashew nuts, coconuts, cotton, sugar, sugarcane, peanuts, jute, tea and an assortment of spices, and the second largest producer of rice and wheat, and fourth largest in coarse grains. Agriculture sector is providing a source of livelihood/employment to about 70 percent of the rural households and seven percent of the urban households. However, its contribution to India's GDP is about 25 percent and it is steadily falling mainly because other sectors are growing faster than agriculture.

Trade liberalisation is taking place since 1991 and it has been gradually extended to agriculture since 1994. The government has lifted a number of restrictions on imports and exports of agriculture goods, simplified trade measures and reduced public interventions in domestic markets. Earlier India maintained quantitative restrictions on agricultural imports (and on many other non-agricultural commodities) in the form of import prohibitions and there was also a policy of import licensing or canalised imports for roughly 43 percent of its agricultural tariff lines (606 out of a total of 1398). Following a dispute at the WTO, India has removed QRs on 714 tariff lines (including non-agricultural products) from April 2000.

According to some experts, India's SPs would fall broadly in the categories of dairy and poultry products, vegetable and fruits, spices, cereals, oil seeds and edible oils and certain processed products. Incidentally, on many of these products India is the largest producer in the world – the important issue is that the productivity of these products produced in India is much lower than the world average. Secondly, being a vast country with extremely diverse agro-climatic zones, India requires designating a large number of agricultural products as SPs to protect the livelihood and food security concerns of small and marginal farmers and agricultural workers. It has been argued that India needs more than 350 agricultural tariff lines to be protected under SPs.

Nepal

Like other countries of South Asia, in Nepal agriculture is the main source of livelihood and contributes about 40 percent of its GDP. Approximately 76 percent of the population are employed in agriculture. The Nepalese agriculture sector is mostly affected due to cheap imports and as a result, the domestic price of rice declined from US\$0.30 in 1999 to US\$0.20 per kilogram in 2000 – 33 percent decrease in a year. This was true for many other agricultural commodities. Being a poor country, it may be good for poor consumers but most of these poor consumers are producers of agricultural commodities and thus, the Nepalese trade policy should have clear measures for balancing producer and consumer interests.

This fall in domestic prices of agricultural commodities is corroborated by a reduction in total land used for agricultural production. According to the United Nations Food and Agriculture Organisation (FAO), this fall was from 1,560,000 hectares in 2000 to 1,517,000 hectares in 2001. This data is compatible with the earlier data on the effect of import surges on prices of agricultural commodities – normally, there is a lag of one year to capture the impact of import surges of agricultural commodities on overall land use pattern in agriculture in a country. Therefore, Nepal can have an offensive interest on SSM.

Pakistan

In Pakistan, 66 percent living in the rural area are directly or indirectly dependent on agriculture.⁷ It contributes 25 percent to the GDP.⁸ Agricultural export is dominated by cotton despite the government's diversification efforts. Among the major agricultural imports is milk, cream and milk food for infants, unmilled wheat, dry fruits, tea, spices, soybean oil, palm oil, sugar and pulses. If one compares monthly imports in the years 2004 and 2005, one can find a continuous increase in the import of sugar, edible oils, milk and milk products, pulses, tea and dry fruits.

Table 2: Agricultural Growth in Pakistan (in percent)			
Year	Agriculture	Major Crops	Minor Crops
2000-01	-2.2	-9.9	-3.2
2001-02	-0.1	-2.5	-3.7
2002-03	4.1	6.9	0.4
2003-04	2.3	1.9	4.0
2004-05	6.7	17.8	3.0
2005-06 (P)	2.5	-3.6	1.6
<i>P= Provisional.</i>			
<i>Source: Federal Bureau of Statistics</i>			

Since 1994, Pakistan has progressively and substantially reduced agricultural tariffs. Maximum tariff rates were reduced from 92 percent to 70 percent in June 1994, and from 70 percent to 65 percent in June 1995, and further to 30 percent in June 2001. This effort culminated in June 2002

with the establishment of four maximum import tariff bands of 25, 20, 10 and 5 percent.

Pakistan has an offensive interest in market access and demands for a substantial overall reduction in tariffs with deeper cuts on higher tariffs through tiered formula. It also supports that the issue regarding tariff escalation on trade in agricultural commodities should be addressed. It calls for tariff capping at 100 percent for developed countries and 150 percent for developing countries.

Pakistan, being a member of the G-33 group of WTO Members, supports its stance on SPs and is also in favour of using SSM against import surges.

Sri Lanka

Agriculture contributes about 20 percent to the GDP and provides 37 percent employment. The major agricultural crops include rice, tea, spices, rubber, coconut and sugar. The agricultural policy of Sri Lanka has two dimensions – one for the plantation sector that includes exportable crops like tea, rubber and coconut while the other for non-plantation crops, which are mostly linked with the livelihood and food security of the small growers.

Tea contributes 70 percent of total agriculture exports. Being a small economy vulnerable to natural calamities, the import of agricultural products varies from year to year: in the 2002 it increased by more two percent in value terms.

Sri Lanka has taken a very keen interest in the debate on SPs and SSM during the Doha Round of negotiation. It has identified around 600 products covering about 10 percent of agricultural tariff lines as SPs and strongly supports this proposal at the negotiating platform along with other developing countries.⁹

According to Ruffer (2004), depending on the GDP and the population of the country, Sri Lanka can have SPs with about 23 percent of import value out of total agricultural imports. The crops which are proposed for designation as SPs are rice, coconut, poultry, milk, vegetables, cowpea, ground nuts, maize, red onions, chillies, tomato, capsicum, green gram, potatoes, sorghum, black gram, ginger, soya, big onions. Paddy, coconut, poultry, milk and vegetables, according to the order of importance, have top priority in Sri Lanka's list of SPs.¹⁰

The products proposed for SSM treatment are rice, coconut, vegetable oil, poultry, milk, cowpea, red onion, cereal, maize, chillies, tomatoes, cucumber, green gram, legumes, potatoes, black gram, soya, onion, kurakkan, fruits, cocoa, coffee, cardamom, nuts, root crop, pepper, nutmeg, meat bovine, meat swine, and sheep meat .

A Common South Asian Position

In exploring a common negotiating position of South Asian countries on SPs and SSM, one has to face two major complexities. The first is the politics of the region and the second is the economics of the region. Moreover, in case of other issues of agriculture negotiations, there are differences in the negotiating positions of net food importing countries (such as Bangladesh, Sri Lanka) and the net food exporting countries (such as India).

Therefore, it is imperative to develop a set of least common denominators and a collective stance, if not a common position. While the set of least common denominators can be derived from the various proposals put forward at the negotiating platform, a common position/collective stance should be based on political considerations, including the positions/stance of a country on other issues under negotiation.

Some Negotiating Proposals on SPs and SSM

July 2004 Agriculture Text: On July 28, 2004, G-33 presented a proposal called July Agriculture Text, demanding the implementation of SPs and SSM.¹¹ The Group wanted to take into consideration the food security, livelihood and rural development concerns of the developing countries while taking any decision, and asked for certain measures to be included in the revised draft.¹² They also stressed the need that developing countries should decide on their own the percentage of tariff lines to be considered as SPs.

Malaysia's Informal Paper: Malaysia in its paper circulated on March 23, 2006 proposed a series of quantitative/numerical indicators for the designation of SPs with a view that SPs have the potential to undermine the development agenda of exporting developing

Table 3: A Summary of Country Positions on SSM	
Country/Country Groups	Position
G-33, most developing countries including India	Comprehensive coverage of SSM. SSMs are fundamental to economic development and should not be constrained in its use. SSM should only be available to developing countries and Special Safeguard (SSG) should be abolished.
Developed and developing countries which are big agricultural exporters (Thailand, Australia, Canada), mostly Cairns Group Members (Brazil has been quite non-committal on SSMs)	G-33 position too protectionist, can hurt South-South farm trade. SSM should be limited in its use and coverage. SSG should be abolished.
EU and G-10	Generally not much objection to SSM but feel G-33 proposed coverage is somewhat protectionist. Want SSG to continue
US	Proposes extremely limited coverage and usage of SSM, hints at injury test, SSM should be abolished by the end of Doha Round, SSG should be abolished at the start of the Doha Round
<i>Source: Pal, Parthapratiim and Deepika Wadhwa, An Analysis of the Special Safeguard Mechanisms in the Doha Round of Negotiations: A Proposed Price-trigger-based Safeguard Mechanism, Working Paper No. 189, Indian Council for Research on International Economic Relations, New Delhi: 2006</i>	

countries since the income of many poor farmers in such countries depends on the production and export of one or two crops.¹³ It has been pointed out that the Malaysian proposal of numerical indicators to the staple crops (contributing to the nutritional requirement and livelihoods) denies the basic objectives of food security, livelihoods and rural development. It was also argued that a single set of thresholds would not be able to capture the diverse conditions that prevail in different developing countries.

United States' Proposal: US says that only five agricultural products (five agricultural tariff lines) should be designated as SPs. Products that are domestically or are close substitutes of products produced domestically can be designated as SPs. Those products that are exported from a country on an MFN basis and are net exported cannot be designated as SPs.¹⁴ An analysis of this proposal shows that it limits the scope of safeguards to the extent that alternatives to any such mechanism become ineffective. The US paper also made the applicability of SSM a bit difficult by linking the price-based trigger with the increase in volume through a market test. It also asks for the application of SSM to only those products where formula cuts have been applied.

Falconer's Paper: On May 5, 2006 New Zealand's Ambassador to the WTO Crawford Falconer and Chair of the Special Session of the Committee on Agriculture to the Trade Negotiations Committee in his personal capacity produced a paper and argued to include market access consideration into the basis for selecting SPs.¹⁵ In this paper, wide gaps

in the positions of different countries on the selection of SPs either on the basis of tariff cuts or on the basis of food security, livelihood security and rural development were identified. Falconer stressed that WTO Members before designating SPs must first agree on the modalities for cuts in agricultural tariffs and subsidies. The paper highlighted that the G-33 proposal that “at least 20 percent tariff lines are/should be eligible for SPs” would allow two (unnamed) developing countries to shield as much as 98.4 and 94 percent of the total value of their respective agricultural imports from Doha Round tariff cuts. This paper was criticised by the G-33 for unfavourable assessment of market access flexibilities that they are seeking, and also that it may allow some developing countries to shield a high proportion of agricultural imports from the tariff cuts. G-33 emphasised that the entire notion of SPs is not based on trade-related concerns, and thus, should not be viewed through the prism of commercial considerations.

World Bank’s Paper: A paper produced by the World Bank pointed out that “raising agricultural prices substantially through SPs would create large increase in poverty - sufficient in some cases to undo decades of development progress – and push the already poor into deeper poverty”.¹⁶ G-33 criticised this paper its assumptions and methodology and pointed out that the paper has misinterpreted the expected operations and impact of SPs and downplayed the importance of the agricultural sector in developing countries. G-33 said that such a paper could have adverse consequences for the Doha Round of negotiation. This paper ignores the reality of price declines, price volatility and predatory competition, including dumping of heavily subsidised products, which raises the risk levels of developing countries without providing an adequate safety mechanism or flexibility to deal with adverse impact of trade policy changes for vulnerable agriculture. G-33 has urged the World Bank to substantially modify this fundamentally flawed paper as a matter of priority.

Pakistan’s Paper: On January 19, 2007 Pakistan submitted a proposal with four specific indicators for the designation of SPs besides the three agreed criteria of food security, livelihood security and rural development.¹⁷ The first two indicators, i.e. share of the production of a product in total agricultural production of a country (as a proxy for rural development) and share of consumption of a product in total food consumption in a country (as a proxy for food security) show the relative importance of individual products in agricultural production and consumption, and their degree of importance to the agriculture base and consumption profile of a country. The third indicator, i.e. share of domestic consumption by domestic production of a product (as another proxy for food security) shows a relationship between the levels of domestic consumption as compared to domestic production and its sustainability in terms of self-sufficiency. The fourth indicator, i.e. share of employment in a product in the total agricultural labour force or in total agricultural employment (as a proxy for livelihood security) indicates the dependency ratio of the people on agriculture for their livelihood. Based on these it is proposed that countries according to their need should/may develop a minimum threshold for each indicator, and based on that threshold, a product should be selected as an SP and also by leaving policy space for any change in future.

This paper is too far from the G-33 proposal (20 percent agricultural tariff lines to be designated as SPs) and according to some experts, it actually supports the US position of designating not more than five agricultural tariff lines as SPs. It takes into consideration

some major indicators for determining SPs and ignores several sub-indicators as in the G-33 proposal. As prioritised crops in South Asia, the paper says that rice has high regional importance from the food security perspective, and rice, tomato, onion, citrus, apple and tea have high regional importance from the livelihood security perspective. Which regard to rural development, it categorises six products (cotton, potato, tomato, citrus, apple, milk) as highly important because of their potential for value addition. Based on this, it appears that Pakistan would only be able designate five crops (wheat, rice, citrus, apple and edible oils) as SPs. All other important crops having strong linkage with food security, livelihood security and rural development (despite having export potential) might be excluded from the list of SPs and would be subjected to tariff reduction. It ignores other products of regional importance such as maize, gram, groundnut, chilli, banana, other vegetables, hides and skin.

Conclusion

The Hong Kong Ministerial Declaration of the WTO Members has provided for the self-designation of SPs by WTO's developing country Members on the basis of the criteria of food security, livelihood security and rural development. Setting thresholds and identifying a set of specific indicators will limit developing countries' flexibility to choose products that will be designated as SPs. For instance, identifying SPs based on a product's contribution to national production alone will not be sufficient, as that will not cover a specific commodity group. There are agricultural commodities, which may not be a major contributor to a country's national production but crucial to meet food security, livelihood security and rural development.

In the light of all these reasons, a common South Asian position on SPs and SSM in agriculture needs to be developed, which can help these countries to play their legitimate part at the Doha Round of negotiation in order to:

- face the problem of cyclical food shortages in the region;
- provide protection to farmers and others to ensure better food security, livelihood security and rural development;
- have price control of agricultural commodities – domestically as well as internationally; and
- develop potential for the export of agriculture and value added agricultural products – policy space to become export competitive over time.

Endnotes

- 1 It is to be noted that SPs and SSM are different from “sensitive products”. Developed country Members of the WTO can determine certain agricultural products as sensitive, which will be subjected to a differential application of tariffs (as against the formula approach of tariff cuts on other agricultural products) along with the application of tariff rate quotas. However, there are divergent views among the developed country Members on the treatment of “sensitive products”. Many developing country Members of the WTO are of the view that the developed country Members should first determine (to be agreed by a consensus of all WTO Members) their “sensitive products” and then the developing country Members will determine their SPs and SSM – this sequencing is important.

- 2 WTO Members on July 31, 2004 agreed on a Framework package to take the Doha Round of negotiation forward. After almost a year of stalled negotiation following the breakdown of the talks at the Cancun Ministerial Conference, WTO Members had set the end of July 2004 as a deadline for agreeing on a negotiating framework package. The July 31 Framework has allowed countries to send an important political message that the Doha Round should be taken forward towards its conclusion.
- 3 See Annex A of the Hong Kong Ministerial Declaration of the WTO: Report by the Chairman of the Special Session of the Committee on Agriculture to the Trade Negotiations Committee.
- 4 Paragraph 7 of the Hong Kong Ministerial Declaration states that: “We also note that there have been some recent movements on the designation and treatment of SPs and elements of the SSM. Developing country Members will have the flexibility to self-designate an appropriate number of tariff lines as SPs guided by indicators based on the criteria of food security, livelihood security and rural development. Developing country Members will also have the right to have recourse to a Special Safeguard Mechanism based on import quantity and price triggers, with precise arrangements to be further defined. Special Products and Special Safeguard Mechanism shall be an integral part of the modalities and the outcome of negotiation in agriculture.”
- 5 As per the Doha Ministerial Declaration least developed country (LDC) Members of the WTO are exempted from taking any commitment on tariff cuts, etc on agricultural products. Provisions relating to SPs and SSM will not be applicable to them. Bangladesh and Nepal are two LDCs in South Asia. A glimpse of their agriculture sector is provided here. The reason is that in many respects the agriculture sector in developing countries in South Asia (India, Pakistan and Sri Lanka) resemble the conditions in Bangladesh and Nepal. At the same time, as part of the Doha Ministerial Declaration, these WTO Members (India, Pakistan and Sri Lanka) will have to undertake tariff reduction and other commitments on trade in agriculture products – thus, they have a strong case for availing SPs and SSM. This argument is, however, in no way an attempt to differentiate developing country Members of the WTO – such attempts have been made on many occasions and developing country Members of the WTO have resisted them in no uncertain terms.
- 6 <http://www.wider.unu.edu/research/2004-2005/2004-2005-4/papers/chand.pdf>
- 7 The Economic Survey of Pakistan, 2006-07
- 8 *Op. Cit.*
- 9 News Alert, Economic Intelligence Unit, The Ceylon Chamber of Commerce; December 2005, pp 2
- 10 Tim Ruffer, Special Products and Special Safeguard Mechanism – Criteria for the Selection of Products, Oxford Policy Management, 2004
- 11 A group of 42 developing countries that include Antigua and Barbuda, Barbados, Belize, Benin, Botswana, China, Cote d’IVOIRE, Congo, Cuba, Dominican Republic, Granada, Guiana, Haiti, Honduras, India, Indonesia, Jamaica, Kenya, Korea, Mauritius, Mongolia, Montserrat, Mozambique, Nicaragua, Nigeria, Pakistan, Panama, The Philippines, Peru, Saint Kitts, Saint Lucia, Saint Vincent and the Grenadines, Senegal, Sri Lanka, Suriname, Tanzania, Trinidad and Tobago, Turkey, Uganda, Venezuela, Zambia and Zimbabwe.
- 12 G-33 Issue statement calling for better treatment of SPs and SSM in July Agricultural Text, Geneva, July 28, 2004.
- 13 <http://www.ictsd.org/weekly/06-04-05/story2.htm>
- 14 JOB(06)/120, 3 May 2006, US Communication to the WTO Committee on Agriculture Special Session
- 15 Bridges Weekly Trade News Digest, May 10, 2006, Volume 10, Number 16, <http://www.ictsd.org/weekly/10.05.06/story1.htm>
- 16 <http://www.tradeobservatory.org/library.cfm?refID=89834>
- 17 Pakistan Paper on “SPs: possible elements for discussion”, shared by Ahmad Mukhtar, Commercial Secretary, Permanent Mission of Pakistan to the WTO, Geneva, Switzerland on Forum-on-Trade@yahoo.com

Negotiations on Non-Tariff Barriers under NAMA

The Major South Asian Concerns

Introduction

Countries bring into play various means to restrict imports, primarily to benefit their domestic industry. Import tariff had been one such principle mode of protectionism until the beginning of 1970's. The main objective was not financial but economic as tariff is levied with the purpose of not increasing a nation's revenue but to protect domestic industries from foreign competition. However, since the inception of the GATT in 1947, average tariffs on manufacturing imports have fallen from around 40 percent to 4.7 percent.

Meanwhile, when tariffs were being cut through successive rounds of GATT agreements, the countries began to resort to another form of administered protection known as Non-Tariff Barriers (NTB). They consist of all barriers to trade, other than tariffs, and have effects similar to those of tariffs.

Definition and Classification

The definition of NTBs remained a problem that needed to be addressed. Major criteria used to define NTBs were its trade-restricting nature and stringency. Researchers like Baldwin (1970), Walter (1972), Mayer & Gevel (1973), and Deardorff & Stern (1997) have provided their definitions to NTBs.¹ The most general definition is credited to Walter (1972), who defines it as any measure that distorts the volume of trade, the composition of the basket of goods traded between countries, or the direction in which goods are traded.

Moreover, several international organisations like United Nations Conference on Trade and Development (UNCTAD), the Organisation for Economic Co-operation and Development (OECD), and others too have contributed to formulation of the term "NTBs".² The OECD (1997) chose to define NTBs as 'those broader measures other than tariffs that may be used by countries, usually on a selective basis, to restrict imports' for one of their studies.

While UNCTAD's Trade Analysis and Information System (TRAINS) classification defines over 100 different types of Non-Tariff Measures (NTMs), and a much smaller subset called "hard core measures" that includes quantity control measures excluding tariff quotas and enterprise specific restrictions; finance measures excluding regulations concerning terms of payment; and price control measures. However, this classification excludes many internal regulatory measures that can also discriminate against imports such as production subsidies, tax concessions, and discriminatory government procurement.

There is no legal definition of NTBs in the WTO Agreements. Member countries define measures, which affect trade in goods as NTBs in a manner consistent with the Agreements. In other words, the major criterion of NTBs is WTO consistency in accordance with the provisions of relevant agreements, as well as decisions taken under the Dispute Settlement Understanding.

Classification: (UNCTAD 1994; OECD 1994)

The UNCTAD's Coding System of Trade Control Measures (TCMCS) continues to be the most comprehensive international classification system available for NTBs. At its most detailed level, the classification identified over 100 different types of NTBs at its most detailed level though it does not incorporate any measures applied to production or to exports. This classification comprises of six categories/chapters of NTBs, including price control measures, finance measures, automatic licensing, quantity control measures, monopolistic measures and technical measures. These chapters on NTBs begin from chapter three to chapter eight (See Annex 1), while chapter one and two are on tariff and Para-tariff measures.³

Measurement and Quantification of NTBs

To address concerns related to the use and impacts of NTBs, quantification of NTBs is a must. The two broad measurement methods commonly identified are NTB-specific and indirect consideration of NTBs.⁴

NTB-specific methods use direct information on NTBs to define their possible impact. But, obtaining the complete information set, even at the industry or sector level, is likely to be difficult and would require intensive and extensive data collection work. Even if exhaustive information were available, the construction of a general measure of NTBs could be tedious, as general equilibrium effects are likely to be excluded. Missing information could introduce a downward bias on the estimates of the trade impact of NTBs. Direct information, then, is thus an appropriate approach only when trying to assess NTBs' impact at a quite disaggregated level, which should normally be avoided when dealing with a more general analysis.

Nevertheless there exist arrays of more general approaches that are capable of addressing some of the shortcomings of direct approach. Like the *frequency-type measures* based upon inventory listings of observed NTBs that apply to particular countries, sectors, or categories of trade; *price-comparison measures* calculated in terms of tariff equivalents or price relatives; *quantity-impact measures* based upon econometric estimates of models of trade flows; and measures of *equivalent nominal rates of assistance*.

General Methods for Measuring NTBs***Frequency-Type Measures***

This method is simply to measure the policies in terms of their numbers and trade coverage. It record the number, form, and trade coverage of non-tariff trade policies as determined from special, surveys, frequency of complaints by trading partners, and government reports. The data are derived from various official national publications and information supplied by governments to the General Agreement on Tariffs and Trade (GATT).

Price-Comparison Measures

This measure provides direct measures of the price impacts of NTBs. This approach calculates the differential between the import price and the domestic price and the domestic price of each commodity at a disaggregated level and subtracts the tariff rate on the commodity from this differential. The result is treated as a NTB.

Quantity-Impact Measures

Jager and Lanjouw (1977) in an article '*An Alternative Method for Quantifying International Trade Barriers*', argued that a quantity measure is preferable to a price measure since quantity measure tries to tell us what we really want to know about the effects of an NTB: that is, by how much it reduces trade. On the other hand, the price measures such as tariff equivalents fail to provide this information.

NTBs in Multilateral Trade Negotiations

Despite a long history of NTBs in international trade, the special attention was given to this area only in the early seventies when discussion of the NTBs was explicitly scheduled in the framework of Tokyo Round of the GATT negotiations. To date, eight rounds of GATT negotiations (see Box 1) have been completed, with the first six concerned almost exclusively with tariffs.

Box 1: GATT Trade Rounds and the Subjects Covered			
Year	Place/name	Subjects covered	Countries
1947	Geneva	Tariffs	23
1949	Annecy	Tariffs	13
1951	Torquay	Tariffs	38
1956	Geneva	Tariffs	26
1960-1961	Geneva Dillon Round	Tariffs	26
1964-1967	Geneva Kennedy Round	Tariffs and anti-dumping measures	62
1973-1979	Geneva Tokyo Round	Tariffs, non-tariff measures, "framework" agreements	102
1986-1994	Geneva Uruguay Round	Tariffs, non-tariff measures, rules, services, intellectual property, dispute settlement, textiles, agriculture, creation of WTO, etc	123
<i>Source: www.wto.org</i>			

The Tokyo Round

The Tokyo Round lasted from 1973 to 1979, with 102 countries participating. It continued GATT's efforts to progressively reduce tariffs. The results included an average one-third cut in customs duties in the world's nine major industrial markets, bringing the average tariff on industrial products down to 4.7 percent. Nevertheless, a series of agreements on NTBs did emerge from the negotiations, in some cases interpreting existing GATT rules, in others breaking entirely new ground.

New or reinforced agreements called "codes," were reached on the NTMs, which include: 1) subsidies and countervailing duties; 2) government procurement; 3) technical standards; 4) import licensing procedures; 5) customs valuation; and 6) antidumping.

Uruguay Round

The issue was tackled seriously in the Uruguay Round (1986-1994) by increasing the number of agreements dealing with NTBs, making them mandatory for all members and subjecting them to the WTO dispute settlement mechanism. Thus the Uruguay Round came out with various GATT Agreement concerning sanitary and phyto-sanitary (SPS) measures, technical barriers to trade (TBT), anti-dumping, customs valuation, pre-shipment inspection, rules of origin (RoO), subsidies and countervailing measures and safeguards. These agreements are extensive versions of those concluded in the Tokyo Round of negotiations. However, the Tokyo Round agreements were plurilateral in status, whereas the Uruguay Round agreements are multilateral, ensuring a global coverage of the rules.

Doha Mandate on NTBs under NAMA Negotiations

While negotiating for greater market access in developed countries was taking place, the developing and the least developed countries (LDCs) Members notified the Negotiating Group on Market Access (NGMA) of certain NTMs that impacted their exporters. Thus it was at the insistence of developing countries in Doha that NTBs were included in the NAMA text.

The para 16 of the Doha Ministerial Declaration provides the mandate for negotiations on a range of subjects including NTBs, and other work including issues concerning the implementation of the present agreements. The mandate aimed to reduce or appropriately eliminate NTBs, in particular on products of export interest of the developing countries.

At the WTO General Council meeting in July 2004, Members reiterated the importance of NTBs to the NAMA negotiations in the July Framework agreement. The agreement recognised that NTBs are an integral and equally important part of the negotiations and instructed participants to intensify their work on NTBs. In particular, it encouraged all participants to make notifications on NTBs and then to proceed with identification, examination, categorisation and ultimately negotiations on NTBs.

Based on these lines, 32 WTO Members submitted notifications⁵ which was compiled by the WTO secretariat⁶ to distill three central issues for discussion: whether to address the broad range of NTMs identified or whether to limit the focus; the appropriate WTO Committee or negotiating group in which to address the NTBs; and the appropriate modalities (in other words, methodology) for negotiation of NTBs.

Notifications on NTBs are mostly in the areas/sectors like automobiles, chemicals, electrical, energy, environmental goods, fish and fish products, LAB foods, forest products, LAB generic, health and safety, REG leather, minerals, petroleum, pharmaceuticals, phyto-sanitary and textiles. The notifications are submitted to technical Barriers to Trade (Agreement/Committee), NGMA, SPS (Agreement/Committee), Negotiating group on Rules and others.

The Chairman's July 2005 report on the state-of-play of the NAMA negotiations made a short reference to NTBs but it did not introduce any new ideas for modalities. However,

the Hong Kong Ministerial text notes that the Negotiating Group has made progress in the identification, categorisation and examination of notified NTBs and the Members are developing bilateral, vertical and horizontal approaches to the NTB negotiations. The text further stresses the need for specific negotiating proposals and encourages participants to make such submissions as quickly as possible.

Notifications by South Asian countries

From South Asia only India, Bangladesh and Pakistan have notified to the WTO regarding the NTBs faced by them.

Notification by India⁷

India has submitted notifications on NTBs along with other countries to the NGMA. India in its submission has stated that restrictive standards, burdensome regulations and procedures in several countries have been acting as barriers that significantly affect exports as also the capacity to trade. In its submission to NGMA the country pointed out the different kinds of barriers and the trade effects of such barriers.

Table : 4a Standards and Related Regulations and Procedures	
Products affected by the barrier	Nature of the barrier Trade effects of the barrier
Various manufactured products including marine products.	<p>Restrictive standards and burdensome regulations and procedures in several countries have been acting as barriers that significantly affect exports as also the capacity to trade. There are several issues involved which are briefly discussed below.</p> <p>a) Harmonisation – Both the SPS and TBT agreements seek harmonisation on as wide a basis as possible and for the applied measures to conform to international standards, guidelines or recommendations. A higher level of protection may be introduced or maintained if there is scientific justification (in case of SPS measures) or for legitimate objectives (in case of TBT measures). However, it has been observed that certain countries are at times laying down norms more stringent than those specified by relevant international bodies without any known/justifiable scientific basis or for demonstrably legitimate reasons and which are difficult to meet.</p> <p>Similarly testing methods are specified for very high levels of sensitivity which may not be justified or required and due to which the cost of testing becomes</p>

	<p>disproportionately high and prohibitive. Sometimes, levels of sensitivity are raised only because better technology or testing equipment becomes available, and not due to any scientific evidence that a higher sensitivity is required to meet a health concern. Moreover, the standards are revised, mostly upwards, at regular intervals making it very difficult for developing countries to adapt to these changing requirements.</p> <p>Harmonisation of both standards and procedures applicable within a common customs territory is necessary for predictability.</p> <p>Harmonisation with international standards and use of agreed testing methods with scientific justification will reduce the trade restrictive impact.</p> <p>b) Transparency - It has often been observed that there is absence of information and lack of transparency on the procedural norms and regulations of various countries regarding specifications as well as methods of sampling, inspection and testing. New regulations are brought out and implemented without even giving the producers in the exporting country a chance to get familiar with these. Often the standards are available only in the language of the importing country or are presented in a very complicated manner. The result is that exporters are, at times, not clear about the specific requirements prescribed by the country of destination, which has led to rejection at the point of import.</p> <p>(c) Conformity Assessment Issues – Several conformity assessment issues have the effect of restricting trade, these include:</p> <ul style="list-style-type: none"> • Excessive costs levied for testing - for small developing country exporters these are a significant barriers; • Location of testing facilities including testing being done only at single/limited centre(s); • Limited validity of certificates, requiring re-testing with the attendant costs; • Procedures involving site/ factory visits by the certifying authorities – both the time taken and costs involved act as hindrances; • Non-recognition of certificates from accepted international bodies; and • Easier or preferential conformity assessment for RTA Members which is discriminatory.
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	<p>(d) Risk-based Approach - While risk to consumers resulting from hazard, particularly in foods, has been identified as a significant concern at the international level, it has been observed that some importing countries are fixing standards without carrying out comprehensive risk assessment work and despite repeated requests details of the basis for the standard are not made available.</p> <p>This may at times be in contravention of Article 5 of the SPS Agreement which requires that SPS measures should be based on risk assessment and take into account an appropriate assessment of the actual risk involved and if requested by the exporting country make known details of this assessment.</p> <p>(e) Safety Management Systems Approach - In addition to end product criteria, a systems approach which builds in quality and safety throughout the food chain from primary production to final consumption is increasingly being used to ensure that food products are safe for consumption. This system allows building in controls in a flexible manner based on conditions applicable in a country/industry etc.</p> <p>(f) Equivalence - Equivalence agreements between Members are seen in the WTO as a means to address the standards related trade problems as they enable pooling and utilisation of resources more effectively, avoiding duplication of inspection and testing, and ensuring that health and safety requirements are met effectively without unduly restricting trade. Such agreements would generally benefit exporters in a developing country as financial burden as well as risk of rejection would be reduced.</p> <p>However, it is observed, Members often do not enter into such Agreements even after receipt of a formal request as either the administrative burden of entering into these is high or they don't want to lose their control over imports.</p> <p>(g) Rejection & Destruction of Consignments - Health authorities in certain importing countries have recently started destroying the contaminated/damaged consignments instead of returning them to the exporting countries as requested by the exporters/importers. It is necessary to involve the exporting country in such decisions of destruction. Destruction of a consignment leads to wastage of a large amount of money as some cases of contamination can be taken care of through reprocessing.</p> <p>Also sometimes the importing country adopts different methods for sampling and testing and also testing for parameters/contaminants, which are not notified in their standards, which at times become reasons for rejections.</p>
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	<p>In certain cases the importing country may have higher standards than those followed by the country of export. The returned consignments could be utilised in domestic trade/purposes.</p> <p>Sometimes a product is rejected in one port and accepted in another port of the same market.</p> <p>Sometimes a product is rejected based on a national standard by a buyer, and it is accepted after price discounts; this shows that at times standards are used primarily to depress prices by the buyer.</p> <p>h) Other Standards related issues - <i>Voluntary Standards</i> - Imposition of voluntary international standards such as ISO 14000 on Environmental Management Systems by buyers on their suppliers in exporting countries has the effect of not only restricting market access for at least sometime until the industry upgrades itself, but also leading to high cost of implementation.</p>
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Table 4b: Marketing Restrictions (Labelling Practices)	
Several Products	<p>Various requirements for marketing a product in different markets prove to be cumbersome and onerous to developing country exporters. These requirements include detailed labelling requirements with extensive product/content description. Such labelling requirements become a hindrance especially if the product is being exported to different countries each with different regulations.</p> <p>In several countries there are registration requirements for firms before exporting, distributing and selling, with the registration process itself being costly, time consuming and not always granted. In the case of pharmaceutical products, import in several countries are tacitly encouraged/allowed only from particular countries and sources, such policies are enabled by the registration mechanism which is not transparent and favours producers only from certain countries.</p>

Table 4c: Restrictive Practices Tolerated by Governments	
Leather products (Potentially all products)	<p>Attention has been drawn to the increasing instances of campaigns carried out to create public opinion as well as to force buyers to change their source of imports on grounds other than trade related e.g. ethical treatment to animals. These campaigns could have various motivations not necessarily based on truth and certainly not based on any trade issues.</p> <p>There may be two aspects to discussing such measures. First is that they do not follow from any governmental action and therefore the extent to which they could be discussed/disciplined in WTO would need to be deliberated upon. The second aspect is the increasing use of such methods and potential for these to divert trade and restrict market access especially from developing countries which may be vulnerable due to their own priorities thus making it important to be discussed.</p>

Notification by Pakistan⁸

Notifications put forward by Pakistan to the Negotiating group on market access for the NTBs faced by its exporters include:

Table 5: Pakistan's Notification on Market Access for the NTBs	
Products affected by the barrier	Nature of the barrier Trade effects of the barrier
All products	Preshipment inspection required by certain countries for certain goods, hence shipments get delayed and importers avoid sourcing from Pakistan. There is a need for an Agreement on Pre-shipment Inspection
Pharmaceutical	Non-transparent procedure for registration of drugs provides undue protection to domestic pharmaceutical firms. Foreign pharmaceutical companies/drug suppliers denied market access. Registration procedures be made transparent under the Agreement on Trade-related intellectual property rights (TRIPs).
Fish & fish preparations; Shrimps, lobsters and crabs	Quarantine certification; food labelling and packaging regulations [description of food ingredients; indication of nutritional claims-substantiated and specified] High rate of inspection etc., raises the cost of export and delays for countries not having preferred status through bilateral Memorandum of Understanding (MoU).

	Market access being denied due to stringent food sanitation law requirement. The quarantine certification, labeling and packaging regulations should be made less onerous and be brought at par with international standards. Non discriminatory treatment must be meted out to all irrespective of bilateral understandings. Inspections need to be carried out at par with internationally accepted standards.
Cotton Yarn and Cotton Cloth	Market access being denied due to the SPS quarantine certification requirement
Petroleum & products	Market access being denied due to the SPS quarantine certification requirement.
Art silk fabrics; and art silk garments	The trade restrictive requirements need to be eliminated.
<i>Azo Dyes</i>	<i>Azo Dyes</i> certification test results differ from laboratory to laboratory. Market access being denied thus increasing the costs to exporters. The certification requirement needs to be standardised.
Electrical products	Safety test certification is not standardised thus the market access being denied. The measures are more stringent than internationally accepted standards and may be altered.
Jute Yarn/Twine	<p>The packaging conditions require fumigation of the products by <i>Methyl Bromide</i> if Wood or Wooden substances are used packing, while <i>Methyl Bromide</i> is banned in many countries. Thus the packaging requirement restricts export of Jute Yarn and Twine.</p> <p>Requirement of SPS measure and certification restricts exports due to extra formality, time and cost. Jute products are not live items. Therefore, the products should be excluded from SPS regulations.</p> <p>Moreover the requirement for special Certificate of Origin leads to extra formality and cost.</p> <p>Requirement of Import Licence by the importer restrict exports due to extra formality and cost in part of the importers. The provision of licensing for imports should be withdrawn.</p>

	<p>Extra documentation in the port of discharge for Customs Valuation. This should be withdrawn to avoid hassle and waste of time.</p> <p>Pre-shipment Inspections also lead to extra formality and cost and time.</p>
Soap, shampoo, dental care, shaving line, skin care, hair care, home care, fabric care products	<p>Printing of retail price on the packets in local currency and assessment of duties other than customs duty on the basis of retail sales price (RSP) printed on the packaging of the products. The export price increases due to labelling requirement and the total duty amount payable on imports increases. Hence, assessment must be conducted on the basis of invoice value of the products.</p> <p>Sometimes customs authority raises disputes on flimsy grounds, labelling on the packaging of products, etc. This causes unnecessary hassles to buyers and they get discouraged to buy these products. It should be flexible considering the type and the nature of products.</p>
All toiletry products	<p>Attestation of export document from Chamber, Commerce, Ministry, Foreign Ministry and Embassy is required. It causes lot of hassle, time lagging and incurring costs on exports. It should be flexible for enhancing trade relations with those countries.</p>
Pharmaceutical finished formulations	<p>Requirement of manufacturing the products after being registered often result in discontinuation of export since investment in manufacturing is a difficult option. There should be withdrawal of the restriction on the ban of products that are locally manufactured.</p>
Pharmaceutical products	<p>There is a need for allowing import along with local production. Import ban measure should only be applicable to health, security and environment ground. Requirement of having release order and submission of many documents from the Ministry of Health for each and every consignment imported often results in inadequate supply of drugs. Products cannot be made available in the market due to lengthy bureaucratic procedures for releasing goods from ports.</p> <p>Limitation on number of brands/products for registration for the purpose of import limits the scope of competition.</p>

	<p>Measures like the permission of imports only using the amount received from export restrict imports.</p> <p>Lengthy procedures for establishing L.C, which takes about 3-4 months to get complete. Hence the products cannot be shipped in time due to unavailability of LC in time.</p>
Juices/drinks, Pickles, Spices, Snacks	<p>Ban on imports of locally manufactured products limits competition.</p> <p>Ban on imports hence no possibility of trade. Also the attestation fee is around Bangladesh Taka 13,000 -14,000 (US\$192-207) thus increasing the cost.</p> <p>Requirement of lab testing upon arrival of the consignment, which takes a long time. Time-consuming and expensive and payment of extra charges</p>

Notifications by Bangladesh

Regarding the inventory of non-tariff barriers, the authorities of Bangladesh gathered information from Chambers, associations and individual exporters. The NTBs faced by exporters are of different nature, and are categorised in the following broad areas, including: (a) NTBs similar to SPS measures; (b) NTBs related to consular formulation; (c) NTBs related to TBT measures; (d) Quantitative restrictions including ban; (e) Labeling requirement; (f) Rules of Origin; and (g) Visa requirement

In addition to above NTBs, it was found that some big importers while placing import order require compliance of several standards such as safety and health, child labour, working hours, wages and benefits, freedom of associations, environmental compliances, etc. which have direct impact on export.

Conclusions

The NTBs that a country faces are determined by who its major trading partners are and the composition of exports to those markets. South Asia as a regional block has been the significant exporters of T& C and marine products. The major export markets of South Asian countries (except Nepal, Bhutan and Maldives) are OECD countries. Looking at the export composition of South Asian countries technical regulations and SPS measures seem to be the most significant NTBs for their exporters. India, Pakistan and Bangladesh too have highlighted NTBs arising out of these measures as major hurdles in their submission to the WTO under NAMA negotiations. Besides, LDCs like Bangladesh who is getting preferential market access in developed countries have reported that Rules of Origin (RoO) are discriminatory, unreasonable and inconsistent.

The future export expansion of South Asian countries depends upon how meaningfully and comprehensively NTBs are addressed in the present Doha round of trade negotiations. So far no real progress has been made on NTBs under NAMA negotiations except vertical and horizontal proposals on NTBs by WTO member nations. However, these negotiations are not yet sufficiently advanced to propose either the adoption or rejection of modalities for specific proposals.

Endnotes

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- 5 Argentina, Australia, Bangladesh, Bulgaria, China, Chinese Taipei, Croatia, Cuba, EC, Egypt, Hong Kong, India, Japan, Jordan, Kenya, Korea, Macao, Malaysia, Mexico, New Zealand, Norway, Pakistan, Philippines, Senegal, Singapore, Switzerland, Thailand, Trinidad and Tobago, Turkey, Uruguay, US, and Venezuela. Notifications are compiled in WTO Secretariat documents TN/MA/W/25 (including Addenda 1 & 2), as well as TN/MA/W/46 (including Addenda 1 - 12).
- 6 TN/MA/9/Rev. 1, dated October 29, 2004, consolidated twenty-six submissions. TN/MA/9, dated April 07, 2003, consolidated eighteen submissions from Members.
- 7 TN/MA/W/46/Add.4, November 03, 2004
- 8 TN/MA/W/25, March 28, 2003

Services Trade Negotiations after WTO Hong Kong

Ministerial: *The South Asian Perspective*

Introduction

The service sector now constitutes about 50 percent of South Asia's gross domestic product (GDP) and is the second largest source of employment in the region. In all the South Asian countries, viz. Bangladesh, India, Pakistan, and Sri Lanka, the growth of the service sector has been faster than the overall GDP growth. Between 1995 and 2003, India registered an expansion of services value added by a staggering US\$108bn. The corresponding figures for Bangladesh, Pakistan and Sri Lanka are US\$9bn, US\$11bn and US\$3bn respectively. The South Asian countries have also witnessed their service sector growing at a rate much faster than the world services output growth. During 2000-03, services in the South Asian region grew at an average rate of 6.7 percent per annum as against of only 3.3 percent in the world economy. More importantly, services trade has also become important for the countries in the region. The total value of service trade in 1995 was US\$26bn, which increased to US\$51bn in 2003, half of which was services exports.

India is by far the most prominent player in services trade amongst the South Asian countries. In fact, during the 1990s India had the highest growth of the services exports amongst the world economies. It has been estimated that between 1996 and 2000, India's revealed comparative advantage in services exports increased by 74 percent. Its services trade is also much more diversified compared to any other country in the region with business services, including software exports, finance, communication, management and consultancy service growing rapidly.

In general, low-skilled and semi-skilled workers dominate the labour endowment in Bangladesh, India, Pakistan, and Sri Lanka. Consequently, the export of services from these countries is dominated by Mode 4, i.e. movement of natural persons. Apart from Mode 4, Mode 1, i.e. cross-border supply is important for India because of rapid growth in business process outsourcing (BPO) and Information Technology (IT) services, in which the country has a great comparative advantage. Mode 2, i.e. consumption abroad is becoming increasingly important for India. In fact, India is an attractive place for temporary movement of people for medical treatment (health tourism) and for academic pursuit. India has also become an important regional destination for medical and educational services. India, Nepal and Sri Lanka also attract a large number of tourists and thus have tremendous scope to export travel and tourism services.

Services Trade in South Asia

Among the different services categories, South Asian success lies in the sectors like IT, BPO, tourism, banking, construction etc., especially in the manpower based services export. South Asian region is the second largest remittance recipient area in the world having a remittance-GDP ratio of 20 percent¹. In recent years, India has emerged as an important source of 'Call for Services' in business performance. From regional perspective, there are shifts towards business and various deregulated infrastructure services where private participation has increased considerably.

The contribution of the services trade in South Asian total trade is increasing over time, more than doubling in actual amount during 1995-2003 (from US\$26bn to US\$51bn). In terms of proportion, within 2000-03, services trade was on average one-fourth of the regional total trade flows.

Within South Asia, the growing importance of services trade is basically driven by the Indian comparative advantage in this sector. However, South Asian countries' large labour endowment, including low-skilled, semi-skilled, high skilled categories, places the regional comparative advantage in exporting labour based services under the Mode 4 of GATS, i.e. temporary movement of natural persons category.

From the statistical point of view, the contribution of services trade under Mode 4 is the lowest in world trade in services. The Mode 4 category has horizontal rather than sector specific commitments and that includes limitations for 100 countries as opposed to four countries for Mode 2. However, India is a dominant player in this narrow field too. Export of professionals, especially health workers and IT professionals from India is a significant portion of the international workers in the developed countries like Canada, US and Australia. As a source country, India dominates in three major categories of manpower exports, specialty occupations (based on professional education, skills and experiences), registered nurses and entertainers in culturally unique programmes². Another significant portion of Indian migrants are the low-skilled or semi-skilled category, majority of whom are working in the Middle East countries like Saudi Arabia, Kuwait, UAE, Oman, Bahrain. In general, majority of these categories of workers are employed in construction related jobs or for domestic help.

About 1.2 million Sri Lankan workers are working abroad of which 70 percent is employed in the Middle East countries. The specialty of the Sri Lankan manpower export among the South Asian countries is the dominance of female migrants. In 2001, 68 percent of the 183,888 total migrants were female workers. There are both high skilled and low skilled migrants, but most of the female migrants are employed as housemaids, i.e. 56 percent of the total in 2001. Provisions for training programmes for the semi-skilled and low-skilled migrants under government initiatives are designed to promote foreign employment and the Sri Lanka Foreign Employment Bureau works for protecting the interest of the migrant workers.

According to the government estimates of 1999, about 3.18 million Pakistanis are working abroad, like other countries of the region; Middle East is the major destination for low skilled migrants from Pakistan. On the other hand, considering the high skilled and professional categories, Pakistan is an important source in the industrialised country markets, and was ranked 3rd in Canada.

In case of Bangladesh, the primary destination of the low and semi-skilled workers from the country is Middle East, although the choice for relatively skilled workers has been shifted to some East Asian countries like Malaysia. About 3.2 million Bangladeshi people are working abroad³ with major occupations being construction labour, domestic maid, engineers, health workers and nurse. Bangladesh government regulates the outflow of workers through the Bureau of Manpower, Employment and Training, although there works unofficial channels of manpower export as well.

Existing Barriers and Scope of Liberalisation in the Service Sector

Immigration regulations and barriers related to visa and work permit procedures are one of the major restrictions of services trade liberalisation, especially under Mode 4 of services trade. In most of the cases, no distinction has been made between temporary and permanent movement of workers and the process involves complicated, non-transparent and costly steps through labour market regulations. Even sometimes, temporary workers have to undergo a two-permit entry procedure: one for visa and the other for work permit. The restrictions and regulations get more demanding for the developing and LDCs due to their existing administrative barriers. Moreover, service trade barriers for developing country suppliers are more binding than those for developed country suppliers in each other's market.

In terms of migration regulations, the developed countries are biased towards high skilled workers and it is relatively easier to obtain visa for intra-company transferees and those associated with establishment of commercial presence. In general, movement of low skilled workers is the most restricted one. There are barriers in terms of Economic Needs Test (ENT), which restricts the market driven process of free movement of natural persons. Lack of clearly established criteria of service providers make the process unpredictable, non-transparent and therefore create arbitrary barriers to Mode 4. In some cases, the host country discriminates foreign service providers against domestic service providers in terms of tax or some other requirements. Further, the services trade under Mode 1 or cross border service provision faces barrier with the application of some 'data protection laws' in some developed countries.

These barriers to service trade liberalisation, especially for the South Asian developing countries and LDCs are affecting their areas of comparative advantage. In addition to service categorisation and classification problems, commitments under Mode 4 are the least in WTO services negotiations and after the incident of 9/11, 2001, there is not much scope for considerable liberalisation in this regard.

Among the current initiatives, India proposed a GATS visa that is distinct from other visitors as a horizontal commitment. The country also requested elimination of all forms of ENT, labour market test and nationality and residency requirements. The initial communications included greater market access provisions beyond higher skilled categories, ensuring transparency, special administrative provision e.g. GATS visa, work permit etc.

Review of the Hong Kong Ministerial Outcomes

In the Hong Kong Ministerial Declaration, members agreed to intensify the negotiations on services 'with a view to expanding the sectoral and modal coverage of commitments and improving their quality'. In this document, the service sector trade negotiations are placed from a development perspective for all the member countries. The Declaration specifies special provisions for the developing countries and LDCs. There are several interesting features associated with the Hong Kong Ministerial Declaration, including:

- Recognises that LDCs are not expected to undertake new commitments in services negotiations. This provision is to protect LDCs from liberalising sectors where they do not wish to make a commitment.

- Commits to developing methods for full and effective implementation of the Modalities for the Special Treatment for LDCs in the negotiations on Trade in Services, i.e. LDC Modalities, LDC which should, therefore, be an important instrument and the basis for their participation in services negotiations.
- Propose to develop appropriate mechanisms for according special priority to sectors and modes of supply of export interest to LDCs (item 9 (a) in Annex C).
- Emphasises on assisting LDCs to enable them to identify sectors and modes of supply that represent development priorities. The full and effective implementation of the LDC Modalities also calls for providing targeted and effective technical assistance and capacity building for LDCs.
- States that amongst others the targeted technical assistance should be provided through the WTO Secretariat 'with a view to enabling developing and LDCs to participate effectively in the trade negotiations'.
- Requests the members to develop disciplines on domestic regulation as mandated under Article VI: 4 of the GATS before the end of the current round of negotiation
- Makes members agree to pursue plurilateral approach to request-offer negotiations in addition to the traditional bilateral approach to negotiations.

Issues in the Services Trade Liberalisation

Operationalisation of Article IV of GATS

Article IV of GATS stresses that in order to increase the participation of the developing countries in world services trade there is a need to: (i) strengthen domestic services capacity of these countries and its efficiency and competitiveness, *inter alia* through access to technology on a commercial basis; (ii) improve these countries' access to distribution channels and information networks; and (iii) liberalise market access in sectors and modes of supply of export interest to them. Such calls were re-emphasised in the Doha Development Round as well as in the July Framework. In the Hong Kong Ministerial, it was again highlighted to give particular attention to sectors and modes of supply of export interest to developing countries.

It is, however, important to note that a large number of developing countries have been facing difficulties in identifying the sectors of their specific interests in the negotiations and the constraints to the expansion of their exports. Also, registering any meaningful liberalisation commitments in the negotiations has achieved little progress. There is a serious concern about the developing countries' lack of capacity to evaluate the requests received from other member countries and the development of their own requests and offers. With respect to formulating their own requests and offer the developing countries face the major challenge to determine their national policy objectives and the competitiveness of each sector or sub-sector. In case of the liberalisation of Mode 4 services, in the categories and skill levels of interest to developing countries, no real progress has been achieved so far. Even, no progress has been achieved so far with respect to streamlining or increasing the efficiency of processing mechanisms for visa and work permits.

LDC Modalities

One of the most important developments at Hong Kong Ministerial was the decision to pursue full and effective implementation of the modalities for the special treatment for LDCs in trade in services. In March 2006, the LDC Group submitted a proposal to the Council of Trade in Services (CTS) in special session 13, aimed at creating a mechanism to accord special priority to market access in sectors and modes of LDC export interest. The proposal suggests the creation of a new mechanism which would allow Members to provide “non-reciprocal special priority... only to LDCs,” in areas of export interest to them. The LDC proposal generated mixed reactions. Some developing countries were supportive of the LDC proposal, notably the African group. However, some others were wary of the introduction of preferences in the context of the GATS, arguing that this would divert their markets.

Considering sectors and/or modes of supply of special interest of LDCs, there is a growing importance of temporary movement of natural persons under Mode 4. The growth of the services exports of LDCs on the whole, and of the South Asian LDCs in particular, is concentrated in this area with a large pool of low and semi-skilled labour force. However, this area of services trade is the most restrictive one having horizontal commitments rather than sector specific and almost in all cases exhibit the ‘unbound’ note in the negotiation list. With the Hong Kong Ministerial Declaration, there emerged a hope for some negotiations towards Mode 4 liberalisation, but still there is no development in implementation procedures.

Market Access Problems

Among the four modes of supply, the Mode 4 is the most important one for the LDCs and the developing countries. However, market access under Mode 4 is the most limited and still there has not been much progress achieved. In principle, a number of proposals have been placed relating to the liberalisation of labour market, albeit the basic causes of limitation includes the administrative barriers relating to immigration policies, quota on visas, mutual recognition of qualifications of the workers. Besides, barriers like economic needs tests or the local needs test also put constraints against the movement of labour in the developing countries and LDCs. Developing countries like India have their growing interest in negotiations regarding services trade under Mode 3 incorporating movement of professionals.

The Service Provider Visa (SPV) proposal placed for greater market access incorporates short term company visits, short term visits to fulfil contracts either as part of juridical entities or independently, and does not cover employment based movement. However, the emphasis of negotiation in the high skilled and at least minimally qualified persons neglects many LDCs and developing countries’ comparative advantage. To foster the negotiation under Mode 4 market access, it is the only way not to lower the skill category to make any progress. Therefore, the developing countries and the LDCs should prepare for submitting proposals highlighting the sectors of their interest for consideration of the negotiators focusing on issues like inclusion of the less skilled through contractual service suppliers under a new sub-category, addressing definitional and classification issues, non-uniform enforcement issues regarding SPV and to develop a revised model schedule to incorporate lower skill categories of service providers. At the same time,

these countries should take into consideration the need for (and costs of) commitments to liberalise their own markets in response to their requests to other countries.

Technical Assistance

In the Hong Kong Declaration and in GATS Agreement, special emphasis has been given on the targeted technical assistance with a view to enabling the LDCs and developing countries to participate effectively in the negotiations. It has been clearly stated that amongst others the targeted technical assistance should be provided through the WTO secretariat. However, there is no such initiative from the developed country members to consider the special priority sectors in relation to needs of the LDCs and the developing countries. A more careful reading reveals that the development initiatives relating to market access are either objectives for commitments or, procedural under the request-offer approach. There is a lack of initiatives from the LDCs and developing countries to prepare a negotiable ground, and it is quite reasonable that without proper technical assistance these countries will not be able to come out identifying areas most important for negotiation. In the case of evaluating or formulating requests and offers, there is a need to look into the kind of capacity available in the ministry and the technical assistance needed in these countries.

Domestic Regulations

Article VI.4 of GATS is related to Domestic Regulation, which highlights the right of members to regulate and to introduce new regulations, governing the supply of services within their territories in order to meet national policy objectives. In Hong Kong Ministerial, members have been asked to develop disciplines on domestic regulation as mandated under Article VI: 4 of the GATS before the end of the current round of negotiation.

In June 2006, developed and developing countries submitted what a WTO official characterised as a ‘critical mass’ of formal and informal proposals on a broad set of issues relating to the disciplines⁴. All the submissions stressed the need to strike a balance between respecting Members’ right to regulate and curbing regulatory measures that could potentially undermine market access. One area where this tension is particularly evident is in the sensitive debate over the so-called ‘necessity test’ for regulatory measures. While the GATS mandate stipulates that qualification and licensing requirements should not be “more burdensome than necessary to ensure the quality of a service”, some members are concerned that such a test may constrain their ability to introduce regulations, which seek to implement national policy objectives that go beyond simply ensuring the quality of a service.

Many LDCs as well as developing countries lack established and well functioning regulatory and institutional frameworks. As for policy stance, there lies common position for the developing countries and LDCs as to place the need for adequate time to come up with appropriate domestic regulation policies considering the specific economic requirements and at the same time to ensure necessary technical assistance for capacity building.

Plurilateral Negotiations

Members in the Hong Kong Ministerial agreed to pursue plurilateral approach to request-offer negotiations in addition to the traditional bilateral approach to negotiations. Under the plurilateral negotiations, any member or group of members may present requests or collective requests to other members in any specific sector or mode of supply, identifying their objectives for the negotiations in that sector or mode of supply.

After the Hong Kong Ministerial, plurilateral meetings took place during March-April 2006 to discuss and negotiate the requests. Available information suggests that 22 collective requests were placed and discussed between demandeurs and 'demandees', i.e. the countries receiving the requests. Of these, 16 were sector specific, 3 were related to modes of supply (including Mode 4), and the final three were concerned about the elimination or reduction of existing exemptions from MFN treatment⁵. In computer and related services, and in those on Mode 4 and cross border services through Mode 1 and 2, India participated in the plurilateral requests. India received 15 requests in opening up the key sectors like, financial services, telecom, energy, legal, maritime, retail, education, environment and construction. In the plurilateral meetings the plurilateral requests on Mode 4 involved the highest number of 15 developing countries, and none of the LDCs received any plurilateral requests, which is consistent with the Hong Kong Declaration that they are not expected to undertake new commitments.

At Hong Kong, the text on services (Annex C) was vigorously opposed by many civil society groups. Doubts and scepticisms were expressed particularly about the new plurilateral approach of negotiations. It is being feared that this new approach will erode the existing flexibilities under GATS and eventually lead to binding commitments by developing countries.

Developing vs. Least Developed Countries in South Asia

To what extent South Asian LDCs (Bangladesh, Maldives and Nepal) can collaborate with their regional developing counterparts, namely India and Pakistan is an emerging concern. Given that India has witnessed rapid growth in Modes 1 and 2, and given that the prospect of liberalisation of Mode 4 is bleak, a shift in the emphasis in favour of Modes 1 and 2 can greatly jeopardise the negotiating position of South Asian LDCs.

Like other LDCs, South Asian LDCs are reluctant in undertaking negotiation initiatives and are mere observers in the request-offer approach. Even with the enhanced possibility of negotiations on a plurilateral basis, there has not been any attempt to consider plurilateral negotiations with India. With the current position of India, any type of progress in services trade liberalisation will be its special interest and given the 'individual' flexibility for the developing countries, the country may shift its emphasis on Mode 4 liberalisation. This will enhance Indian growth, but virtually will have no impact on the economies of the South Asian LDCs. Given the situations, South Asian LDCs should try to consider Indian interest and to process joint negotiation schemes if possible.

Concluding Remarks

The need for a greater cooperation within South Asia on Mode 4 is reasonably justified. There is also a need to come out with a common South Asian negotiating agenda on rules on services liberalisations. The South Asia countries should conduct studies on

the problems and prospects of services trade liberalisation, including the possibilities of greater cooperation among themselves in this regard. Special emphasis should be given to submitting request lists and developing country specific strategies and action plans for the movement of natural persons under Mode 4. Also, the supply-side constraints and bottlenecks should be addressed properly with a view to develop the request lists and the schedules of commitments on other prioritised sectors of trade in services. The South Asian countries should ask for technical and financial assistance in this regard. However, targeted technical assistance should be provided through, *inter alia*, the WTO Secretariat, with a view to enable LDCs and developing countries to participate effectively in the negotiations.

Endnotes

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- 3 “Documenting the Undocumented: Female Migrant Workers from Bangladesh”, by Blanchet, T., Razzaque, A. and Biswas, H. (2005). Mimeo, Academy for Educational Development and SWISS Agency for Development Cooperation.
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Hong Kong Duty-free Quota-free Market Access Decision: *Implications for South Asian LDCs*

Introduction

The development challenges for LDCs have been to alleviate poverty and reduce income inequality. The prescribed policy at the domestic façade is pro-poor broad based development programmes and at the external front is the establishment of multilateral trading system that addresses their development needs. LDCs' efforts, in searching for 'development dimension', within the multilateral trading system dates back to 1960s, when trade rules of GATT incorporated provisions to facilitate the growth and development of LDCs and other developing countries, by providing special rights to protect and increase access to export markets. The provisions of the so-called special and differential treatment (S&DT) were further broadened and expanded in the agreements, declarations and arrangements of the WTO. Though there have been efforts to phase out trade restrictive measures it took a long time to bring it to reality.

Further with the objective of converting rhetoric of S&DT into reality, LDCs put forward the proposal of duty-free and quota-free (DFQF) market access for their exports in the first WTO Ministerial Meeting held in Singapore in 1996. It took about a decade for WTO Members to address the demand of LDCs, with less than 0.6 percent collective share in world exports, of DFQF market access. The Ministers agreed to provide DFQF market access in December 2005 in the Hong Kong Ministerial Conference. The Ministerial Declaration text states: *"...building upon the commitment in the Doha Ministerial Declaration, developed-country Members, and developing-country Members declaring themselves in a position to do so, agree to implement DFQF market access for products originating from LDCs"*.

Given the fact that Quad countries' market (Canada, EU, Japan and US) constitutes 57.2 percent of total LDCs exports (WTO 2006) and the weighted average tariffs faced by LDCs in the Quad markets are 20 percent, the Hong Kong Ministerial Declaration, at the first glance seems impressive to address the development needs of LDCs. In fact, the Declaration is loaded with conditions and loopholes. Given the export concentration and high dependency of most of the LDCs in a few products, the flexibility provided to developed countries to exclude three percent of tariff lines under DFQF initiatives, there might not be any additional and effective market access for LDCs. Interestingly, it is an LDC-specific provision, but it talks about the export interest of other developing countries, rather than that of LDCs.

Furthermore, it not only diluted the decision during Doha Ministerial conference, but also opened the door to rollback the existing preferences received by some of the LDCs. Although the Declaration obliges Members to take steps to progressively achieve the obligation of providing DFQF market access to LDCs, because of the lack of clarity on the term 'progressively' and the missing deadline for achieving full obligation, the value of the proposal has become dubious. Regarding DFQF market access in developing countries, the decision urges them to provide such preferences on voluntary basis, without any legal effect.

Against these backgrounds, this paper aims to analyse the value and utility of the proposal of DFQF access agreed in the Hong Kong Ministerial meeting, from the perspectives of South Asian LDCs, in particular Bangladesh and Nepal, and recommends the negotiating position for these countries in the process of defining modalities of the initiative. This paper is structured in five sections. This paper outlines the overview of the DFQF in the context of GATT/WTO, analyses the export structures and directions and assesses the market access conditions in developed and developing countries, including discussion on the system of non-reciprocal preferences enjoyed by South Asian countries. It also highlights the trade structure of South Asian developing countries. It also assesses the implications of DFQF market access preferences to these countries, and presents the conclusion, with the recommendations.

Export Performance

The prerequisite for the desired benefits of any non-reciprocal trade preference scheme is that the preference-receiving country must have exportable surplus, on the one hand, and such scheme should cover the products that are exported, or potentially exported, to the preference-granting country, on the other. It also requires that the Rules of Origin (RoO) matches the existing levels of manufacturing activity in the preference-receiving countries and there is no unnecessary administrative hassle in the preference-granting countries.

Product and Market Profiles

The economic reform policies, particularly focusing on trade regime were adopted in the mid-1980s by both Bangladesh and Nepal, with the expectation that removal or reduction of tariffs and NTBs or reduction in transaction costs, due to procedural simplification, would improve allocative efficiency and international competitiveness, which would increase exports and change export composition. The increasing degree of openness in trade policy is evident from the increasing trade/GDP ratios. It is also evident that the liberal trade policies had paid off in the export performance. The exports recorded satisfactory growth and increased the share in world trade for both countries, except in 2004. The exports of Nepal declined during the period 2000-04, mainly due to domestic insurgency, which caused severe impact on the production process.

Bangladesh experienced a significant change in the sectoral composition of exports during the period 1990 to 2004; the dominant primary products have been replaced by manufacturing sector. The share of manufactured goods in the export basket increased from 77 percent in 1990 to 92 percent in 2004. However, the share of manufacturing sector has declined in the recent past. Both the countries are not successful in diversifying their export structures, as carpet and readymade garments (RMGs) constitute more than 40 percent of total exports in Nepal and the share of textiles and RMGs is more than 80 percent in the total exports of Bangladesh. The export concentration indices show that the commodity concentration of Bangladesh has increased over the period, but Nepal has witnessed some improvement in diversifying the export base.

It is not only the product concentration that both south Asian countries, Bangladesh and Nepal, are facing in their exports, but also the market concentration. About 80 percent of the exports of Bangladesh are destined to developed countries and the

magnitude of market concentration has not changed over the period. Among the developed countries, EU and US are the major markets for Bangladesh. However, the dependency of Nepal on developed countries' markets has decreased from 85 percent in 1990 to 43 percent in 2004. Moreover, developed countries' markets are replaced by India, implying no significant change in market concentration. As in the case of Bangladesh, EU and US are the major markets among the developed countries for Nepal.

Table 6: Direction of Bangladesh's Exports											
Year	Developed Countries						CIS and Eastern Europe	Developing Countries			
	Total	European Union	Other European Countries	US and Canada	Japan	Others		Total	America	Africa	Asia
1990	75.2	35.4	1.9	32.2	3.9	1.9	4.6	19.7	0.5	4.1	16.1
1995	83.3	44.8	0.6	34.0	3.3	0.6	1.0	15.4	0.7	2.3	12.4
2000	75.9	40.2	0.6	33.6	1.2	0.3	0.3	9.2	0.4	0.7	8.0
2004	78.3	50.0	0.4	26.5	1.0	0.2	0.1	8.7	0.4	0.9	7.4

Source: UNCTAD 2005.

Table 7: Direction of Nepal's Exports											
Year	Developed Countries						CIS and Eastern Europe	Developing Countries			
	Total	European Union	Other European Countries	US and Canada	Japan	Others		Total	America	Africa	Asia
1990	85.0	60.0	6.2	24.0	0.8	0.1	0.0	15.0	0.1	0.1	14.8
1995	89.2	53.3	3.5	31.6	0.5	0.3	0.1	10.7	0.5	0.1	10.2
2000	62.0	22.5	1.7	33.6	3.8	0.4	0.0	36.6	0.1	0.0	36.5
2004	43.0	17.5	0.8	23.4	1.0	0.3	0.0	54.0	0.0	0.0	54.0

Source: UNCTAD 2005.

This implies that the reason for aggressive posture of the South Asian LDCs on the proposal of DFQF market access is because of the prevalence of high levels of product and market concentration of exports, along with the existing and potential preference erosion, due to tariff reductions under various rounds of trade negotiations. The existing market share is also put into risk due to the conclusions of bilateral free trade agreement (FTA) by destination country with other trading partners and the abolition of Multi-fibre Arrangement (MFA). Thus, the new arrangement for duty-free market access should not exclude any product Bangladesh and Nepal are enjoying comparative advantages for.

Both Bangladesh and Nepal have not been successful in diversifying their export products and export markets, despite trade policy reforms. Exports of a few products in selected markets have been the deep-seated characteristics of these countries. But, the importance

of developed country's market is quite stark in Bangladesh than in Nepal. In terms of the exportable products to developed countries, 0.5 percent of the tariff lines, at HS 6 digit level, cover more than 80 percent of the export value for both the countries, in most of the countries. The calculated values of RCA¹ show that both Bangladesh and Nepal have comparative advantages in limited product categories. It means that preferential market access scheme should be crafted in such a manner that it does not bar preferential market access in products of their comparative advantages. The next section discusses the existing generalised system of preference under which Nepal and Bangladesh are getting preferential market access.

Overview of EU, US, Japan and Canada GSP Schemes

In 1968, the UNCTAD recommended the creation of a "Generalised System of Preferences" (GSP) under which industrialised countries would grant trade preferences to all developing countries. The overall objectives of the GSP scheme in favour of developing countries were: to increase their export earnings; to promote their industrialisation, and to accelerate their economic growth rates. There are currently 13 national GSP schemes but the US and EU GSP schemes are the most important of all.

Currently, the EU extends preferential market access to 146 developing countries under its GSP scheme, which was first implemented in 1971 and was subsequently revised a number of times. The most recent revised scheme was adopted in June 2005 and came into effect on January 01, 2006 and will be in place until December 31, 2008.

At present there are three types of arrangements under the EU GSP scheme:

- Under the General Arrangement, duty free access is given to 3300 non-sensitive products while for 3900 sensitive products, there is a duty reduction of 3.5 percentage points from the MFN rate and 30 percent from the specific duties. For textile and textile articles, a 20 percent tariff reduction from MFN rates is granted. All beneficiary countries including India and Pakistan enjoy benefits under the General Arrangement.
- Under the GSP-plus scheme, 14 countries including Sri Lanka are given DFQF access to the EU in turn for signing onto international conventions governing standards in human and labour rights, environmental protection, fight against drugs, and good governance. Sri Lanka is the only South Asian country enjoying benefits of the GSP-plus scheme.
- Under the Everything But Arms (EBA) initiative, EU grants LDCs DFQF access to its market. Both Bangladesh and Nepal are EBA beneficiaries with DFQF access for 9800 products to the EU market.

US GSP scheme was first implemented in 1976 under the Trade Act of 1974. Since then it has been in operation initially for two 10-year periods and thereafter it has been renewed every one or two years with the most recent renewal in 2002. The US GSP distinguishes between two categories of countries. Among 127 recipient countries, 40 countries are considered least developed beneficiary countries and enjoy two advantages over other beneficiaries: a much wider range of products that are eligible for GSP treatment and they are not subject to the "competitive-need" limitations (UNCTAD 2003). Products for preferential treatment are defined at the 8-digit level of the Harmonised Tariff Schedule of the United States (HTSUS). The products eligible for GSP treatment include most

dutiable manufactures and semi-manufactures, as well as selected agricultural, fishery and primary industrial products. But most importantly, the scheme excludes most textiles items, watches, footwear, handbags, luggage, flat goods, work gloves, leather articles and any article determined to be import sensitive.

Japan originally established its GSP on August 01, 1971 and, since then, four decennial GSP schemes have been established. There are 155 beneficiaries of Japan's GSP, including 140 developing countries and 15 territories. Of these, 108 are GSP beneficiaries and 47 are LDCs. To obtain GSP treatment, a country must: (i) be a developing economy; and (ii) in the case of a territory, have its own tariff and trade system. To obtain LDC treatment, a country must be designated as an LDC by the UN.

The Japanese GSP scheme includes: a general preferential regime; and a special preferential regime. Under the former, preferential tariffs are applied to imports of designated items from designated GSP beneficiaries. Under the latter, duty-free treatment is granted to imports of designated items from LDCs. However, for agriculture and specific manufactured products, there are special provisions.

In case of Japan instead of wide country coverage of the GSP, the product coverage is narrow. Japan's Tariff Schedules consists of 9272 Items at the 9-digit level, including 2017 agricultural-fishery items (HS Chapters 1-24) and 7255 industrial-mining items (HS Chapters 25-97). Of the 2017 agricultural-fishery items, MFN duty-free and MFN dutiable items account for 379 and 1638, respectively. Of the 7255 industrial-mining items, 2823 are MFN duty-free and 4432 are MFN dutiable items. Of the 1638 MFN dutiable agricultural-fishery items, 1299 items, i.e. 80 percent are excluded from the GSP scheme. GSP-covered items in the Positive List total only 339, i.e. 20 percent. Primary examples include maize seed, frozen octopus, burdock, truffles, *Matsutake* mushroom and vegetable juices.

Currently, Canada provides non-reciprocal tariff preferences to developing countries, under the Generalised Preferential Tariff (GPT), the Least Developed Country Tariff (LDCT) and under the Caribbean-Canada Trade Agreement known as 'CARIBCAN'. The evolution of Canada's tariff preferences in favour of developing countries witnessed a number of special measures introduced for LDCs. In 1983, LDCs were granted a zero rate on GPT-covered products, with exception of clothing, footwear, certain labour-intensive industrial products as well as some agricultural products. In order to be eligible for GPT rates and LDCT duty-free access, products from beneficiary countries must meet origin criteria and comply with the rule of direct consignment prescribed by Canada. The origin of the goods must be supported by the prescribed documentary evidences and goods must satisfy the requirement of certification and direct shipment.

Australia first extended unilateral trade preferences to developing countries in 1976, under the Australian System of Tariff Preferences. Australia's non-reciprocal preferential tariff schemes can be grouped into four categories: developing country preferences, special rates for specific countries, Forum Island Country (FIC) preferences and preferences applicable mainly to LDCs. Following a decision announced by Prime Minister John Howard, at an Asia Pacific Economic Cooperation (APEC) summit meeting on October 25, 2002, the Australian Government amended the Customs Tariff to provide DFQF access to the Australian market for the LDCs.

Market Access Conditions in Quad Countries

All these non-reciprocal preferences, along with MFN duty-free market access, have resulted in lowered import tariffs for LDC exports. In agriculture sector, imports of substantially all products from the LDCs enter duty-free in Quad countries. In Canada, almost all imports from LDCs enter duty-free; 98.9 percent under MFN duty-free and 1.1 percent under preferential regimes. In terms of tariff lines, Canada provides duty-free access to 93 percent of tariff lines, but LDCs trade only with the products of about 14 percent tariff lines. In EU, all imports from LDCs have entered without any duty in 2003 and 97.1 percent tariff lines attach zero tariffs for LDCs. In Japan, more than 93 percent of LDC exports have entered MFN duty free and the remaining seven percent is divided roughly equally between duty free preferential access and MFN dutiable trade with no preference. However, only about half of the tariff lines attach duty free for LDCs in the Japanese market. In US, out of 99.9 percent of the total imports from LDCs, which enter duty-free, 81.5 percent is MFN duty-free and 18.4 percent is preferential duty-free. In terms of tariff lines, US provide duty-free access to 21.2 percent under MFN and 63.6 percent under the preferential regime.

Non-reciprocal Preferential Market Access by Developing Countries

As noted the importance of developing countries for export market is increasing for Nepal. Its share in total exports has increased from 15 percent in 1990 to 54 percent in 2004. But, the share of developing countries has decreased for Bangladesh. Therefore, preferential market access, in the form of DFQF market access in the developing countries, is crucial for Nepal and would play a significant role in export expansion. Some of the developing countries provide preferential market access to products originating from LDCs. However, the depth and the coverage of these preference schemes are often limited. Among the preferential schemes, the importance of non-reciprocal preferential market access schemes and the Global System of Trade Preferences (GSTP) has limited utility for Nepal and Bangladesh, but preferential market access granted on a bilateral basis by India bears a significant importance for Nepal. The bilateral trade agreement between Nepal and India provides duty-free market access of Nepalese products in the Indian market, albeit with some conditions. China has also announced in September 2005 to grant duty-free treatment to certain products from 39 LDCs.

Non-Tariff Measures

Broadly speaking, non-tariff measures (NTMs) are understood as a measure not being tariff. Based on the notification, WTO (WTO 2006a) compiles NTMs adopted by the WTO members. Since the notified measures are not specific to LDCs, it does not assess the extent to which the measures affect the market access opportunities of LDCs. But, it gives an idea to identify the NTMs on products of export interest to LDCs. It indicates that SPS measures are the most frequently cited NTMs faced by LDC exports, in particular for their agricultural exports (e.g. fruits and vegetables), fish and fish products, wood and wood products, etc. The Rules of Origin (RoO) associated with preference schemes represent the major NTMs of concern to a number of LDCs for their non-agricultural exports (mainly clothing). The other types of NTMs, which are of concern to LDCs are technical barriers to trade (TBT), customs and administrative measures and trade remedies (anti-dumping measures). Since 1995, out of nearly 6,200 SPS notifications, 26 notifications have explicitly identified one or more LDCs as being potentially affected by the proposed measure, or by including emergency measures.

As has been noted before, the RoO associated with some non-reciprocal preference schemes represent a major concern, mainly for non-agricultural exports from LDCs. As far as the Bangladesh and Nepal are concerned, the reported specific case of NTMs is limited, but, as pointed out above, there exist NTMs in the products of export interest of these countries and one cannot undermine the potential use of NTMs. It is interesting to note that Bangladesh and Nepal face NTMs, mostly on non-agriculture products. Exportable products of Bangladesh, subject to NTMs, are jute yarn and jute products, toiletry products, pharmaceutical products, and juices, jam jelly, pickles, spices and lead acid batteries. Similarly, Nepal faces anti-dumping measures on zinc oxide and acrylic fibres in Indian markets. In addition, Nepalese products also face para-tariffs and SPS measures in the Indian markets.

Impact on other Developing Countries

During the Hong Kong Ministerial conference, two South Asian countries, namely, Pakistan and Sri Lanka, had objected to the proposal of providing DFQF market access for all products originating in LDCs, arguing that they compete in international market with LDCs in the same products. The declaration states that, while taking steps to achieve compliance with the decisions, members would take into account the impact on other developing countries at similar levels of development. This section analyses how other South Asian countries, namely, Pakistan and Sri Lanka, might be affected by providing DFQF market access to Nepal and Bangladesh.

The magnitude of exports of Pakistan and Sri Lanka shows that exports account 30.3 percent and 64.7 percent of the total domestic output. It has increased substantially over the period. Pakistan's exports grew at an average of 11 percent during the period 2000- 04, compared to 0.8 percent during 1995-2000 and 6.1 percent during 1990-1995. However, the export growth of Sri Lanka is not remarkable compared to those of Pakistan's. Its average growth rates were 15.1 percent, 6.4 percent and 1.9 percent during 1990-1995, 1995-2000 and 2000-2004, respectively.

The direction of export trade shows that developed countries' markets still count as a critical export market for both Pakistan and Sri Lanka. The share of developed countries in the exports has been declining over the period and stands at 53 percent and 66 percent for Pakistan and Sri Lanka, respectively. However, the export to US has been increasing whereas the share of other developed countries has dropped. The major exports of Pakistan include textiles, clothing, rice, leather and carpets, among others. However, unlike Bangladesh and Nepal, Pakistan is exporting fabrics rather than ready-made garments, which constitute less than 15 percent of total exports. Sri Lanka's major exports constitute tea, precious and semi-precious stones and ready made garments, among others. Although ready made garment is one of the major exports of Sri Lanka, its dependency on it is not as high as that of Bangladesh and Nepal. Moreover, Sri Lanka's exports are mostly concentrating on inner garments, coats and jersey. The share of men's shirts and trouser, which are the major export items of Nepal, is quite low.

The above discussion indicates that, despite the fact that developed countries' markets are important for Pakistan and Sri Lanka to expand their exports, but its importance has been declining over the period. With regard to export composition, textiles and RMG

have a significant share in the total exports of these countries, but, if we go deep inside the export composition at the tariff line level, we find low resemblance of exportable products with Bangladesh and Nepal. Given the existing tariff rates in developed countries in RMG, these countries may lose some of the market share in some of the RMG products, if DFQF market access is provided to LDCs, including Bangladesh and Nepal.

Conclusion

The Hong Kong Decision on DFQF market access for LDCs has both commercial and diplomatic values for Bangladesh and Nepal. Quad countries' markets (Canada, EU, Japan and US) constitute about four-fifths for Bangladesh and two-fifths for Nepal (WTO 2006) exports and about 20 percent of exports of LDCs face customs duties, along with tariff peaks, in a substantial number of products. It is natural to expect significant trade expansion of these countries after its implementation.

In principle, DFQF initiatives might not bring the desired effects on South Asian LDCs, if their interest is not properly reflected in the design. In particular, in the light of the past experience with several preferential trade arrangements, like GSP, DFQF treatment should be bound, covering all products and incorporate the RoO requirements, matched with the industrial capacity of LDCs. Unless such conditions are met, the various initiatives currently undertaken would constitute no more than a modest improvement of the current market access that LDCs are already granted under the existing GSP schemes or other preferential arrangements.

Furthermore, despite the fact that developed countries' markets are important for Pakistan and Sri Lanka to expand their exports, however, their importance has been declining over the period. These countries are competing on the same product categories in developed countries' markets. However, if we go deep inside the export composition at the tariff line level, the intensity of competition gets reduced

The conclusion that can be drawn from the above discussion is that, first, the exports of Bangladesh and Nepal are highly concentrated in few tariff lines in bilateral markets and thus, the flexibility provided to developed countries to exclude three percent of tariff lines, under DFQF initiatives may exclude virtually all exportable products of LDCs.

Second, mere granting duty-free market access to the exports originating in the LDCs does not ensure that LDCs are effectively utilising the preferences. It should be supplemented by the measures that address structural problems of the LDCs, such as RoO exclusion from the preference scheme, including competitive tests and safeguard measures and administrative procedures.

Third, developing countries have been emerging as major markets for South Asian LDCs and, thus, preferential access in these markets would go a long way in export expansion of these countries.

Fourth, the export composition of South Asian LDCs and other developing countries resemble at the product categories, but at the more disaggregated level, such similarity tends to shrink.

In the light of the above caveats and the past experience with several preferential trade arrangements, one has reason to doubt the efficacy of the Hong Kong Declaration on the DFQT market access meaningful and effective market access for LDCs. If we go along with the existing escape routes and ambiguities, it would not constitute anything more than the current market access that LDCs are already granted and, at the worst, it may run the risk of rolling back existing preferences. Thus, it has been argued that the decision needs to be further corroborated with the following interpretations and explanations:

- a. If the full flexibility is provided to developed countries to designate/exclude the tariff lines from the proposed scheme of DFQF market access, there is every possibility that the scheme would cover the products that are enjoying duty-free market access under the existing non-reciprocal preferential schemes. Therefore, in order to have incremental value of the scheme, the flexibility provided to developed countries to exclude from DFQF market access should be interpreted as three percent of the existing non-zero tariff lines and should also be capped by the volume of imports (for example, not exceeding 10 percent of imports at tariff lines). The provision of Tariff Rate Quota (TRQ) could be worked out for the excluded products and a timeline should also be defined to integrate the excluded list of tariff lines into the scheme.
- b. As the landscape of market access has been changing over the period and developing countries are major markets for South Asian LDCs, therefore, developing country should also provide DFQF market access, but, taking into account the problems they might face in the initial stage, they should commit DFQF access for at least half of the tariff lines, comprising of half of the export value of South Asian LDCs.
- c. LDCs should be allowed to designate specific percentage of tariff lines, e.g., 0.5 percent in the case of developed countries and 0.1 percent in the case of developing countries, not to be included in the exclusion lists. Immunity should be provided to these products from the 'impact test' on other developing countries.
- d. The RoO for preferential market access should incorporate the stage of development for the LDCs and be harmonised for all preference-granting countries. The provisions of the Canadian GSP scheme could be a starting point. A product originating in any of the LDCs or any of the regional trading partners should be considered as a product originating in the exporting LDC.
- e. On the other area of the negotiation under the Doha Round, particularly in Aid for Trade and Trade Facilitation, special consideration should be given to the ways to improve supply capacity, as well as to reduce the administrative costs in the exports to preference-granting countries.

Endnotes

- 1 Refer Pandey, Poshraj Dr., "Hong Kong Duty Free Quota Free Market Access Decision: Implications for South Asian LDCs" pp 10-12, for the detailed analysis of RCA value

Preference Erosion and Aid for Trade: *A South Asian Perspective*

Introduction

Erosion of trade preferences is an important issue in the on-going negotiations on multilateral trade deal under the Doha Round. Tariff reductions under agriculture and non-agricultural market access (NAMA) negotiations are expected to lead to lowering of most-favoured nation (MFN) tariffs, which is expected to adversely affect countries benefiting from various preferential agreements. Reflecting this concern, the Hong Kong Ministerial Declaration made explicit reference to preference erosion, recognising it as an issue that needed to be addressed. However, the debate over this issue has become a highly divisive one amongst developing countries in the WTO – between those who are beneficiaries of preferential agreements, namely LDCs and those who have less preferential market access and how best to deal with problem.

Box 2: What is meant by preference erosion?

Preference erosion refers to a decline in the competitive advantage that preferential beneficiaries enjoy in markets abroad as a result of loss of preferential trade treatment. This can happen when preference granting countries:

- eliminate preferences;
- expand the number of preference beneficiaries; and
- lower their MFN tariff rates without proportionately lowering preferential tariffs.

Preference erosion is not a new concern. In fact, it has been in practice for decades as a result of unilateral, regional and multilateral efforts to liberalise trade. Every time there is a multilateral effort to reduce MFN tariffs, beneficiary countries of preferential agreements express concern over the possible adverse impact of the preferential margins they enjoy. Earlier, it was not a particular problem because preferential schemes such as the GSP offered tariff reductions but not duty free and quota free (DFQF) access. However, subsequent initiatives such as the European Union's (EU's) Everything but Arms (EBA) and the US African Growth and Opportunity Act (AGOA) and Caribbean Basin Initiative (CBI) offered DFQF access to almost all products, which means that any reduction in the MFN rate would lead to an erosion of preferential margins.

Countries now giving DFQF access to essentially all LDCs include Canada, EU, New Zealand, Norway, and Switzerland, while Japan offers duty free access to about 63 percent on its imports. The US offers special access to some LDC exports from African and Caribbean countries. For some countries with high concentration of exports, and which enjoy preferential access, the gains from preferences are very large and thus face larger losses in case of erosion of preferences. A number of proposals have been submitted to date to address the issue of preference erosion but there is no consensus on a solution to the problem.

This paper provides an overview of various generalised system of preference (GSP) schemes and identifies countries and sectors in South Asia, which would be vulnerable to preference erosion in the context of trade liberalisation under the Doha Round. Further, it discusses possible options available – both trade and non-trade related measures including Aid for Trade (A4T), to mitigate adverse effects of preference erosion and suggest a way forward to deal with the problem.

Overview of EU and US GSP Schemes

In 1968, the United Nations Conference on Trade and Development (UNCTAD) recommended the creation of a GSP under which industrialised countries would grant trade preferences to all developing countries. The objectives of the GSP scheme in favour of developing countries were to increase their export earnings; promote their industrialisation; and accelerate their economic growth rates. There are currently 13 national GSP schemes but those of the US and the EU are the most important of all.

Currently, EU extends preferential market access to 178 developing countries under its GSP scheme, which was first implemented in 1971 and was subsequently revised a number of times. The most recent revised scheme was adopted in June 2005 and came into effect on January 01, 2006 and will be in place until December 31, 2008.

At present, there are three types of arrangements under the EU GSP scheme:

- Under the General Arrangement, duty free access is given to 3300 non-sensitive products while for 3900 sensitive products, there is a duty reduction of 3.5 percentage points from the MFN rate and 30 percent from the specific duties. All beneficiary countries including India and Pakistan enjoy benefits under this.
- Under the GSP-plus scheme, 14 countries are given DFQF access to the EU in turn for signing onto international conventions governing standards in human and labour rights, environmental protection, fight against drugs, and good governance. Sri Lanka is the only South Asian country enjoying benefits of the GSP-plus scheme.
- Under the EBA initiative, EU grants LDCs' DFQF access to its market. Both Bangladesh and Nepal are EBA beneficiaries with DFQF access for 9800 products to the EU market.

US-GSP scheme was first implemented in 1976 under the Trade Act of 1974. Since then it has been in operation initially for two 10-year periods and thereafter it has been renewed every one or two years with the most recent renewal in 2002. Under the US scheme 139 countries are eligible for GSP benefits of which 98 are developing countries and 41 are LDCs. Approximately 4,600 articles are eligible for duty-free treatment, and in 1997, LDCs became eligible for an additional 1,783 articles. However, the scheme excludes most textiles items, watches, footwear, handbags, luggage, flat goods, work gloves, leather articles and any article determined to be import sensitive.

Vulnerability of Countries and Sectors in South Asia

Charts 1 and 2 show the vulnerability of countries in South Asia to preference erosion in the EU and US, respectively with countries in the second quadrant being highly vulnerable while countries in the third quadrant being the least vulnerable to preference erosion. It means all the countries in the South Asian region are likely to experience

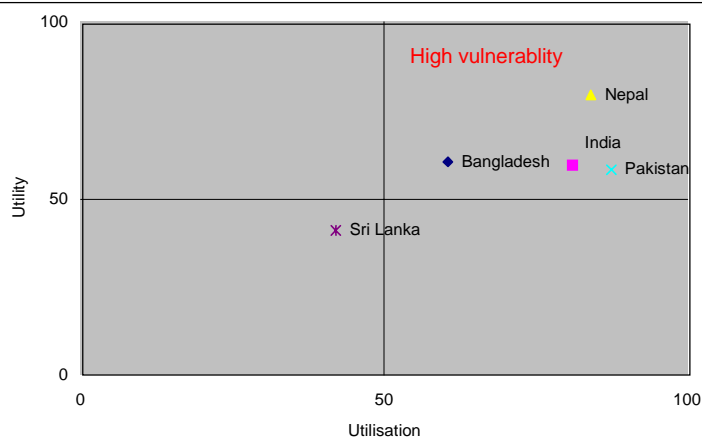
preference erosion in the EU to some degree, while some countries are likely to be more affected than the others given their higher utilisation and utility levels such as Nepal, but Sri Lanka will not be affected much, as it has not been able to effectively use preferences extended by the EU and has been mostly exporting under MFN rates.

Box 3: Indicators to Determine Vulnerability to Preference Erosion

- 1) Product coverage gives an idea of eligibility of products for preferences. The higher the value, the more generous the preferences may appear but a higher coverage rate does not necessarily mean that preferences are being actually used.
- 2) Utilisation rate gives an idea of how much of the preferences that are extended are actually used. A high utilisation rate means that a preference is valuable to the beneficiary country and thus the country is vulnerable to preference erosion and *vice versa*.
- 3) Utility rate gives an idea of how much of the goods are imported under preferential rates compared to MFN dutiable rates. A high utility rate means that a large part of the import enjoys a preferential rate while a low utility rate means that a small part of the import pays the preferential rate.

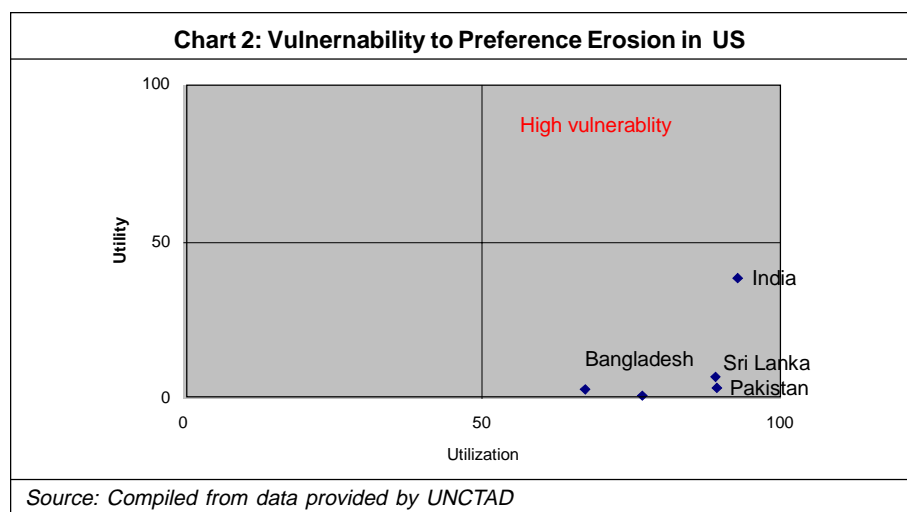
Beneficiary countries with high coverage, utility and utilisation rates may be expected to face higher risk from preference erosion as they export under the preferential scheme and enjoy preferential tariffs.

Chart 1: Vulnerability to Preference Erosion in EU



Source: Compiled from data provided by UNCTAD

In the case of the US GSP scheme, almost none of the South Asian countries are highly vulnerable to preference as they face low utilisation and utility rates in the US market and are in the low vulnerability quadrant. This is due to low product coverage under the US GSP scheme. India may be relative more susceptible to preference erosion compared to other countries in the region but on the whole it is not.



Tables 8 and 9 show sectors in South Asia, which are highly vulnerable to preference erosion in the EU and US, respectively. While there appears to be a number of export sectors vulnerable to preference erosion in the EU, many of these sectors do not account for more than five percent of the total exports except in the case of products, including: in India (textile and textile articles, precious stones, base metals, machinery & electrical appliances); in Nepal, (textiles and textile articles); in Pakistan (textile and textile articles); and in Sri Lanka (plastics and rubber; precious stones and vegetable products). In the case of the US, a few sectors in South Asia are vulnerable to preference erosion and even fewer sectors are of export importance such as precious stones, base metals, machinery and electrical equipment in India and plastics and rubber and precious stone Sri Lanka are likely to face preference erosion in the US.

Table 8: Sectors Vulnerable to Preference Erosion* under the EU GSP Scheme, 2004

Description	BG	IN	NP	PK	SL
1 Live animals & products	X	X		X	
2 Vegetable products	X		X		X
3 Fats and oils	X	X	X	X	X
4 Prepared foodstuffs, beverages, etc.		X			
5 Mineral products			X		
6 Chemical products	X		X		X
7 Plastics & rubber	X	X	X	X	X
8 Hides and skins, leather, etc.	X		X		X
9 Wood & articles of wood	X	X	X		X
10 Pulp of wood, paper, books, etc.					
11 Textile & textile articles		X	X	X	
12 Footwear, headgear, umbrellas, etc.	X	X	X	X	X
13 Articles of stone, cement, etc.	X	X	X	X	X
14 Precious stones, etc		X	X	X	X
15 Base metals & products		X	X	X	X
16 Machinery & electrical equipment		X	X		
17 Transport equipment	X	X		X	X
18 Optical & precision instruments	X	X	X	X	X
19 Arms and ammunition					
20 Miscellaneous manufact. articles		X	X	X	X
21 Works of art, etc					

Note: * Utilisation and utility rates over 60 percent
X sectors vulnerable to preference erosion
X sectors vulnerable to preference erosion and account for 5 percent or more of total exports

Table 9: Sectors Vulnerable to Preference Erosion* under the US GSP Scheme, 2004						
Description		BG	IN	NP	PK	SL
1	Live animals & products					X
2	Vegetable products			X		X
3	Fats and oils	X				X
4	Prepared foodstuffs, beverages, etc.	X			X	X
5	Mineral products				X	
6	Chemical products	X		X	X	X
7	Plastics & rubber		X			X
8	Hides and skins, leather, etc.					
9	Wood & articles of wood	X	X	X	X	X
10	Pulp of wood, paper, books, etc.					
11	Textile & textile articles					
12	Footwear, headgear, umbrellas, etc.					
13	Articles of stone, cement, etc.	X	X	X	X	X
14	Precious stones, etc.	X	X	X	X	X
15	Base metals & products		X	X	X	X
16	Machinery & electrical equipment		X		X	X
17	Transport equipment	X	X			X
18	Optical & precision instruments				X	X
19	Arms and ammunition		X		X	
20	Miscellaneous manufact. articles	X	X	X		X
21	Works of art, etc.					
Note: * Utilisation and utility rates over 60 percent X sectors vulnerable to preference erosion X sectors vulnerable to preference erosion and account for 5 percent or more of total exports						

In sum, reduction in tariff rates by US under the Doha Round is unlikely to lead to a significant erosion of preferences for South Asia. This is due to low coverage rates of products of export interest to South Asia under the US GSP scheme, in particular textiles and textile articles which account for a substantial share of most South Asian countries' total exports to the US. Nevertheless, there are sectors, which are vulnerable to preference erosion in the US, but they do not account for a significant share of total exports. Therefore, tariff reductions by the US would most likely to result in gains for South Asia in the form of lower tariffs for major exports thus leading to greater competitiveness, especially in the case export of textile and textile articles.

Compared to the US, the EU scheme is more generous in providing market access to countries in the region, with a higher coverage rate. This is also reflected in the EU's utility rate – with more imports into the EU enjoying preferential rates compared to the US. Though the US scheme records a higher utilisation rate than that of the EU, it has a low coverage rate, which means that South Asian countries are making the most out of the limited preferences they receive. The region is likely to be more exposed to preference erosion in the EU than in the US, with Nepal likely to suffer the most and Sri Lanka, the least. In the case of Sri Lanka, only a few sectors of export importance are vulnerable to erosion of preference and they account for about one-third of the total exports.

Measures to Deal with Preference Erosion

In principle, two broad approaches have been suggested to address the loss from preference erosion in multilateral discussions: one to be dealt within the WTO or a 'trade solution'; and the other outside the WTO or an 'aid solution'.

Trade Solutions

The short-term objective of trade solutions is to partly compensate for immediate losses stemming from preference erosion, while the long-term objective would be to prepare preferential beneficiaries to survive without depending on preferences. Potential trade based solutions include: 1) measures to increase preference utilisation; and 2) extending the product coverage.

Measures to increase preference utilisation - There are a number of factors, which lead to lower the utilisation rates, but most studies identify rules of origin (RoO) as one of the main reasons. One means of dealing with preference erosion would be to increase preference utilisation by relaxing restrictive RoO, which are used in preferential trade agreements in order to ensure that there is minimum level of domestic value addition in the product exported and to promote backward linkages in the economy. Restrictive RoO are a binding constraint on the utilisation of the EU GSP scheme *vis-à-vis* South Asia, especially in the case of Bangladesh and Sri Lanka. Their major export sector i.e. textile and textile articles are unable to meet the RoO criteria stipulated in the EU GSP scheme. The advantage of relaxing RoO to deal with preference erosion is that it ensures greater market access while tariffs are in place and provides a foothold in the markets prior to tariff reduction.

Extending the product coverage - Negative consequences of preference erosion could be partially addressed by extending product coverage of the preferential schemes through efforts to provide DFQF market access to products of interests to LDCs. There are a number of 'sensitive' products of interest to LDCs such as garments and agricultural products that still attract relatively high tariffs and currently are partially or not covered by preference schemes. Thus, an obvious trade solution to preference erosion would be to extend preferential treatment to such products. Providing duty free access to all products from the LDCs essentially means duty free access to the US (and Japan). There is still great scope to extend duty free treatment in the US where about 27 percent of the tariff lines in the case of Bangladesh and Nepal do not receive any preferential treatment under the US GSP scheme. But the prospects of extending of product coverage by the US under its GSP scheme is unlikely given that these sectors are considered sensitive, as demonstrated by the reluctance of both the US and Japan to give DFQF market access to all exports of LDCs at the Hong Kong Ministerial meeting. In the case of the EU, the scope to extend duty free preferences in order to compensate for preference erosion is very limited as almost all exports from LDCs including Bangladesh and Nepal (99 percent) already receive duty free treatment under the EBA initiative.

Compensating preference erosion through preferences in other markets - Part of a solution to preference erosion from MFN liberalisation could also be addressed by obtaining preferential treatment in emerging markets such as through South-South trade. In the case of Bangladesh, this is not promising with over 80 percent of exports directed to the developed countries and to a lesser degree in the case of Sri Lanka (70 percent).

In the case of India, Nepal and Pakistan, a substantial portion of their exports goes to countries other than the developed, so there seems to be a possibility of addressing the problem by entering into preferential agreements with other countries or strengthening existing ones. But in the case of Nepal, most of its exports are destined to India with which it already has a free trade agreement (FTA). Hence, there appears to be limited scope to address preference erosion in this regard. In the case of India and Pakistan, both East Asia and the Middle East are important export markets of their own so preference erosion could be partly dealt by entering into preferential trade arrangements (PTAs) with countries in these regions. The possibility of addressing the problem within the region remains doubtful even with region moving to a FTA given the past track record.

Multilateral trade concessions designed to protect preference dependent countries -

This can involve delaying the liberalisation of sensitive sectors and accelerating liberalisation on goods that developing countries have a comparative advantage. However, countries, which are non-beneficiary of preferential agreements, are unlikely to support such a move. Moreover, it would entail a substantial welfare loss from a global perspective. But considering the negotiating positions that have been taken by LDCs, one cannot entirely dismiss this option.

Non-trade Solution: Aid for Trade

An aid solution is considered to be a better approach to address the problem of preference erosion as it does not further distort trade and ensures that trade is liberalised by bringing down tariffs. In 2005, A4T became part of the international discourse and was officially put on the WTO agenda at the 6th Ministerial Conference in Hong Kong. The Hong Kong Declaration states that ‘...*Aid for Trade should aim to help developing countries, particularly LDCs to build supply capacity and trade-related infrastructure that they need to assist them to implement and benefit from WTO agreements and more broadly to expand their trade...*’ Following the Ministerial, a task force was established to recommend how to operationalise A4T while the WTO Director-General was asked to consult the appropriate financing mechanisms. In showing their support for A4T, the EU, Japan and the US announced increases in resources for A4T prior to, at and after Hong Kong.

Box 4: Six Categories of A4T

The A4T Task Force in its report submitted on July 27, 2006 covers six broad categories:

- 1) Trade policy and regulations – to help countries negotiate, reform and prepare for closer integration in multilateral trading system.
- 2) Trade development – to help enterprises engage in trade, reinforce business support structures and develop the business climate.
- 3) Infrastructure covers trade related infrastructure such as transport, communications, and energy.
- 4) Building productive capacity – to improve the capacity of a country to produce goods and services.
- 5) Trade related adjustment which includes financial assistance to meet adjustment costs from trade policy reform, including balance of payment problems resulting from lost tariff revenues, erosion of preferences.
- 6) Other trade related needs.

Since 2001, donors have significantly scaled up their efforts towards trade-related technical assistance (TRTA) and capacity building for developing countries. Volume of trade related commitments for 'trade policy and regulations' and 'trade development' rose by 50 percent between 2001 and 2004 to reach US\$3bn. Despite the substantial increases, only a fraction of total aid goes into TRTA. In 2004, about 4.4 percent of total worldwide aid budget was devoted to trade-capacity building, with 'infrastructure' accounting for a 25 percent share. In the case of South Asia, assistance for trade policy and regulation and trade development has fallen while assistance for infrastructure has increased overtime. If the region is expected to participate effectively it is necessary that there should be more assistance available not only to support existing categories of trade related assistance but also to support the broader A4T agenda, which includes building productive capacity and trade, related adjustment.

A4T or TRTA is currently being delivered through a variety of mechanisms. Some of which include:

- Bilateral donor programmes;
- Multilateral/multi donor funded programmes;
- Individual international organisation and agency programmes; and
- Regional organisations and regional financial institutions.

In terms of the existing mechanisms, however the Integrated Framework (IF) figures prominently in discussions as a vehicle to deliver A4T.

The IF was set up in 1996 to ensure effective participation of LDCs in world trading system. Currently, six multilateral institutions are participating in this framework together with 12 bilateral donors. More than 40 LDCs have applied for assistance under the IF but it has had limited success to date. IF suffers from a number of shortcomings which include: weak in-country capacity and ownership; lack of implementation; insufficient and uncertain financing; and variable donor response to priorities identified. These shortcomings have to be addressed before it can play an effective role in delivering A4T. In the light of the above problems, the IF task force recommended: increased, predictable and additional funding; strengthening country ownership, effective follow up and implementation, greater and effective coordination amongst stakeholders and improving its management.

Another initiative is the IMF's Trade Integration Mechanism (TIM), which was established in 2004 to assist developing countries facing balance of payment (BoP) problems due to multilateral trade liberalisation such as loss of trade preferences, elimination of textile quotas. TIM is not a special facility providing new resources under special terms, but a policy designed to increase the predictability of resources that are available under existing IMF lending facilities. TIM funds are disbursed only in the form of loans, with repayment conditions depending on the arrangement a country comes up. So far three countries have made use of this mechanism – Bangladesh, Dominican Republic and Madagascar. It is doubtful whether TIM would be a useful mechanism to deal with the problem of preference erosion.

Although some have suggested setting up of a new dedicated fund, there is emerging consensus that A4T initiative needs to be built on already existing mechanisms.

Moreover, these mechanisms need to be reformed in order to improve their poor record in relation to the delivery and effectiveness of A4T by applying the aid effectiveness principles of the 2005 Paris Declaration. But there is considerable skepticism surrounding A4T due to a number of questions relating to: additionality (whether A4T would supplement current aid for development or repackage and divert funds from existing aid commitments); adequacy (whether there will be enough money to meet the full agenda of A4T); predictability (whether the promises made would be met; ownership, whether A4T will reflect the needs of developing countries and not the priorities of donors); coherence (whether donors would be able to coordinate their efforts within a broad national development strategy); and conditionality (whether aid would be linked or made conditional upon developing countries' positions in multilateral negotiations).

A Way Forward

A pragmatic and realistic approach to address preference erosion would be based on some form of trade and aid based approaches to the problem. Trade measures are likely to address preference erosion in the short term by providing a foothold in the preference granting countries' market before MFN liberalisation is complete. Ongoing discussions on the losses from preference erosion should lead to efforts on the part of preference-giving countries to improve utilisation of the schemes by way of relaxing RoO criteria, extending coverage of existing preferences to products of export interest to developing countries while preference dependent countries should negotiate preferences in other markets and protect preferences already extended to them.

Given that preferences will continue to erode as countries around the world continue to reduce their levels of protection and conclude trade agreements, which has proliferated over the recent years and is likely to accelerate with the current impasse with multilateral trade negotiations, measures need to be taken to improve productivity and lowering transaction costs in order to improve the competitiveness of exports from developing countries. This could be encouraged by A4T. Building supply capacities and thereby improving competitiveness ultimately remains the only long-term solution to the challenge of overcoming preference erosion

Moreover it has been argued that solutions to preference erosion undertaken within the trading system may pose a significant opportunity cost from a global perspective as they lead to additional discrimination and would reduce the overall benefits from a new Round. And this is not likely to be agreeable to countries, which are currently non-beneficiaries of preference schemes. However, to date the success of various trade related assistance has been mixed. For A4T to be effective, it is necessary to learn from existing initiatives and address them.

Chapter 1

Special Products and Special Safeguard Mechanism in WTO Agriculture Negotiation *In Search of a Common South Asian Position*

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1. Introduction

1.1 Importance of Special Products

According to WTO, agricultural products are the tradable commodities but in the developing and LDCs, they are the main source of people's livelihood and food security. In developing countries, around 1.5 billion people depend upon agriculture sector and around 1.3 billion people work in this sector. Agreement on Agriculture (AoA) asks for reduction in the subsidies, which provides a system of level playing field on one hand. The developed countries had maintained high tariff on the import from developing countries that denied market access to the products of export interest for the developing countries, on the others. This, in turn, opened up the agriculture sector of the developing countries to the cheaper imports and made their market vulnerable.

During the negotiation on AoA, the developing countries made various arguments, asking for such policies that protect their economies from the sudden import surges. One of the recommendations by the developing countries was made in the form of Development Box, which means all developing countries should be able to use a positive list approach to declare which agricultural products or sector they would like to discipline under AoA provisions. It also proposed the creation of a SPs category (under conditions to be negotiated) and an SSM i.e. contingent on the level of liberalisation for developing countries. The main importance of SPs is the dependence of small and vulnerable farmers on these products for their subsistence. In fact, SPs are not only the source of livelihood for the developing countries, but are also the source of consumption along with their contribution in the national economy.

1.2 WTO recognition and Status

The idea of SPs proposed by developing countries coincided with the concept of SSM. Developing countries have asked for certain instruments to designate SPs. How these instruments will be applied remain unresolved till August 01, 2004, 2004 General Council Meeting/Decision (W/T/L/597). Under the WTO negotiations on AoA, the Article 41 of July Framework provides developing countries with the possibility to define SPs to designate certain agricultural products based on the criteria of food security, livelihood concerns and rural development. But in actual practice, it is very complex and tricky process having so many pros and cons. It could not be the answer for both developed and developing countries against the tariff and subsidies reduction and import surges. However, the criteria itself can be a way to analyse the situation and then define them according to the needs. Developed countries however have argued that their should be some conditions like limited number of tariff lines, which should be allowed to designate as SPs. There has not been common consensus built up in the WTO negotiations by the developing and developed countries for the designation of SPs, rather it was proposed that countries should define them according to their needs and requirements. However, among developing countries, no one has yet submitted the list of SPs except a few that have identified tariff lines to be designated as SPs, which can be discussed in detail in the following sections.

1.3 Why the need for a South Asian Common Position

Liberalisation of trade has given rise to the creation of institutional regionalism, as a result of which South Asian Preferential Trade Agreement (SAPTA) and South Asian

Free Trade Agreement (SAFTA) were signed. The geography, politics, ecology and socio-economic variability of South Asia has made the region not only a resourceful area but also provides a market to the cheap export of the industrialised economies. On account of globalisation, South Asian countries liberalised their economies either through structural adjustment programmes or unilaterally. After trade liberalisation, South Asian countries do not have common position in the early rounds of WTO trade negotiations. After the Uruguay Round of trade negotiations, most South Asian countries have made agreements and established regional groups to have a common position for assuring bargaining strength on international economic issues. The main idea behind the South Asian common position on the designation of SPs is to come up with a wide-ranging policy/position because the agriculture products are value added to the GDP, and which ensure food security. Beside this, the food production system and climatic conditions of all the South Asian countries are more or less similar. National policies of the South Asian countries in dealing with agriculture i.e. price control, food storage, export and import policies etc., are more or less of similar type due to similar cropping pattern, climatic conditions and livelihood requirement of the people. Pertaining to have a common position on SPs, the developing and LDCs of South Asia have vital common interests on the basis of which they can better negotiate at the WTO meetings. Moreover, South Asian countries can reinforce their stances and position by building negotiating groups through regional and bilateral agreements.

To have a common position is not a trouble-free approach, because South Asian countries do have a lack of interest or face impediments in different aspects as well. The principal one is that there are three different levels of countries in South Asia on the basis of their economy and agricultural needs. India is the largest exporter and producers of agricultural products and is considered as a developed country in the region. Pakistan and Sri Lanka being the producer and exporter of certain products and Sri Lanka as the net food importing country are the developing ones. Nepal, Bangladesh, Bhutan and Maldives are the LDCs and can have their own agricultural interests.

1.4 Objective of the study

Doha Development Agenda (DDA) came up with certain significant implications on international trade and national development, which are of greater interest more and beneficial for developing countries. It was expected that developmental concerns of DDA focusing on the livelihood interests and poverty reduction could take any eminence during Hong Kong Ministerial conference. But the Hong Kong Ministerial conference could not result into expected outcome. However, there are still some loopholes in the negotiating stances of the member countries. From agricultural point of view, the decision on SPs and SSM from the perspective of developing countries is one of the major issues among all. The Hong Kong Ministerial allowed developing countries to self designate an appropriate number of tariff lines as SPs and develop SSM to protect farmers from surge of imports. In order to cover that gap and to spotlight the outcomes of Hong Kong Ministerial conference, a few issues have been identified by Consumer Unity & Trust Society (CUTS) International, a Jaipur based research and advocacy organisation. In this regard, a regional initiative was undertaken to conduct research and advocacy on SPs and SSM.

The main objectives of this research study are to:

- analyse the possible change that could take place in the negotiating stance of the individual countries in South Asia on SPs and SSM; and
- secure and consolidate a common South Asian position on the basis of this analysis.

2. Bangladesh

2.1 Importance of Agriculture

Like all other South Asian countries, agriculture sector is the main source of livelihood for the rural communities of Bangladesh. Ultimately the economy of Bangladesh depends on agriculture sector, which contributes around 31.6 percent of the total GDP. In Bangladesh, about 84 percent of the total population live in rural areas, and are associated with agricultural activities. The agriculture sector of Bangladesh provides 63.2 percent of the total national employment. The agriculture sector, which comprises of crops, forest, fisheries and livestock, is the single largest contributor to the income and employment generation and a vital element in the country's challenge to achieve self-sufficiency in food production, rural poverty reduction and foster sustainable development¹. The crop sector contributes about 72 percent of the total production; however, fisheries, livestock and forestry contribute about 10.33, 10.11 and 7.33 percent respectively.

Agriculture sector also contributes in the export and constituted 10.4 percent of the total export of the country in 1997-98. The principal crops of Bangladesh are rice, jute, sugarcane, potato, pulses, wheat, tea and tobacco. Bangladesh is the biggest jute producing country in the region but its staple food is rice with the annual production of around 20.3 million tonnes in 1996-97, covering 75 percent of the cropped area. The other important food crop of Bangladesh is wheat. Both rice and wheat contribute around 76 percent of the value added in agriculture. Due to climatic condition and topography of the country, rural communities of Bangladesh have small agricultural landholdings. However, the opportunities of modern agricultural technologies are coming up in the country through cooperatives.

In order to meet the food requirement or in other words to ensure food security, the Government of Bangladesh has made policy changes to increase the grain production, which has resulted into the substantial increase in food production. And within the past few years Bangladesh has reached self-sufficiency in its main cereals, including rice. In fact, rice production increased from 11.7 million metric tonnes in 1974 to 23.1 million tonnes in 2000, an average annual increase of 3.6 percent. Wheat production climbed from 0.11 million metric tonnes in 1974 to 1.8 million metric tonnes in 2000. But still this increase in the production remains inadequate to meet the need of increasing population to reduce poverty.

The major exportable commodities of Bangladesh includes raw jute and jute products, fish, shrimps and tea while the importing commodities are edible oil, coconut oil, oil seed, raw cotton, sugar, spices, milk and milk products. Imports of edible oil and oilseeds have surged, while rice imports have been declining. The country receives about one million tonnes of wheat in food aid².

2.2 Trade & Agriculture

2.2.1 Import and Export

Agriculture export increased to US\$139mn from US\$128mn four years before WTO, but after the implementation of AoA in the period of 1999-2002 there was a significant decline in the exports of Bangladesh resulting in the increase in trade deficit of about 38 percent. However, the imports of Bangladesh also increased in the same period from US\$1.248bn to US\$1.623bn³. As mentioned above those major imports of Bangladesh include wheat, vegetable oils, cotton, oil seed, pulses, onion, ginger and rice. Details of agricultural imports and exports can be seen in Annexure 1.

With the trade liberalisation came significant increase in the import of these commodities and the import of rice reached to US\$186.7mn from US\$5.6mn in the beginning years of WTO. The import of cotton increased to US\$197.9mn in the year 1999-2002, while the import of soybean and wheat remain the highest, i.e. US\$274mn and US\$260mn respectively showing a surge in the import of wheat (Table 1.1).

Table 1.2 shows there was surge in imports in 1995 of about US\$913mn and in consequence, the average value of imports in 1995-98 was 78 percent higher than in 1990-94 but was 98 percent higher than the extrapolated trend value. Annexure 2 shows changes in import bills and their components for all major food products. Increased volumes explain most of the rises in import bills in the case of three main products, namely vegetable oils, rice and oilseeds⁴.

Table 1.1: Change in the Major Export and Import of Bangladesh, 1991-2002 (in US\$mn) per year

Trade	1991-1994	1994-1998	1999-2002
Import			
Cotton Lint	89.8	167.6	197.9
Rice	5.6	186.7	193.4
Sugar (Raw Equiv.)	18.2	40.2	66.1
Wheat + Flour, Wheat Equiv.)	164.2	185.5	259.5
Dairy Products + Eggs	69.0	58.0	84.5
Fixed Vegetable Oils	137.7	293.8	391.7
Oil of Palm	37.4	70.3	109.6
Oil of Soya Beans	94.6	217.1	273.8
Oilseed Cake Meal	0.1	1.7	19.1
Oilseeds	47.8	91.1	83.9
Export			
Fruit +Vegetables	5.9	11.3	12.1
Jute	75.2	82.4	69.2
Tea	39.7	35.0	16.6
Source: http://www.wider.unu.edu/research/2004/2005/2004-2005-4/papers/chand.pdf			

Table 1.2: Food Trade in 1990-1994 and 1995-1998 (average annual value, in US\$mn, and percentage change)			
Period	Imports	Exports	Net imports
1990-94 actual (a)	549	10	540
1995-98 actual (b)	977	8	969
1995-98 extrapolated (c) ¹	493	3	490
(b) - (a) ²	427 (78%)	-2 (-19%)	429 (80%)
(b) - (c) ²	483 (98%)	5 (147%)	479 (98%)
<i>Source: Computed from FAOSTAT data. Food excludes fishery products.</i>			

In relation to the imports, the export (Table 1.1) of jute was highest amongst fruit, vegetables and tea but overall with the passage of time there was decline in the total export of jute per year. The export of fruit and vegetable showed a constant increase over the years. Data given in the Table 1.3 (FAOSTAT) also showed the same results that there was fluctuation in the export of Bangladesh but overall there was a sharp decline. Jute and tea alone account for over 80 percent of all agricultural exports, most of the remainder being composed of five products or product groups: fruit and vegetables, tobacco leaves, various crude organic materials, hides and skins and live animals. Jute being the major export of Bangladesh has problems in market access to the major importing markets due to tariff and NTBs for being not covered under AoA⁵.

Table 1.3: Agricultural Trade in 1990-94 and 1995-98 (average annual value, in US\$mn, and percentage change)				
Period	Imports	Exports		Net imports
		Incl. jute	Excl. jute	
1990-94 actual (a)	680	134	53	546
1995-98 actual (b)	1 250	134	52	1 116
1995-98 extrapolated (c) ¹	646	85	41	561
(b) - (a) ²	570 (84 %)	0 (0%)	-2 (-3%)	570 (105%)
(b) - (c) ²	604 (93%)	49 (58%)	11 (27%)	554 (99%)
¹ Extrapolated value based on 1985-94 trend.				
² Numbers in parentheses are percentage changes over (a) and (c) respectively.				
<i>Source: Computed from FAOSTAT data. Agriculture excludes fishery and forestry products.</i>				

2.2.2 Tariff on agricultural products

Since independence, Bangladesh's trade policy has experienced several phases and has evolved from an inward oriented economy towards open export oriented and liberalised economy. Trade reforms were undertaken as part of the conditionality imposed under stabilisation and structural adjustment policies promoted by the IMF and the World Bank. During the 1970s, Bangladesh followed an import substituting industrial policy, which was an inward looking strategy characterised by high degree of regulation and control over exports, imports and investment. While in 1980s, there was beginning of shift towards export-oriented industrial policies. In the First Phase of trade liberalisation

(1982-1986) New Industrial Policy (NIP) were made and in the Second Phase of trade liberalisation (1987-1991) government has worked on Revised Industrial Policy (RIP) resulting into changing the base of the import control system in January 1985 from the “Positive List” to a shorter “Negative List” and export sector was provided with incentives through export performance benefit (XPB) and Duty Drawback Schemes (DDS) on imported inputs.

But in 1990s, the Third Phase of trade liberalisation (1992 onwards) the economic reforms gained momentum and trade policy reform has been integral part of the comprehensive economic reform. Successive governments pursued export-led growth strategy and volume of foreign direct investment (FDI) gradually increased. This was a decade of transition from aid dependence to trade orientation, and enhanced integration of local economy with the global economy, and steps were taken to:

- reduce the number of items under quantitative restrictions (QRs);
- rationalise tariff structure;
- simplify the tariff structure and reduce the level of tariff dispersion; and
- free all agricultural commodities of QRs except three HS.

In the Uruguay Round, Bangladesh offered ceiling tariff bindings of 200 percent *ad valorem* on all products covered by the AoA, with the exception of 30 lines for which the bound rate was 50 percent. And all “other duties or charges” were bound at 30 percent on all these products, so that the overall bound rates were 230 percent on most products and 80 percent on the 30 tariff lines (Annexure 3 & 4).

In July 1999, trade-related QRs remained on imports for three products: eggs, except hatching eggs (HS 0407.00), *tendu* leaves (*biri* leaves) (HS 1404.901), and all goods including lard stearin but excluding non-edible tallow and RBD palm stearin (HS 1503.001). In 2000 and onward, government carried forward the reforms initiated earlier in a more productive way. The Import Policy Order (2003-06) describes the objectives of trade policy, i.e. to keep pace with globalisation and the gradual development of free market economy under the WTO rules and facilitate imports of technology for widespread expansion of use of modern technology.

2.3 Policies & Import Surges

Under AoA, Bangladesh has not made any commitment in Uruguay Round in reducing subsidies under domestic support, due to the reason that all the support given to the farmers in the area of research, extension and infrastructure which are non trade distorting and comes under green box⁶. The total Aggregate Measure of Support (AMS) in terms of input subsidies, i.e. seeds and irrigation from the base year of 1986-87 till 1995-96, there was an increase of about 2 percent and 1.5 percent in relation to the value of agricultural production while there was a decrease of 2 percent in fertiliser subsidies (Annexure 5). While in terms of product specific subsidies AMS, support price schemes existed for rice and wheat only. Estimates showed that AMS levels were very small and typically negative (because support prices were lower than import parity prices). In sum, these estimates show that total AMS for Bangladesh is very small, amounting to less than 3.5 percent of the value of agricultural output. There is, therefore, need to revise the national policies within the framework of AoA and thus provide subsidies and price supports to safeguard the interest of small farmers/producers.

Landholdings in South Asian countries are the bases of the income generation/household earnings or main source of livelihood for the rural farmers. Similarly, in Bangladesh people have small landholding to depend on. According to the report on Census of Agriculture 1996, out of the total farm holdings of 19.96 million acres, the small holdings (0.05 - 2.49 acres) account for 79.87 percent against 70.34 percent in 1983-84. Medium holdings (2.50 - 7.49 acres) stand for 17.52 percent against 24.72 percent in 1983-84. Large holdings (7.5 acres and above) account for 2.52 percent against 4.94 percent in 1983-84. Due to the small farm holdings, the farmers do not generally use modern farm implements and technology.

The inadequate subsidy is another reason for the farmers to face the problem of cheap import surge from the neighbouring countries. Although the government has in the recent years adopted the policy to increase the subsidy and assistance to agriculture sector, the amount of subsidy and assistance is insufficient for the growth of this vital sector (the government increased subsidy and assistance to agriculture sector from Taka 300 crore (US\$44.9mn) in 2003-04 to Taka 600 crore (US\$89.8mn) in 2004-05 and Taka 1200 crore (US\$179.8mn) in 2005-06).

The rural farmers having small landholdings and inadequate subsidies could not compete at international market; rather they are finding it difficult to get market access for their agricultural products and facing the challenge of cheap import surge. At domestic level, the main reasons are the un-organised market system and price control system/policy due to which the grassroots producers are not getting due prices of their produce.

The domestic policies are also related to the international policies. Under AoA, the tariffication process can have affects either positive or negative on the domestic prices in addition to the government pricing policy. However, the applied tariff remained not effective enough in influencing the domestic prices, not only due to unpaid duty imports from the developing countries, which has affected the domestic prices but also due to cheap quality domestic produce.

As the imports to Bangladesh are not recorded, the country has not paid any duty; hence there is no compliance with the WTO custom valuation provision on agricultural products. Besides, due to water in the bound rates and applied rates, Bangladesh can protect its boarder through reduction in tariff bindings on different products. In that event a distinction would need to be made between “sensitive” and other products, based on in-depth analysis of the importance of individual commodities for the economy and its farming sector.

2.4 Position on Special Products and Special Safeguard Mechanism

Bangladesh has no access to Special Agricultural Safeguards (SSGs) and so has no experience with these or with general WTO safeguards. As an LDC, Bangladesh is exempted from tariff reductions on agriculture products (ref: Hong Kong Declaration). Following this chain of thought, if Bangladesh is completely excluded from reduction commitments in the AoA, it may be argued that negotiations on SPs and SSM will not be of the country's concern (Ruffer, 2003⁷).

However, it is important to keep in mind that in the coming years, there is going to be pressure on the LDCs to take on at least some commitments on a 'voluntary' basis and to bind their tariffs. In this way, although Bangladesh may not be directly concerned about 'SPs' as yet, it might still be in the country's interest to participate in the negotiations relating to setting the criteria for: designation of SPs; identification of SPs; treatment of SPs; setting up of SSM; and linking SPs and SSM.

In Bangladesh, agriculture is the most significant sector of the economy. It is the major source of livelihood to almost 80 percent of the population, and approximately two thirds of the labour force is employed in agriculture. Currently, agriculture (crops, livestock, fisheries and forestry) accounts for one third of GDP and agricultural products constitute 32 percent of the total value of exports (FAO Country Case Study⁸).

Moreover, food security⁹ is of paramount importance to Bangladesh. In order to ensure food security, Bangladesh must own the ability to support and protect local production, as well as have the opportunity available to export to other countries so that farmers' income increases. In this way, once again the implications of any agreements on SPs, Sensitive Products, and SSM will be crucial to Bangladesh in the long run.

As yet, Nepal is not a member of the WTO, but enjoys observer status. Again, being an LDC that has not yet acceded, its concerns should relate primarily to accession and support of developing countries rather than developed countries. However, LDC members of the WTO (including Bangladesh) have indeed taken a cohesive stance in the negotiations concerning SPs and SSM, by supporting the G-33 proposal¹⁰. This is reflected in the Joint Communication from the G-33, African, Caribbean and Pacific (ACP) Group, and LDC's on SPs and SSM circulated on May 10, 2006, (see Annexure 6).

3. India

3.1 Importance of Agriculture¹¹

According to the trade policy review of India, due to trade liberalisation and structural reforms the economy of India is growing very vigorously with real GDP growth averaging some six percent annually with the target of higher real GDP growth between seven percent to nine percent as compared to 5.4 percent in year 2001-02. Indian economy is liberal enough with the view of strong linkages between trade and economic growth. The government has reduced tariff and QRs on imports as well as reduced export restrictions. The Indian Government is planning to make further reduction in tariffs, structural reforms and reforms in tariff and other tax with ensured protection. Moreover, with the customs tariff accounting for some 30 percent of net government tax revenue, further reform of the tariff may depend on major tax reform.

During the trade policy review of 2002, the applied tariff which averaged some 32 percent in 2001, remained relatively high and in the trade negotiations India has taken additional bindings on tariff lines, and the tariff lines which are bound increases from 67 percent to 72 percent, while the average bound rate was about 50.6 percent higher than the applied MFN rate, provided the space for applied rates to be increased on certain agricultural products.

Policy in the agriculture sector has been guided by domestic supply and self-sufficiency considerations. Thus, the sector is shielded through import and exports controls, including tariffs, state trading, export and import restrictions. The result of this policy has been a substantial increase in stocks to unsustainable levels and the costs associated with maintaining these stocks. For price and distribution control, India has Public Distribution System (PDS), through which certain staple commodities are procured and distributed on subsidised rates, ensuring the food security of low income families. Also, it works through price controls maintained for staple foods to ensure remunerative prices for farmers. The staple products include wheat, rice, sugar and edible oils. Indian agriculture¹² is complex and vast venture to take on any policy decision. Not only in South Asia but in the world India is playing a leading role for being the largest producer of milk, fruits, pulses, cashew nuts, coconuts and tea, the second largest producer of rice and wheat, and fourth largest in coarse grains. India is also one of the largest producers of cotton, sugar, sugarcane, peanuts, jute, tea and an assortment of spices. Agriculture sector in India is providing the source of livelihood/employment to 70 percent of the rural and seven percent of the urban households. Indian agriculture consists of many sub sectors, i.e. grain crops, commercial crops, plantation sector, horticulture, forestry and livestock etc.

According to the Economic Survey 2005-06, there were fluctuations in the growth rate in agriculture sector. Under the 10th Plan, the agricultural growth remained 10 percent according to the provisional estimates in year 2003 04, while showing a growth rate of 2.3 percent in year 2005-06. It is estimated that the growth on coarse grains, pulses, oilseeds, cotton, rice, sugarcane etc., will be marginally increased. While horticulture, floriculture, fishery, poultry and animal husbandry, which accounts for 30 percent of production in agriculture and allied sectors, are expected to achieve a growth rate of six percent. Production of commercial crops like, jute, tea, coffee, oilseeds and sugarcane is also expected to increase, although by a lower rate. Consequently, overall value added in the primary sector is expected to increase by three percent in 2005-06.

Table 1.4: Annual Average Growth Rate (at constant price percent)

Five Year Plan	Overall GDP growth rate	Agriculture & Allied Sectors
Seventh Plan (1985-1990)	6.0	3.2
Annual Plan (1990-92)	3.4	1.3
Eighth Plan (1992-97)	6.7	4.7
Ninth Plan(1997-2002)	5.5	2.1
Tenth Plan (2002-07)		
2002-03	3.8	-6.9
2003-04(P)	8.5	10.0
2004-05(Q)	7.5	0.7
2005-06(A)	8.1	2.3
P: Provisional, Q: Quick estimates, A: Advance estimates		
Note : Growth rates prior to 2001 based on 1993-94 prices and from 2000-01 onwards based on new series at 1999-2000 prices.		
Source : CSO		

Source: economic survey India 2005-06 (<http://indiabudget.nic.in>)

In the year 2004-05, grain stock of India grew by 204.6 million tonnes and estimated about 105 million tonnes of *Kharif* crop in 2005-06, and expected to rise to 208.5 million tonnes in the fiscal year ending in March 2006. Along with food grain production,

India's total rice production was about 85.3 million tonnes in 2004-05 and expected about 73.8 million tonnes in 2005-06, while the cotton production for the 2005-06 marketing year is now seen at 18.4 million bales, compared with a previous forecast of 17 million bales. In commercial crops, the production of sugarcane showed higher production as compared to other crops, i.e. 232.3 million tonnes in the year 2004-05 and expected about 257.7 million tonnes in year 2005-06, followed by oil seeds, cotton and jute respectively.

In horticultural, crops including – fruits, vegetables, spices, floriculture and coconut – the production of 164 million tonnes recorded in the year 2004-05 and the sector contributed about 28 percent of GDP from agriculture against the target of 8-9 percent. Horticulture sector not only contributes towards the economic growth but also acts as the source of food security and livelihood for the communities. The importance of horticulture includes: improving the productivity of land; generating employment; improving economic conditions of the farmers and entrepreneurs; enhancing exports; and above all, providing nutritional security to the people¹³.

In plantation sector, India is the largest producer and consumer of tea in the world, accounting for 27 percent of the world production and 13 percent of world trade. India contributes around four percent in the world production of coffee and is well known for its *Robusta* and *Arabica* coffee. In 2004-05, the total production of coffee was recorded as 2.75 lakh tonnes, which was 2.81 lakh tonnes in 2005-06. Rubber is produced in 16 different states of India over an area of 5.7 lakh hectares, contributing to the livelihood of the rural communities of small landholdings. The production of rubber in 2005-06 recorded around 780 million tonnes, which is less than the required consumption of 799 million tonnes.

India is the biggest producer of milk in the world. In India, the dairy sector is somewhat in the hands of cooperatives involving millions of women and men. Dairy products showed a significant increase in imports of 371 percent during 2001 and 2004, while the production during 2004-05 remained 90.7 million tonnes with 232 gm/day per capita availability. This not only shows that dairy sector is providing employment but also fulfilling the nutritional requirement.

3.2 Trades and Agriculture

As mentioned above due to the complex agricultural system, India in order to protect and support its farmers in the era of trade liberalisation, which has caused changes in the world prices, has initiated reforms in many policies from import substitution to outward orientation. The farmers have been supported by the price support programme, government procurement and input subsidies resulting in the net taxation of the agricultural sector, while the non-agricultural sector received protection. The extent of total taxation of the sector was estimated to 29 percent of the value of agricultural production during 1971-85, 18 percent during 1986-91, but only nine percent during 1992-95¹⁴.

Trade liberalisation in India in 1991 was initiated with tariff reductions, elimination of quotas and economic reforms. Liberalisation was extended to agriculture in 1994, when the government lifted a number of restrictions from imports and exports, simplified trade measures and reduced public interventions in domestic markets. During April

2005-February 2006, the total Indian exports were about US\$88bn and imports were around US\$126bn.

3.2.1 Exports and Imports

India's *basmati* exports in 2005 touched an all-time high of 1,120,000 tonnes, up 45 percent. In value terms, exports rose to US\$596mn compared with the previous year's figure of US\$432mn. The non-basmati rice exports rose to 3,640,000 tonnes from 2,601,000 tonnes. In value terms, it was US\$880mn from US\$483.8mn¹⁵. In the Table 1.5 there are around more than 30 agricultural commodities/products of exportable importance/worth/significance, contributing around 14 percent of agricultural export in national export in year 2001.

Agricultural policy of India has different plans, although the data mentioned above comes under the 8th Plan, but can be useful as base for having an idea of export and its contribution to the total national export. The total agricultural export recorded around Rs 16254.29 crores (US\$3.65bn). The major exportable products are rice, wheat, tea, coffee, spices, tobacco etc.

According to Food and Agriculture Organisation (FAO) study¹⁶, in order to negotiate AoA for better market access for India's exportable agricultural products, there is need to identify the commodities through a better analyses of agricultural exports during the period of 1990-1998. Different observations were made: the rise and fall in different years in the export of several commodities is due to the rise and fall in the world prices of those commodities and also because of countries position in trade negotiations.

However, both the annexure 7 & 8 shows that among cereals, rice exports were impressive. Market access terms for rice since the UR remain difficult in many importing countries - an indication of the prospects for Indian rice exports if further reforms are made in the new round of trade negotiations. Fresh fruits, processed fruits and vegetables are also contributed significantly in the agricultural export (Annexure 8).

In order to face the challenges of food security, India has made many changes and reforms in its policies related to imports of different agricultural commodities. Table 1.5 shows the import of pulses, cereals, sugar, spices, vegetable oil and tea.

Table 1.5: Import of Agricultural Products Value: (Rs in crore)						
Commodity	April 99 - March 2000		April 2000- March 2001 (P)		April 2001- October 2001 (P)	
	Quantity	Value	Quantity	Value	Quantity	Value
1	2	3	4	5	6	7
Pulses	250.77	354.69	348.47	493.79	1165.04	1685.37
Wheat	1365.97	774.35	4.22	2.87	1.35	0.84
Rice	34.99	29.95	13.20	17.79	0.06	0.06
Other Cereals	205.20	114.07	30.38	15.61	3.85	2.00
Cereal Preparation	14.36	43.14	20.27	48.90	25.21	56.83
Milk & Cream	18.89	107.31	1.37	7.66	0.70	5.14
Cashew Nuts	256.00	1198.26	249.09	962.14	7.88	18.88
Fruits & Nuts Excluding Cashew Nuts	-	590.84	-	803.99	-	353.40
Spices	65.08	294.10	50.75	249.60	36.90	232.27
Sugar	1181.18	1110.80	30.61	31.36	26.53	32.43
Oil Seeds	-	15.42	-	7.89	-	0.98
Vegetable Oils Fixed (Edible)	4195.64	8046.05	3974.64	5932.76	2776.24	3985.01
Vegetable & Animal fats	1.35	10.07	2.04	13.74	9.30	22.39
Cotton (Raw & Waste)	237.40	1253.93	212.07	1183.15	236.72	1329.49
Jute (Raw)	137.40	139.31	73.37	82.57	33.56	38.90
Tea	5.06	25.61	6.40	41.49	6.22	35.98
Wood & Wood Products	-	1958.83	-	2135.05	-	1511.58
Total Agricultural Imports		16066.73		12030.36		9311.55
Total National Imports		215528.53	2	26773.47		141989.68
% Share of Agricultural Import in		7.45		5.31		6.56
# : Commodity not reported @ : Other Oilseeds. @@: Oilseeds P: Provisional Source: - Director General of Commercial Intelligence & Statistics, Ministry of Commerce, Kolkata. http://www.agriculture-industry-india.com/india-agro-statistics/import-agricultural-products.html						

Table 1.6 shows trends in imports (value, volume and price) for selected major food products. The most striking experience has been with vegetable oils, imports of which in 1995-98 were nine times higher in value than that in 1990-94. Imports of fruits and vegetables have also increased significantly in the post-1994 period, and for pulses the increase has been more modest.

Table 1.6: Imports and Import Unit Values of Major Food Products, 1990-94 and 1995-98 (annual average)						
		Actual value		Trend value¹	Percentage change	
		1990-94	1995-98	1995-98	(b/a)	(b/c)
Product	Unit	(a)	(b)	(c)	(d)	(e)
Vegetable	million US\$	141	1 280	-182	²	²
oils,	000 tonnes	305	2 129	-429	²	²
Total	US\$/tonne	477	610	518	28	18
Palm oil	million US\$	99	941	-39	²	²
	000 tonnes	249	1 609	-137	²	²
	US\$/tonne	406	595	439	47	35
Other oils	million US\$	42	339	-143	²	²
	000 tonnes	56	520	-291	²	²
	US\$/tonne	754	647	864	-14	-25
Fruit &	million US\$	399	669	513	68	31
Vegetables	000 tonnes	819	1 145	951	40	20
	US\$/tonne	496	586	560	18	5
Pulses	million US\$	188	325	188	73	73
	000 tonnes	570	721	585	27	23
	US\$/tonne	329	441	315	34	40
Cereals	million US\$	80	209	94	163	121
	000 tonnes	388	1 288	484	232	166
	US\$/tonne	268	211	265	-21	-20
Sugar	million US\$	147	94	218	-36	-57
	000 tonnes	389	335	162	-14	107
	US\$/tonne	310	345	420	11	-18
Dairy	million US\$	9	6	-22	-38	²
Products	000 tonnes	33	28	-122	-16	²
	US\$/tonne	305	188	329	-38	-43
<i>Source: Computed from FAOSTAT data.</i>						

3.2.2 Tariff on Agricultural Products

Like complex agriculture system, the trade policy regime of India had been also highly complex until early 1990. The protective measures included tariff barriers, non-tariff Quota Restrictions (QRs) and outright prohibition of imports. The import and export (EXIM) policy in effect from 1992 to 1997 significantly reduced trade restrictions and liberalised the import of capital goods and raw materials. The 1991 economic reforms also made a break from the earlier approach by replacing the positive-list approach of listing licence free items on the open general licence (OGL) with a negative list approach. However, QRs, including import-licensing requirement, were maintained on a number of products on balance of payments (BoP) grounds. These items were listed in the negative

list of imports in India's official EXIM policy. Although in 1991 reforms first did away with import licensing on virtually all intermediate and capital goods, consumer goods, which accounted for nearly 30 percent of the tariff lines that remained subject to import licensing (WTO 1996). The government's view was that Indian exports were subject to supply constraints, and thus unresponsive to price changes resulting from altering the exchange rate. Essential imports were similarly considered price-inelastic. But "luxury" imports were not. Given that the import basket would contain some of both, it was argued that the targeted QR system was the most efficient way of managing large volumes of luxury imports. In this respect, the QR regime operated successfully to discourage imports of a number of products such as meat, fish, cereals, malt and starches, cocoa, chocolate, nuts, fruit juices, wine beer spirits and Vinegar¹⁷ (Annexure 9).

In the Uruguay Round, India bound 81 percent of all agricultural tariffs at two levels: 34 percent of the tariff lines at 150 percent and 47 percent at 100 percent. Four percent of the tariff lines were bound at 350 percent and another 15 percent at less than 100 percent, including zero bound rates on 11 lines. The zero bindings for commodities like rice, maize, millet, plums, fresh grapes and dried skimmed milk were committed in earlier GATT rounds¹⁸. The simple average of the roughly 600 tariff lines was 116 percent. All tariffs were *ad valorem*, i.e. there were no specific tariffs.

India also maintained QRs in the form of import prohibitions, import licensing or canalised imports for roughly 43 percent of the agricultural tariff lines (606 out of a total of 1 398). For 262 of these products, the restrictions were based on security, religious and environmental considerations, while the BoP exception under GATT Article XVIII B was invoked for the others.

There were no other market access commitments (e.g. tariff rate quotas), since India had opted for ceiling bindings rather than tariffication. Consequently, India cannot avail itself of the special safeguard provisions of the AoA.

Apart from the QRs maintained on BoP grounds (discussed below), India has had no particular problem in living up to its tariff commitments. In large part, this was because of the series of trade policy reforms that were initiated unilaterally in 1994 (as part of the process begun in 1991). For example, import controls on sugar and cotton were lifted in 1994, and the import of palmolein was permitted under OGL, with 65 percent import duty. Subsequently, in 1995, almost all edible oils (except coconut oil) were put under OGL, with an import duty of 30 percent. The duty on edible oils was reduced further in 1998. Imports of butter oil and skimmed milk powder were exempted from canalisation and licensing requirements.

One indicator of the ease or the difficulty of living with the new trade regime is the gap between applied and bound tariff rates. As in many other developing countries, applied rates are considerably lower than the bound rates, averaging roughly 26 percent in 1997/98, compared with the average bound rate of 116 percent. According to one analysis, current applied MFN tariffs¹⁹ for as many as 556 (83 percent) of the 673 agricultural tariff lines at the 6-digit HS level are lower than the bound rates by at least 50 percent (Table 1.7). For example, the bound rate for wheat is 100 percent, but flour mills are permitted to import wheat duty-free subject to licence. Similarly, pulses with a bound rate of 100

percent, pay no duty and face no QRs. Import duties for most edible oils are bound at 300 percent, but applied rates have been in the range of 15-30 percent in recent years.

Table 1.7: Applied MFN Tariffs: Distribution According to the Difference with Bound Rates		
Applied rate (relative to bound rate)	No. of tariff lines¹	Percent of total
75% lower or more	401	59.6
50-74% lower	155	23.0
25-49% lower	29	4.3
10-25% lower	39	5.8
Up to 10% lower	41	6.1
Above bound rate	8	1.2
Total	673	100
¹ At the 6-digit HS level.		
<i>Source: A. Gulati, R. Mehta and S. Narayanan, "From Marrakesh to Seattle: Indian Agriculture in a Globalising World", Economic and Political Weekly, 34(41).</i>		

Nevertheless, not all experiences have been that smooth. First, in some instances, though they were few, applied rates have exceeded bound rates. Second, India was stuck with zero tariff bindings for some products, resulting from previous rounds, as noted above. Apart from the fact that the bindings are very low (zero), they pertain to sensitive food products. India has been negotiating with WTO members to raise these bindings to levels comparable to other products. Third, considerable difficulties have been faced in the WTO on the issue of QRs maintained on BoP grounds, as described in the paragraphs, which follow²⁰.

India had initially announced a timetable of nine years to eliminate the QRs, but it ran into objections from a number of WTO members. Following negotiations, it agreed to phase them out by 2003. The proposal was accepted by all countries except US, which filed a dispute against India. The WTO Dispute Settlement Body (DSB) ruled against India in September 1999. India began lifting the QRs unilaterally, pending conclusion of negotiations with US. In December 1999, India reached an agreement on a time limit for lifting the remaining QRs, which was determined after 18 months from the date of adoption of the Report of the DSB, i.e. April 2001. In the meantime, in the budget presented to the Parliament in February 2000, the Indian Government reiterated its intention to remove QRs on 714 tariff lines (including non-agricultural products) from April 2000.

It was feared by many that the abolition of QRs would lead to a surge in imports, although most analysts believed that the impact would be minimal because domestic prices were generally lower than the world market prices for most agricultural products. Certainly, there is no evidence to date of any impact. However, India's experience with trade liberalisation has on the whole not been negative. Most trade policy reform measures were initiated unilaterally as part of an economy-wide reform process that began in 1991, before the Uruguay Round disciplines applied. With applied rates considerably below

the bound rates, there is ample margin for lowering the bound rates, if that becomes necessary as a result of new multilateral negotiations.

3.2.3 Domestic Support & Export Competition

Besides all other support measures, India in the Uruguay Round made a detailed submission on support measures during 1995-96 under the green box subsidies, which accounted US\$2196mn, and of the total support, 71 percent was given on single item-public stockholding for food security purposes. India's product-specific AMS for the base period (1986-88) was negative to the tune of Rs 244 billion (US\$5.5bn), or about 22 percent of the total value of agricultural production. Support was negative for all crops except tobacco and sugarcane. For 1995-96 also, the sum of product-specific AMS was negative, equivalent to 30 percent of the value of agricultural production²¹. India has not given any submission on direct export subsidies on agricultural products for base period; neither has notified any export controls and taxes. There were some limitations on the export of certain agricultural products but in 1995 the limitation were removed in order to freeing agricultural products of export restrictions.

3.3 Policies and import Surges

India's trade led growth strategy has bypassed agriculture – the main source of poverty alleviation. Simulations show that roughly 100 million people could be lifted out of poverty with liberalisation in the developed countries in agriculture. India's exports are likely to increase by 13 percent if trade distorting domestic support is reduced. At the same time, agriculture is the most vulnerable sector in India. In total, India contributes 21.8 percent of global paddy production, but yield per hectare in 2002 was less than that in neighbouring Bangladesh and Myanmar. Agricultural investment fell from 2.2 percent in 1990s to 1.7 percent in 2004-05. Turnaround in public investment in agriculture reached its highest levels in 2004-05 since the early 1990s.

Earlier, protective measures included tariff barriers, non-tariff QRs and outright prohibition of imports was completely liberalised by 2002. Average tariffs today is at 12.5 percent with para tariffs one of the lowest in the region, i.e. about four percent Countervailing Duties (CVD). India has bound 69.8 percent of its tariff lines, whereas prior to the Uruguay Round, only six percent of the tariff lines were bound. Tariffs were reduced autonomously but bound because of Uruguay Round. As a result of Uruguay Round, India removed QRs on agricultural products maintained on BoP grounds and bound all its tariff lines in agriculture. India had bound its tariffs at 100 percent for primary products, 150 percent for processed products and 300 percent for edible oils. Product-specific support has been negative while subsidies on agricultural inputs, such as power, irrigation, fertilizers etc., remained below the permissible level of 10 percent of the value of agricultural output.

Developing countries need not reduce tariffs unless “substantial” and “effective” reduction in trade distorting subsidies by developed countries is ensured. The Blue Box and Green Box are explicitly clarified to ensure that subsidies given under them are indeed none or minimally trade or production distorting. Low or no tariff reduction for developing countries in “SPs” is meant to safeguard “food security, livelihood security and rural development needs”. G-33 (mainly LDCs) and India now are jointly working on criteria for SPs.

Table 1.8: Import Surges						
Product Group	Import surges above 10%	Import surges accompanied with decline in domestic production	Decline in welfare	Limited scope of diversification on account of geographical conditions	Low income and resource poor farmers account for more than 25% of the production	Staple food items
Livestock	Yes	Yes			Yes	
Milk concentrate		Yes				
Cheese			Yes			
Wheat			Yes		Yes	Yes
Rice					Yes	Yes
Barley	Yes	Yes	Yes		Yes	
sorghum	Yes	Yes			Yes	Yes

As mentioned in previous section India imports have been increasing as tariffs are lowered. Between 1996-97 and 2003-04, agricultural imports have gone up by 270 percent by volume and 300 percent in value terms, and developed countries have started investing in the Indian market for their interest of agric business, affecting the livelihood of the rural communities.

According to news some crops could be designated as SPs, because the livelihood, employment and food security of the rural farmers are directly linked with these crops. These crops are i.e. cotton, edible oil (coconut, soyabean, mustard, palm, safflower and sunflower), spices, coffee, pepper, tea and dairy. Due to the diverse agro ecological zones and rich biodiversity, India is growing 260 crops every year besides medicinal plants, herbs and shrubs. As agriculture is linked with the livelihood of the rural people of India, the 260 crops are the source of income and food security for the people depended on it. According to econometric analysis India's SPs would fall broadly in the categories of dairy and poultry products, vegetable and fruits, spices, cereals, oil seeds and edible oils and certain processed products. Imports of these products have grown by almost 216 percent between 1995 and 2004. Some of the SPs are precisely the products grown mainly in those four states, which are witnessing the continued spate of farmer suicides.

A vast country like India with extremely diverse agro-climatic regions, even 100 SPs may prove inadequate to protect the livelihood and food security concerns of small and marginal farmers and agricultural workers, India needs more than 350 tariff lines to be protected under SPs in order to ensure that the farming community does not take to mass suicides.

As discussed earlier two that landholdings are also an important factor in the livelihood dependence of a large farming population in Bangladesh, similarly in India, crops like cotton, rice, sugarcane etc., are of commercial importance and are also the source of

livelihood for the vulnerable small farmers/producers, who own small pieces of land in various states of India. Moreover, the crops grown on these landholdings are the staple food of that area fulfilling the nutritional requirement and ensuring food security of the concerned farmers. Main crops grown by small farmers on small landholdings are cotton, coconut, sunflower, safflower, soyabean and species for which the farmers' needs protection from either case, i.e. domestic support or import surges.

Almost 50 percent of the average size of farm holdings in cotton is less than four hectare. During 1990-2005, the import of cotton lint increased at a compound growth rate of over 75 percent. This was despite the customs duty being increased from zero to five percent in the year 2000. Since 1995, international prices have exhibited a downward trend, declining by more than 55 percent between 1996 and 2003. A study indicates that during 1994-2005, cotton lint had international price instability index of 15.47. This was transmitted to domestic price volatility, which had an instability index of 13.7.

Similarly, around 50 percent of the farm holdings in oilseeds are less than 4-hectare size. As discussed in the previous section (Trade in India) India has now emerged as the world's biggest importer of edible oils. This had severe implications for millions of farmers languishing in the harsh environs of the dry land regions. Cheaper imports have however not only taken away that advantage but also destroyed millions of livelihoods. Compared to the import of 1.02 million tonnes of edible oils in 1997-98, the imports multiplied to 2.98 million tonnes. In 1999-2000, India imported five million tonnes of edible oil thereby emerging as one of the biggest importer of edible oils. In 2005, the import bill soared to US\$3.2bn.

Coconut is the main oilseed grown in Kerala, with 3.5 million small and marginal farm households dependent on this crop for their livelihood. The price of coconut oil follows the price trends of substitutes such as soyabean oil, mustard oil, palm oil, safflower and sunflower oil. Sharp declines in international prices of edible oils and depressed unit value of imports have not only adversely impacted coconut oil producers, but also producers of coconut. Also, loss of domestic market share of coconut oil directly led to reduction in demand for coconut.

In Maharashtra, the area under soyabean covers 50 percent of total area under oilseeds, an increase by more than 10 times during 1990-91 and 2004-05, showing the marked preference of the farmers for this crop. However, expectation of steady income from soyabean cultivation has not materialised due to decline in import unit value.

India is the largest producer of spices in the world. The estimated production of various spices in India during 2003-04 was 3.75 million tonnes and covered some 2.6 million hectares. Given the fact that the average size of more than 95 percent of the holdings in India is less than half a hectare, the production of spices is conducted at subsistence level and determines the livelihood of at least 5 million farmers and 25 million population.

An analysis revealed that during 1997-98 and 2002-03 co-efficient of variation in prices for pepper was as high as 50 percent. Also, crops with high export intensity experienced wider fluctuations in prices than other crops. In real terms, the price of coffee recorded a fall to the tune of 59 percent, tea 41 percent and peppers 69 percent during 1997-98 and

2002-03. The fall in the price of primary products was associated with a significant drop in productivity of tea, coffee and pepper. As far as trend in imports of spices are concerned, these increased by 542 percent during 1995 and 2004. The increase was 48 percent during 2001 and 2004.

3.4 Position on Special Products and Special Safeguard Mechanism

Considering Development Dimension, i.e. SPs and SSM in agriculture in trade negotiations, commitments in agriculture should be proportionately lower than those of the developed countries and that special and differential treatment (S&DT) should be integral to all aspects of the negotiations. Paragraph 8 flexibilities (a) applying less than formula cuts up to 10 percent of tariff lines or; (b) keeping as unbound or not applying formula cuts for up to five percent of tariff lines.

India has played an important role in almost all negotiating areas. India is a key member in the G-20 and G-33, G-6 on NAMA, Friends of the Chair on Services, and other coalitions. Because of defensive and offensive interests in the WTO, key challenge for the negotiators lies in identifying and reconciling the diverse range of interests of the stakeholders.

India has not yet officially disclosed that which products could be designated as SPs but according an article published on September 25, 2006 on “Restricting SPs and SSM in The WTO Doha Round will wipe out Indian Farmers” by Our world is not for sale²², that India has faced agrarian crisis and more than 100,000 farmers have committed suicides and around 40 percent of the 650 million farmers are giving up agriculture profession. There are so many reasons behind 90 percent of the farmers who have committed suicides, and their livelihood depends on the production of cash crops, which are of trade importance and WTO interest.

Indian position on SPs and SSM is based on the need to safeguard small farmers whose livelihood is based on farm holdings, besides being the source of economic gains. More than two third of the India’s labour force, i.e. 650 million people are employed in agriculture sector. The majority of the landholdings are farmed at subsistence level – the average size of landholdings is about 1.4 ha per farmer. Mainly farming families live below poverty line and the rate of illiteracy is high. India has 25 agro-climatic zones, and on the bases of the crop diversity on these agro-climatic zones it is difficult to prepare certain criteria to designate the SPs and define a consolidate negotiation position.

The tariff reductions/tariff cuts on a number of agricultural products where the new applied tariff are lower than the existing applied tariff, is termed as SPs. Based on the livelihood concerns, black tea, wheat, maize, milk products, cream, crude and refined oils, spices, ginger, cane sugar, rice, sugar and coconut are designated as SPs. Out of these, edible oils and oil seeds, dairy and dairy products are chosen as SPs, as these products provide huge employment opportunities. The remaining products are the SPs as small farmers on their small landholdings grow them, impacting on the livelihood and food security concerns of the vulnerable rural farmers.

4. Nepal

4.1 Importance of Agriculture

Like other countries of South Asia, agriculture is the main source of livelihood for farmers in Nepal and contributes about 40 percent to the GDP. Around 76 percent of the people are employed in agriculture out of which 91 percent are women. Rice is the staple food for the people of Nepal and around 50 percent of the total production of rice is consumed domestically and the remaining is sold in the market. Besides, Nepal is also importing rice from India that caused an import surge, where the import quantity increased from 24,511 metric tonnes in 1999 to 195,000 tonnes in 2000 (FAO).

4.2 Trade and Agriculture

The trade in Nepal was initially being regulated by licence requirement, QRs, quota, price administration and high tariff on imports. But with trade liberalisation in mid 1980s, there occurs reform programme in Nepal dealing with trade, fiscal and industrial sectors, followed by structural adjustment programme. The reform process covered the fiscal, financial, external and manufacturing sectors and dealt with the changes in the tax rates and slabs, withdrawal of subsidies on food, fertiliser, irrigation and public operations, elimination of import licence and quotas, rationalisation of tariff structure, reduction in average level of tariffs etc.

Post-reforms the average rate of protection has declined from nearly 111 percent in 1989 to 22 percent in 1993 and to 14 percent in 2002. Most tariff rates now fall at 5-25 percent while more than 70 percent of the rates exceeded 25 percent in 1990²³.

4.2.1 Export and Import

The external trade of Nepal rose up from Nepalese Rupees 81.3 billion (US\$120mn) during 1994–2004 to Nepalese Rupees 190.2 billion (US\$2.8bn). During the same time period the imports rose up to Nepalese Rupees 136.3 billion (US\$2bn) while the export increased to Nepalese Rupees 53.9 billions (US\$796mn) and the trade deficit has increased by 79 percent. While the total share of agriculture products is about 25.8 percent and 19 percent in total export and imports of the country. The major agriculture produce includes paddy, maize, wheat, barley, millet, sugarcane, oils seeds, tobacco, potatoes, jute, milk, fruits, vegetables, meat, egg and fish. The exportable commodities of Nepal are pulses, vegetables ghee, jute products, hide and skins, wheat, lentils, cardamom and sugar. The export of Nepal is restricted to a few countries, i.e. EU for sugar while for other commodities the market of developing countries. Nepal's import includes, oil seeds, tobacco, rice and wheat.

The food item in Nepal constitutes about 59 percent share in the consumption, out of this 24 percent is contributed by rice, wheat and maize. However, the share of agriculture in total household income is 48 percent and for rural household it is 55 percent. The land holdings are very small (average 0.8 hectare). Due to lack of modern technology, small landholdings, labour intensive agriculture and low intensity farm inputs, the agricultural productivity of Nepal is very low. Agricultural output has grown at an average of 2.2 percent during the last five years, lower than 2.3 percent of population growth, implying negative per capita growth.

4.2.2 Tariff on Agricultural Products

Nepal has bound its tariff on agricultural goods at an average 42 percent. While the minimum tariff bindings are five percent and maximum 200 percent, with 70 percent of tariff lines at below 40 percent. There is no tariff rate quota in Nepal neither is AMS.

4.3 Policies and Import Surges²⁴

Being an LDC Nepal is exempted from tariff reduction on agricultural products. But the agriculture sector of Nepal is also affected due to cheap imports. This can be explained with the research study on import surges by Action aid International, describing the effects of surges on farmers and price volatility of rice in the market. There were two important reasons for the import surges of rice in Nepal from India:

- Duty free market access to India under the Nepal India Treaty
- De-stocking of food grains i.e. rice by Food Corporation of India (FCI)

The Indian rice has captured the Nepalese market because of low cost of production, support price given to the Indian farmers and the decreased price of rice from US\$0.30 in 1999 to US\$0.20 in 2000. Besides, the protection provided by the total fee of 9.5 percent (eight percent agriculture development fee and 1.5 percent local development fee) was very low.

Table 1.9: Rice Imports as Share of Domestic Production and Consumption

Year	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002
Imports as share of production	0.15	1.54	1.75	3.36	1.77	2.92	1.29	0.46	1.60	7.34	1.69	0.72
Share of Imports in consumption	0.17	1.70	2.02	3.79	2.40	3.73	1.42	0.55	1.81	8.64	1.92	0.79

Source: FAOSTAT

Imported rice from India usually captured the markets of the boarder villages and also the markets of Kathmandu (Table 1.10). This market access provided to the foreign low priced rice has affected the domestic prices and significant variations can be observed between the retail price of coarse and medium varieties of Indian rice. The average retail price at the national level in Nepal has severely affected the prices in the Nepalese districts bordering India. The comparison of the prices can be seen in detail in the Table 1.11.

Table 1.10: Proportion of Imported Rice Sold in the Respective Local Markets (as of July 2005)					
Market share of imported rice	Number of Respondents (Figures in parenthesis represent %age share)				
	Kathmandu	Biratnagar	Bhairahawa	Birgunj	Nepalgunj
0-20 %	0 (0)	5 (35.71)	0 (0)	0 (0)	6 (46.15)
20-40 %	5 (62.5)	5 (35.71)	0 (0)	6 (50)	5 (38.46)
40-60 %	2 (25)	4 (28.57)	4 (22.22)	6 (50)	2 (15.39)
60-80 %	1 (12.5)	0 (0)	12 (66.66)	0 (0)	0 (0)
80-100 %	0 (0)	0 (0)	2 (11.11)	0 (0)	0 (0)
Total	8 (100)	14 (100)	18 (100)	12 (100)	13 (100)
<i>Source: Survey Data</i>					

Table 1.11: Retail Prices of Coarse and Medium Rice in Select Nepalese Districts Bordering India										
DISTRICT	RETAIL PRICE OF COARSE RICE					RETAIL PRICE OF MEDIUM RICE				
	1999/ 00	2000/ 01	2001/ 02	2002/ 03	2003/ 04	1999/ 00	2000/ 01	2001/ 02	2002/ 03	2003/ 04
Nepal average	20.51	17.97	17.07	17.2	17.88	24.07	22.23	21.03	21.78	23.48
Average at border	16.94	13.99				21.57	19.65			
Of which										
Banke	18.48	13.73	11.11	13.41	14.17	17.13	22.57	16.39	15.50	16.93
Chitwan	16.56	14.55	13.23	14.11	13.82	21.10	20.05	16.88	18.85	19.63
Kailali	15.79	14.36	15.36	13.95	14.36	20.04	19.88	20.25	21.36	22.05
Parsa	17.25	13.52	13.68	15.36	16.11	22.21	16.58	18.20	19.70	17.36
Rupandehi	16.55	14.31	13.14	14.10	14.80	26.83	20.88	17.04	16.12	16.68
Morang	17.03	13.49	13.21	14.57	14.65	22.11	17.95	16.67	17.08	19.02
% change Nepal average		-12.4					-7.6			
% change at Nepal border		-17.4					-8.9			
<i>Source: Ministry of Agriculture and Cooperatives</i>										

However, the extent to which imports can be attributed for fall in prices needs further investigation as data shows that prices were also falling in Indian towns bordering Nepal exactly at the same time. As data demonstrates a slight decline in production in Nepal in the two years following the surge; the FAO suggests a fall from 1,560,000 hectares in 2000 to 1,517,000 hectares in 2001. Government data also corresponds and suggests a 2.76 percent negative growth in 2001-02. Whilst correlation coefficients suggest that the declines do not provide strong evidence of any substantial negative impact due to import surges, qualitative evidence from stakeholders shows that the production was being hit. Stakeholders viewed that 'competition' in the domestic market from Indian imports was the most important factor in determining production decisions and influencing prices leading to a substantial reduction in farmers' income.

Other local and national issues, which have a role in declining farmers' returns in Nepal between 1999 and 2002 are rising input costs such as chemical fertiliser and labour costs. These increased costs had squeezed the incomes of farmers (they spend up to 80 percent of their cash outlay on inputs). Any impact from import surges, therefore, needs to be considered within the broader context.

4.4 Position on Special Products and Special Safeguard Mechanism

During 1995-2003, Nepal had faced the incidence of import surges in rice, wheat and maize. The duration of the surge remained for one year in rice, four years in Wheat and around two years in Maize. Nepal, therefore, can have an offensive stance in SSM due to low bound tariff. Since Nepal as an LDC not required to make any reduction commitment, is not bound to designate SPs, but can adopt the option of duty and QRs as remedy against the automatically activated world prices of agriculture products through value and price based trigger mechanism.

5. Pakistan

5.1 Importance of Agriculture

Agriculture is of prime importance in generating economic growth in Pakistan, as the majority of the population, i.e. 65.9 percent living in the rural area, is directly or indirectly linked with this sector and their livelihood depends upon agriculture.²⁵ It employs around 44.8 percent workforce and contributes 25 percent to the GDP.²⁶ The total geographical area of Pakistan is about 79.6 million hectares, and out of this about 27 percent area is under cultivation. Of the total cultivated area, the irrigated area accounts for 80 percent.²⁷

Agriculture feeds whole rural and urban population and due to its importance as a source of foreign exchange earner, planners and policy makers always try to have authentic data/statistics of the agricultural crops as per area and production. There are two cropping seasons in Pakistan, i.e. *Kharif* and *Rabi*, and there are about 12 major crops such as wheat, cotton, rice, sugarcane, and maize etc. Currently, the minor crops like pulses, onions, potatoes, chilies and tomatoes have also gained economic importance and are also a contributing factor in economic growth²⁸. This list of approved crop calendar is given in the annex II. The importance of agriculture can be seen in three ways²⁹.

- It provides food for consumers and fibre for domestic industry.
- It is a source of foreign exchange.
- It provides raw material for industrial growth.

5.2 Agriculture and Trade

Food Security: Food is the basic need of life and the Article 38 of Constitution of Pakistan makes the state responsible to provide basic necessities of life such as food, clothing, housing, education and medical relief. In principle, food security has three main components, i.e. food availability (physical access to food), economic access to food and effective food utilisation or absorption. There are certain other factors under these three broad categories of food security, which are playing significant role in

making a confined analysis of SPs. These factors include poverty, income generating opportunity, production, consumption, utilisation, imports, exports, expenditures, economic growth etc.

However, Pakistan is still far behind in its efforts to achieve self-sufficiency in food production. Due to reduction of subsidies and tariff on main food item, as well as cheap import of essential food items, the agriculture sector of Pakistan has become more fragile to the international policies as well as for the agricultural produce to compete at the international market.

Table 1.12: Potential Indicators of Food security, Livelihood and Rural Development	
Food Security	Share in Food Expenditure
	Share in calorie intake
	Production minus consumption
	Import as % of consumption
	Regional Importance
Livelihoods	Share in crop of poor
	Share of total crop production
	Area under crop %
	Regional Importance
Rural Development	Share of Agriculture Value added
	Share of World Export
	Potential for Value addition
<i>Source: Guidelines to facilitate the selection of Special Products and the implementation of the Special Safeguard Mechanism in Pakistan, by Sohail Jhangir Malik</i>	

While discussing the caloric intake, if we relate it to the data of the Centre for Research on Poverty Reduction and Income Distribution (CRPRID)/Planning Commission, it is observed that about 1/3 of the household or 24 percent people in the country are living below the food poverty line, showing that their nutritional requirements are not fulfilled. Table 1.12 shows that poverty in rural Pakistan was about 39 percent in 2001, which decreased to 28 percent in 2005 as compared to poverty in urban areas, i.e. 15 percent, showing food insecurity at household level, while the average calorie availability per capita is estimated around 2328.

Table 1.13: Poverty Indicators in 2001 and 2004-05

	Headcount		Poverty Gap		Severity of Poverty	
	2001	2005	2001	2005	2001	2005
Pakistan	34.46	23.60	7.03	4.76	2.13	1.48
Urban	22.69	14.90	4.55	2.87	1.35	0.84
Rural	39.26	28.10	8.04	5.64	2.44	1.77
Poverty Line (Rs per adult equivalent per month)	723.40	878.64				
<i>Source : CRPRID / Planning Commission</i>						

Food security also depends on the availability of food. And this can be better assessed by food availability per capita, with the condition that if there is substantial equitable distribution among the household. According to the official poverty line, i.e. Pakistani Rupees 878.64 (US\$14.5), if we compare with the caloric intake, which is around 2328 calories per day per capita and with the per adult monthly consumption expenditure share of food, i.e. Pakistani Rupees 332 (US\$5.5) for poor, it is obvious that an average household comprising of 4-5 persons, cannot get enough calories. However, Table 1.14 shows that there is significant increase in the intake of milk, meat, egg and edible oil, if we compare with the base year of 1949-50, showing that the livestock sector (products) has potential to be included/designated as SPs, as per consumption requirement. Besides, there is need to find out the reasons as to why the intake of pulses and cereals could not come up to the mark. One explanation could be the reduction in subsidies as well as, price trigger and buying capacity of the consumers.

Table 1.14: Food Availability (per capita)

Economic Survey 2005-06

Items	Year/ Units	48-50	79-80	89-90	99-00	00-01	01-02	02-03*	03-04	04-05 (E)	05-06 (T)
Cereals	Kg	139.3	147.1	160.7	165.0	150.3	139.8	140.3	144.7	141.9	144.7
Pulses	Kg	13.9	6.3	5.4	7.2	7.1	7.0	5.8	8.0	6.8	6.9
Sugar	Kg	17.1	28.7	27.0	20.4	39.9	30.3	30.8	30.3	27.0	29.8
Milk	Ltr	107.0	94.8	107.6	148.8	149.6	150.8	151.9	155.7	155.6	155.8
Meat	Kg	9.8	13.7	17.3	18.7	18.8	18.6	18.6	18.8	18.2	19.8
Eggs	Dozen	0.2	1.2	2.1	5.1	5.2	4.5	4.5	4.6	4.6	4.8
Edible Oil	Ltr	2.3	6.3	10.3	11.1	11.4	11.6	11.9	11.5	12.4	12.3
Calories per day (Number)		2078	2301	2324	2416	2365	2299	2333	2381	2271	2328
Protein per day (Gms)		62.8	61.5	67.4	67.5	67.7	65.0	66.7	67.7	65.5	66.9

E = Estimated T = Targets.
 *Caloric Availability has been revised according to
 FAO conversion factor in 2006 from the year 1989-90.

Source: Planning & Development Division

According to the latest figures, the percentage of per adult equivalent monthly consumption expenditure share (Annexure 10) of food remains highest, i.e. 49.5 Pakistan Integrated Household Survey (PIHS 2000-01) and 49.1 Pakistan Social and Living Standards Measurement (PSLM 2004-05) as compared to services and commodity groups to the growth rate which was observed 12 percent among the poorest and 19 percent among the richest.³⁰

Livelihood: Agriculture sector being the backbone of the country's economy continues to be the single largest sector for the economic growth and reducing food insecurity. After the services sector, agriculture contributes about 47.7 in GDP (Annexure 11). As per target, average agricultural growth rate of 4.5 percent, during the year 2005-06, the agricultural growth rate was very weak, i.e. 2.5 percent. Due to poor showing of major crops and forestry and weaker performance of minor crops and fishery, the livestock becomes a significant player. Major crops as mentioned above, which account for 35.2 percent of the value added in agriculture, showed a decrease of 3.6 percent, due to the adverse environmental and management factors. The production of two main crops cotton and sugarcane crop remain low. Growth of the minor crops also showed a decrease from 1.6 percent as compared to last year, i.e. three percent. However, the performance of the livestock, the single largest sector has been impressive as this sector grew by eight percent on the wake of substantial increase in the population of species, milk etc³¹.

Table 1.15: Agricultural Growth (percent)

Year	Agriculture	Major Crops	Minor Crops
2000-01	-2.2	-9.9	-3.2
2001-02	-0.1	-2.5	-3.7
2002-03	4.1	6.9	0.4
2003-04	2.3	1.9	4.0
2004-05	6.7	17.8	3.0
2005-06 (P)	2.5	-3.6	1.6
P= Provisional. Source: Federal Bureau of Statistics			

Major crops like wheat, rice, cotton and sugarcane account for 90.1 percent of the value added in the major crops, which account for 35.2 percent of the value added in overall agriculture. The four major crops, i.e. wheat, rice cotton and sugar cane on average contribute 31.7 percent to the value added agriculture, whereas livestock alone contributes 50 percent to agriculture, which is much more than the combined contribution of major and minor crops i.e. 47.5 percent³².

Cotton is also grown at a large scale in the rural areas of Punjab and Sindh provinces providing livelihood opportunities to the rural farmers and labours in the industry. Wheat is one of the most important crops of Pakistan and is the staple food as well. It contributes about 3 percent to the GDP of Pakistan and 13.7 percent to the value added in the agriculture. The target area for the production of wheat crop was set at 8415 thousands hectares, and production size was around 21.7 million tonnes, showing the dependence of the population and revenue generation.

As mentioned above, the livestock sector has contributed towards increase of agricultural role in GDP. Livestock sector also plays significant role in the rural economy and contributes about 50 percent to the value added agriculture. The livelihood of around 30-35 millions people is dependent on this sector, which contributes about 11 percent to GDP of Pakistan. Within livestock sector, milk is the most important commodity, and the total value of milk produced is higher than the value of two major crops of wheat and cotton. According to the Trade Policy 2006-07, a public private partnership (PPP) in dairy sector development, in the name of Dairy Pakistan worth Pakistani Rupees 3.6 billion (US\$59.5mn) has been launched. It aims to set up 1200 model dairy farms and establish 2950 farms for raising livestock. This project is meant to enhance rural incomes. The production of dairy products is now exempt from sales tax. In addition, the dairy and livestock equipments are exempt from custom duty and sales tax. Also, the custom duty on the packaging material of dairy products has been reduced to five percent. This will help promote dairy sector in rural area³³.

Among the minor crops, oil seed crops cover a large percentage, which includes cottonseed, rape seed/mustard, sunflower and canola etc. The total availability of the edibles oils in 2004-05 was 2.764 million tonnes. Local production stood at 0.857 million tonnes which accounts for 31 percent of total availability while the remaining 60 percent was made available through imports. During 2005-06, local production of edible oil was provisionally estimated at 0.809 million tonnes. During the same period 1.269 million tonnes of edible oil was imported and 0.216 million tonnes edible oil was recovered from

imported oilseeds. The total availability of edible oil from all sources amounted to 2.294 million tonnes during 2005-06 (provisional estimates).

In order to protect the domestic producers/farmers, Government of Pakistan has decided to sell pulses through the Utility Stores Corporation (USC) at less than the market price from June 6, 2006. The prices of gram pulse are fixed at Pakistan Rupees 30/kg; *masoor dal* at Rupees 31/kg, *moong dal* at Pakistan Rupees 53/kg; and *mash dal* at Pakistani Rupees 58/kg. To encourage private sector to import pulses, the government will provide subsidy to importers so that pulses are imported and supplied in large quantity in the market. The government is determined to enhance the supply of pulses in the market and keep their prices stable. Subsidy on imports and sale of *dal* through utility store will cost Pakistani Rupees 2.5 billion (US\$41.2mn) to the government. The common man will continue to get sugar at Pakistan Rupees 27.5/kg from the USC. The government is supplying 33,000 tonnes sugar to USC every month at a much cheaper rate than the market³⁴. But this could not be possible on the basis of below mentioned facts³⁵.

Some facts

- Every Pakistani consumes six kilograms of pulses in a year.
- The annual consumption of masoor is 55,000 metric tonnes while the production of masoor in 2004-05 was 26,000 tons.
- The average usage of maash is 50,000 tonnes where the production was 20,000 tonnes in the year 2004-05.
- 700,000 tonnes of grams is consumed every year in the country. In 2004-05 eight hundred thousand tonnes of grams were produced which dropped to five hundred thirty seven thousand tonnes in the year 2005-06 due to lack of rainfalls.
- One hundred twenty five thousand metric tonnes of moong is required annually while the produce in 2004-05 was one hundred thirty thousand tonnes.
- The trend of pulses production shows that other than a particular year the production of gram and moong are always more than the country's need and are exported to other countries.
- But the production of maash and masoor are declining year by year and their imports are increasing.

Similarly, a price support system for wheat and sugarcane also in operation in the country but the support prices given are not enough so that farmers could get relief in equitable terms, and could grow the crops without the fear of price instability. In the annual budget, the share of agriculture in the national economic is decreasing, if we compare this with the last year, there is an increase of 2.5 percent in the year 2005-06. Although a slight growth is experienced in the livestock sector, very less focus is placed in the budget on agriculture sector, so that it could develop niche in the national and international markets. Some of the subsidies are given only for the import of tractor and agricultural machinery, which will be only useful for large landholders/large farmers, ignoring the intensive labour of the small farmers for their livelihood.

Landholding: This is also one of the factors that can affect the livelihood and rural development of the marginalised. Table 1.16 shows that most people have landholding size between 5-10 ha. In 1990s, as shown in Table 1.17 the distribution of farms and farm

Table 1.16: Farm Size Distribution in Pakistan

NUMBER AND AREA OF FARMS BY SIZE OF FARM-2000

Size of Farm (Hectares)	Farms		Farms Area		Avg. size of Farm Area (Hectares)
	Number	%	Hectares	%	
Pakistan					
All Farms	6620224		20437554		
Government Farms	170		30772		
Private Farms	6620054	100	20406782	100	3.1
Under 0.5	1290098	19	362544	2	0.3
0.5 to under 1.0	1099330	17	821245	4	1.0
1.0 to under 2.0	1425370	22	1981277	10	2.5
2.0 to under 3.0	966411	15	2256772	11	5.0
3.0 to under 5.0	890755	13	3442507	17	7.5
5.0 to under 10.0	580200	9	3891228	19	12.5
10.0 to under 20.0	260791	4	3324310	16	25.0
20.0 to under 40.0	77773	1	1955330	10	50.0
40.0 to under 60.0	15277	*	689070	3	100.0
60.0 and above	14054	*	1682491	8	150.0

Table 1.17: Distribution of Farms and Farms Area by Tenure

Farm size (ha)	Farm number (%)			Farm area (%)		
	Owner	Owner- tenant	Tenant	Owner	Owner- tenant	Tenant
< 0.5	90	1.0	9.0	88	2	10
< 2.0	75	7.5	17.5	75	7	18
2. < 10	59	18	23	59	18.5	22.6
10. < 20	63	24	13	62	25	13
20. < 60	72	21	7	72	21	7
> 60	79	16	4	81	16	3

Source: Pakistan Census of Agriculture, 1990

Table 1.18: Number and Area of Private Farms By Tenure, 2000

Tenure	Farms		Farms Area	
	Number	%	Hectares	%
Pakistan				
Owner cultivator	5134504	78	14961275	73
Owner-cum-tenant	558991	8	2963441	15
Tenant	926562	14	2482061	12
Total	6620057	100	20406777	100

area by tenure, the ratio of ownership of the small landholders and large landholders is more or less equal, i.e. 88 and 81 respectively. The number of ownership of landholding size is less than five ha is highest among all, showing the size of people depended on land for subsistence agriculture. The land utilisation index is given in Annexure 12. In the year 2000 the number and area of private farms by tenure remain highest i.e. 78 percent as owner cultivator.

In Agricultural Census of Pakistan, nearly 86 percent of the total private farms in the country have less than five hectares and make up only 44 percent of the total farm area. The remaining 14 percent are large farms, which make up 56 percent of our total farm area. Mounting population pressure, rapid urbanisation and expansion of industry on farmlands is resulting in fragmentation of land. As a result, small farms are becoming even smaller.

Rural Development: To reduce poverty and empower the rural poor, during 2004-05 and 2005-06, state has made investment in irrigation and land reclamation. Rural development, rural electrification, food subsidies (although reduced) and food support programmes have been introduced. This in turn has contributed towards the income generation and increase in consumption level of the poor, leading towards positive impact on growth and reducing food insecurity to some extent (Annexure 13). Pakistan's cultivated area has remained almost constant for the last 25 years (about 25 percent of the country's land area is under cultivation) and it seems to have exhausted its capacity to meet the food requirements of an increasing population. In order to gain maximum production from almost a fixed cropped area, there is a major thrust on the use of external inputs mainly fertilisers and pesticides. The result is manifold increase in the usage of these inputs and decrease in natural immunity among crops against major insects/pests/herbs. The increased use of fertiliser and pesticides by farmers is accompanied by a reduction in the percentage share of public investment in agriculture sector over the years. Agriculture sector also got neglected in the annual development plans (ADP). Its share in these plans has decreased from 2.89 percent in 1992-93 to 0.59 percent in 2002-03. All this has happened at a time when the world's major trading forces are on each other's throat over agricultural subsidies³⁶.

5.2.1 Import and Export

Following a comparatively open trade regime, Pakistan's total trade volume (import as well export) increased significantly from US\$18.8bn in 2000-01 to US\$33bn in 2005-06. Resultantly, its trade-to-GDP ratio has increased from nearly 26 percent to estimate 34 percent during this period. Pakistan's exports continue to be dominated by cotton textiles and apparel, despite government diversification efforts. Major imports include petroleum and petroleum products, edible oil, wheat, chemicals, fertiliser, capital goods, industrial raw materials, and consumer products. External imbalance has left Pakistan with a growing foreign debt burden. It is estimated that Pakistan's trade imbalance would touch to a record US\$12bn mainly due to increase in prices of petroleum and petroleum products and also due to the import surge in consumer goods and food items.

Among the major agricultural imports of Pakistan are milk, cream and milk food for infants, wheat unmilled, dry fruits, tea, spices, soybean oil, palm oil, sugar and pulses. The details of the import both in term of value and volume are given in Annexure 14a-14d and Annexure Excel, that the import if we compare the monthly imports in year 2005 with that of year 2004 or the import as a whole there has been constant increase in the imports of sugar, edible oils, milk and milk products, pulses, tea and dry fruits.

5.2.2 Tariff on Agricultural Products

Tariff barriers in Pakistan are gradually being removed. Since 1994, Pakistan has progressively and substantially reduced tariffs. Pakistan uses the Harmonised System

to classify and describe goods: customs duties are levied on *ad-valorem* basis, and maximum tariff rates were reduced from 92 percent to 70 percent in June 1994, and from 70 percent to 65 percent in June 1995, and were further reduced to 30 percent in June 2001. This effort culminated in June 2002 with the establishment of four maximum import tariff bands of 25 percent, 20 percent, 10 percent, and 5 percent. Generally, Pakistan's applied tariffs are below WTO-bound commitments, and the weighted average applied tariff is currently 16 percent, down from 56 percent in 1994. The tariff on most consumer goods was reduced to 25 percent, for most intermediate goods to 10 percent, and for most raw materials to five percent³⁷ (USTR, 2006).

Pakistan has an aggressive interest in market access and demands for a substantial overall reduction in tariffs with deeper cuts on higher tariffs through tiered formula. It also supports that the issue tariff escalation should be addressed. As the S&DT, Pakistan supports the concept of SPs and SSM for developing countries. It also calls for tariff capping at 100 percent for developed countries and 150 percent for developing countries.

5.3 Policies and Import Surges

In 2005-06, the imports targeted to grow up by 43.2 percent, and in this target the food imports grew by 35.9 percent and from US\$990.7 to US\$1346.7mn. The increase in import of food items is due to import surge in wheat, sugar and pulses. This together has contributed 93 percent to the rise in imported food³⁸. Besides other sectors/services, food sector is also one of the recipients of FDI of about US\$52.7mn.

The surges in the import of commodities mentioned in the import and export section of Pakistan can be seen in Table 1.19, 1.20 & 1.21. The surge has occurred during the mid-1990s in sugar resulting into reduction in the domestic production of the sugarcane. Similarly, the surge in the import of milk and milk products occurred during the same period, while the surge in the import of edible oil has covered the major portion of Pakistan's import bill.

Table 1.19: Import Surges – Edible Oils

Year	Production* (000 tones)	Imports (million US\$)	5 year average import (million US\$)	Price of vegetable ghee/kg**
1990-91	375	402	382	20.93
1991-92	430	403	416	25.85
1992-93	407	584	444	30.26
1993-94	382	487	452	33.18
1994-95	465	998	575	43.93
1995-96	520	845	663	46.50
1996-97	585	613	705	47.27
1997-98	585	771	742	49.65
1998-99	613	866	819	63.43
1999-00	583	413	702	61.13
2000-01	443	326	598	56.92
2001-02	467	391	553	59.01
2002-03	473	586	516	60.80
2003-04	736	658	475	63.51

*Source: Agriculture Statistic of Pakistan** Economic Survey of Pakistan 2004-05

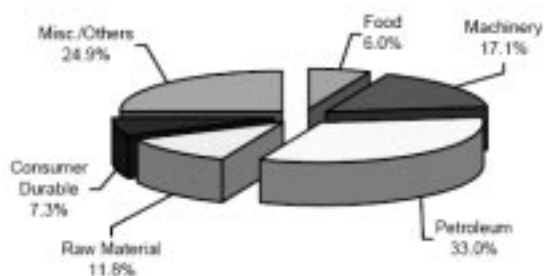
Table 1.20: Import Surges – Milk and Milk Products				
Year	Production* (000 tonnes)	Imports of Milk & Milk Production (million US \$)	5 year average import (million US \$)	Price per liter of fresh milk**
1990-91	15	63	38	7.71
1991-92	16	51	41	8.82
1992-93	17	31	41	9.90
1993-94	18	21	44	11.07
1994-95	19	18	37	12.18
1995-96	23	31	30	13.67
1996-97	24	17	24	15.12
1997-98	24	22	22	16.27
1998-99	25	30	24	17.71
1999-00	26	23	25	17.91
2000-01	26	12	21	18.23
2001-02	27	8	19	17.92
2002-03	28	13	17	18.35
2003-04	29	12	14	19.21
<i>*Source: Agriculture Statistic of Pakistan** Economic Survey of Pakistan</i>				

Table 1.21: Import Surges – Sugar				
Year	Production* (000 tonnes)	Imports (million US \$)	5 year average import	Price per kg
1990-91	360	100	95	11.26
1991-92	389	37	70	11.62
1992-93	380	21	64	12.29
1993-94	444	15	65	12.91
1994-95	471	2	47	13.74
1995-96	452	2	15	16.76
1996-97	420	253	57	21.26
1997-98	531	39	62	19.54
1998-99	551	3	60	19.09
1999-00	463	15	62	21.11
2000-01	436	248	112	27.11
2001-02	480	24	66	22.87
2002-03	520	3	59	20.77
2003-04	534	3	59	19.01
<i>*Source: Agriculture Statistic of Pakistan** Economic Survey of Pakistan</i>				

Government of Pakistan has recently initiated a liberal import policy framework in which imports are allowed against all modes of payment and private sector importers may enter into commodity exchange arrangements with suppliers abroad, subject to the procedure notified. Owing to this liberal import policy, Pakistan is observing a consistent growth in exports, albeit it has very little reasons to celebrate, as imports are also growing at much faster pace and the country is landing in an increased trade deficit. Imports were targeted to grow by 4.25 percent for the fiscal year 2005-06 – rising from US\$14.4bn to US\$20.7bn. Imports are up by 43.2 percent in the first nine months (July-March) of the current fiscal year – already rising to US\$20.69bn till March 2006.

An unprecedented rise in oil price is a major factor contributing towards high import bill. However, non-oil imports, partly the consumer goods (owing to a boom in consumer financing) and food items do have an important share in increased import bill (Fig 1.1). As we have observed that role of agriculture is shrinking in GDP coupled with governance issues, it has led to a situation where the supply of essential food commodities such as sugar, wheat, and pulses could not be met in domestic market and resultantly government has to rely on duty free import of those commodities.

Figure 1.1: Percent Contribution to Additional Import Bill (July-Mar 05-06)



Source: GOP, 2006

Table 1.22: Major Imports (percentage share)

Commodities	92-93	94-95	96-97	98-99	99-00	00-01	01-02	02-03	03-04	04-05	05-06*
Machinery **	24.3	22.8	23.1	17.9	13.9	19.3	17.1	18.5	17.8	22.5	18.0
Petroleum & Products	15.5	15.3	19.0	15.5	27.2	31.3	27.1	25.1	20.3	19.4	22.3
Chemicals @	12.5	14.0	13.4	16.6	17.5	20.0	16.9	15.1	16.1	15.5	13.4
Transport Equipments	12.5	5.9	4.7	5.7	5.5	4.0	4.8	5.6	5.6	6.2	7.7
Edible Oil	5.9	9.6	5.1	8.7	4.0	3.1	3.8	4.8	4.2	3.7	2.7
Iron & Steel	3.2	3.8	3.9	3.1	3.0	2.8	3.3	3.3	3.3	4.3	5.1
Fertilizer	2.5	1.2	3.2	2.8	1.9	1.6	1.7	2.1	1.8	2.0	2.4
Tea	2.1	1.8	1.1	2.4	2.0	1.9	1.5	1.4	1.2	1.1	0.9
Sub-Total	78.5	74.2	73.5	72.7	75.8	83.8	75.2	75.9	70.3	74.7	72.5
Others	21.5	25.8	26.5	27.3	25.0	16.2	24.8	24.1	29.7	25.3	27.5
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0

* July-March (Provisional)
 ** Excluding Transport Equipments @ Excluding Fertilizer

Source: Ministry of Commerce & FBS

Private Sector Investment³⁹

Agriculture is mostly a private sector activity. It benefits from public investment in supporting infrastructure and services. The growth of private investment will depend on knowledge base of the farmers about new technologies and equipments and institutional mechanism to support such investment. The most important things for the farmers to understand is how investment in particular input and technology will enable them to raise their productivity and incomes. The knowledge and the farmers will be improved through training and demonstration plots. The latest production technologies will be transferred to the farmers through the agricultural extension system, electronic and print media. The farmers will invest in land improvement, orchards, livestock, dairy, fisheries, etc. The availability of agriculture credit is being enhanced to enable farmers to make the required investment. The agriculture credit requirement during the MTDF has been estimated at Rs 1,665 billion, out of which Rs 1,215 billion will be for production and Rs 450 billion for development purposes. The total private fixed investment including farmers' self-financing is estimated at Rs 868.3 billion for the next five years. An Agribusiness Development project will be undertaken to promote private sector agro-enterprises development throughout the whole value chain. It will include creation of enabling policy/institutional environment, restructuring and strengthening of institutions to facilitate development of agribusiness, provision of appropriate support for agribusiness, capacity building and enhanced coordination.

In the commodity producing sector (CPS) in 2005-06, the growth of value addition was about 4.3 percent, which was very less as compared to 2004-05 of about 9.2 percent. While the agriculture sector grew by 2.5 percent that was less than the target. The major crops in agriculture showed 3.6 percent decrease in the growth as compared to the last year. The livestock with the growth of about 2.5 percent covered this gap, and major growth in investment of about 15.3 percent by private sector was observed in agriculture sector. During the year 2005-06, public sector investments increased by 24.9 percent while the private sector investment grew by 31.6 percent. Due to public sector investment, the private sector has taken interest in massive investment in public sector development programme, including infrastructure development, based on (PPP) growth. An allocation of Pakistan Rupees 50.5 billion (US\$831mn) has been made in the public Sector Development Programm2 during the Medium Term Development Framework (MTDF) to promote the development of agriculture and livestock sectors.

Table 1.23: Structure of Saving and Investment (as percent of GDP)

Description	2000-01	2001-02	2002-03	2003-04	2004-05	2005-06 (P)
Total Investment	17.2	16.8	16.9	16.6	18.1	20.0
Changes in Stock	1.4	1.3	1.7	1.6	1.6	1.6
Gross Fixed Investment	15.8	15.5	15.3	15.0	16.5	18.4
- Public Investment	5.7	4.2	4.0	4.0	4.4	4.8
- Private Investment	10.2	11.3	11.3	10.9	12.1	13.6
Foreign Savings	0.7	-1.9	-3.6	-1.3	1.6	3.7
National Savings	16.5	16.6	20.6	17.9	16.5	16.4
Domestic Savings	17.8	18.1	17.6	15.7	14.5	14.4
P: Provisional						Source: Economic Adviser's Wing

5.3 Position on Special Products and Special Safeguard Mechanism

Pakistan is one of the founder members of the WTO. Pakistan Government actively participated in the WTO processes to materialise the plans outlined in the Doha Development Agenda (DDA). Cancun Ministerial Meeting that was held in 2003 was initially perceived to be a mid term review of Doha Work Programme (DWP). However, differences between developed and developing economies were so strong, especially on agricultural issues that Cancun proved inconclusive. It was during Cancun Ministerial when Pakistan became a member of a group of developing countries led by India and Brazil (G-20) and raised voice for a fair deal on agriculture. After a series of bilateral and plurilateral meetings (commonly known as mini-ministerial), WTO members agreed on still another framework (July Framework) within DWP to rescue the collapsing Doha Round of negotiations in July 2004.

As far as negotiations on agriculture are concerned, market access to highly protected markets of EU and huge subsidies provided by US has remained the major concerns for most developing countries. Pakistan does not have the resources to match Northern subsidies. In fact, subsidies on cotton provided by US directly affect Pakistan's export of cotton. In order to safeguard her export interests, Pakistan supports elimination of all forms of export subsidies on agricultural products. Pakistan also demands substantial reduction in domestic support and substantial improvement in market access as mandated under the DDA. Pakistan, as part of G-20 has proposed an aggressive formula for reduction in overall domestic support of developed countries to substantially reduce their domestic and export subsidies. At the same time, G-20 proposes the retention of 10 percent *de-minimus* support provision available to developing countries for supporting their development goals, poverty reduction strategies, food security and livelihood concerns. During the Hong Kong Ministerial (2005), Pakistan also joined the club of agricultural exporting countries, known as Cairns Group in the WTO.

Pakistan is also a member of G-33 and supports G-33's defensive stance for "SPs", in order to use SSM against dumping and import surges. Pakistan's specific stances against each pillar of agreement on agriculture during and after the Hong Kong Ministerial Meeting are provided in following sub section.

Pakistan has an aggressive interest in market access and demands for a substantial overall reduction in tariffs with deeper cuts on higher tariffs through tiered formula. It also supports that the issue of tariff escalation should be addressed. As an S&DT, it supports the concept of SPs and SSM for developing countries. It also calls for tariff capping at 100 percent for developed countries and 150 percent for developing countries.

Roshan (2006) has discussed the issue of SPs and has identified five minor crops in three provinces, i.e. Punjab, Sindh and NWFP, to observe the factual significance in particular geographical region. These crops include gram, tobacco, chilies, dates and banana. To propose these five crops as SPs, many stakeholders were interviewed with specific focus on the subsistence farmers.

According to this study, gram has a share of more than 65 percent in area and production, and 87 percent of the area cultivated for gram is in Punjab, and five districts of Punjab provide 96 percent of Punjab's total production, which is 84 percent of Pakistan's total

production. Being a rain fed crop, the livelihood and food security of the people depends upon gram crop, as due to aridity of land the farmers cannot go for another crop. Besides, gram crop also is a source of fodder for the livestock. It is argued that in case of cheap import of gram, the local inhabitant of the vast area would have no choice.

However, during the year 2006, gram is grown at an area of 1064 (000 hectare), and the production is about 527 (000 tonnes) Annexure 15, 16 & 17. According to Federal Seed Certification Department, gram crop has marketing problem as there is no demand, ultimately private sector has made decline in their procurement programme of gram seed from 902 million tonnes (2002-03) to 488 million tonnes in 2003-04⁶ as mentioned in Table 24. On the other hand, the support prices announced by the government are lower than the prices offered by the middlemen and open market, forcing the farmers to sell their produce at low rate. Support price set by the Economic Coordination Committee per 40 kg are Pakistan Rupees 750 (US\$12) for gram, while the market price offered by the brokers to the farmers in the current season are Pakistan Rupees 1000 (US\$16.5).

Table 1.24: Procurement and Distribution of Gram Seed

Province/ Agency	2002-03		2003-04		Target	2003-04		Target	Quantity Procured
	Quantity Procured	Quantity Distributed	Quantity Procured	Quantity Distributed		Quantity Procured	Quantity Distributed		
Punjab									
Pst.	163	163	585.00	453.00	7200	512	512	6835	260
Pst. sector	4.0	4.0	982.75	892.75	-	488	488	-	23.56
Total	167	167	1497.75	1255.75	7200	1000	1000	6835	283.56
	(0.49%)	(0.49%)	(4.45%)	(3.75%)		(2.77%)	(2.77%)		(0.82%)
Sindh									
Pst. sector	3.80	3.80	2.08	2.08	696	-	-	494	-
			(0.04%)	(0.14%)					
NWFP									
Pst. sector	144.40	144.40	283.18	152.83	528	317	337	418	325
	(5.55%)	(5.55%)	(7.81%)	(5.88%)		(12.86%)	(12.96%)		(15.56%)
Baluchistan									
Pst. sector	-	-	-	-	80	-	-	113	-
Grand Total	315.20	315.20	1793.91	1410.76	8566**	1117	1337	7668	608.50
	(0.72%)	(0.72%)	(4.48%)	(2.70%)		(3.14%)	(3.14)		(1.54%)

* Target based on actual area achieved during 2002-03.

**Target based on actual area achieved during 2003-04.

Second important crop is tobacco, which is grown mainly in North Western Frontier Province (NWFP) and Punjab. It contributes annually around Pakistan Rupees 22bn (US\$366mn) to the public exchequer as central excise duty and sales tax, and about Pakistan Rupees 400 million (US\$6.6mn) as foreign exchange earning for export. According to the above mentioned Annexure 16 & 17, tobacco is grown at an area of about 57, 000 hectare and the production is about 120, 000 tonnes in the year 2006. Due to geographical characteristics, district Swabi of NWFP, has a share of more than one-fourth of the total area cultivated for tobacco, which is 43 percent.

Chilies are grown on 5900.4 hectare with a total production of about 12100.9 tonnes, mostly grown in the Mirpurkhas district of Sindh Province, covering about 53.7 percent area and 54.76 percent of the total chilies production in Pakistan. About 70 percent of the chilly growers are subsistence farmers and are afraid of the cheap imports from India. Among the fruit crops are dates and banana, being grown on an area of about 8800.7 and 3300.6 hectare respectively, with the annual production of about 5,27, 000 and 16000.2 tonnes respectively. Both fruits are the source of earning in Khairpur and Hyderabad areas for the small growers/farmers. Dates are grown on an area of 31 percent with more

than 46 percent production. Out of 1.5 million people, 85 percent of population of Khairpur district is depended on agriculture while 55 percent is directly involved in date cultivation. Both fruit crops are perishable but are of export potential.⁴⁰ Due to lack of farm to market road, insufficient SPS measures, improper packaging and grading, farmers are unable to get good returns for their produce.

Table 1.25: Ranking of Special Products on Combined Food Security, Livelihood and Rural Development Criteria				
Products	Product Score	HS code	Bound rates	Applied Rates
Wheat	21	1001	150	10
Rice (Milled Equivalent)	21	1006	100	10
Citrus Fruit	16	0805	100	25
Apple	15	0808	100	25
Edible Oil	14	1507-1515	100	Rs. 9050 per MT to Rs.18000 per MT
Tomato	14	0702	100	10
Milk (excluding Butter)	14	0401	100	25
Cotton (raw)	13	5201	5	5
Sugar	13	1701	150	10
Onion	13	0703	100	10
Tea	12	0902	150	10
Potato	11	0701	100	10
Beef	9	0201-0202	100	5
Mutton	9	0204	100	5
Poultry	8	0207	100	20
<i>Source: Guidelines to facilitate the selection of Special Products and the implementation of the Special Safeguard Mechanism in Pakistan, by Sohail Jehangir Malik</i>				

Constraints

There should be a specific data collection keeping into consideration the livelihood and food security dependence of the poor farming communities. There are some other minor crops available in the Pakistan i.e. both cultivated and uncultivated fruits, vegetables etc., on which data at national level is not available, but the food security is dependent on them, even during drought or snow. These crops do not provide for export share, which is one of the trade related indicator, but is of cultural and socio-economic significance as well as nutritional preference for the farming communities of specific geographical region. There are many companion plants, fodder crops, cash crops, grain crops, fruit and vegetable, herbs and shrubs, which all are interconnected, and for the decision about certain products to be SPs cannot be successful, until an in-depth scientific research and analysis is done.

There is another criterion for the selection of SPs i.e. on the basis of HS Code, pertaining to above mentioned concerns. The choice of level of HS Code should be according to the agricultural diversity of the countries. Selection at 4-digit level can be beneficial for developing countries having diverse agricultural base, as it can provide legroom to protect more subheadings by selecting one product. For SPs, it would be required to cover rice at 6-digits level. Wide criticism paved the way for the option of a 4-digit proposal in the revised draft. The 4-digit HS level, though broader than 6-digits, still has sub-sub division of products that do not suit the genuine requirements of developing countries⁴¹

6. Sri Lanka

6.1 Importance of Agriculture⁴²

Agriculture contributes about 20.1 percent in the GDP of Sri Lanka and provides 37 percent employment. However, the relative importance of the agriculture sector continued to decline from 22.4 percent in 1996 to 19.8 percent in 2002. The major agricultural crops of Sri Lanka include: paddy, tea, rubber, coconut and sugar. The agricultural policy of Sri Lanka has two dimensions: one for plantation sectors that include exportable crop like tea, rubber and coconut; while the second includes non plantation crops, but linked with the livelihood and food security of the small growers. The sectoral composition of agricultural sector is given in the Annexure 18. The value added in the Agriculture sector increased by 2.5 percent in 2002 compared with a 3.4 percent decline in 2001. As shown in annexure 19, the sector was sustained by paddy production, minor export crops and fisheries sub sector, while other sub sectors declined or grew marginally during the period under review. The other export crops include spices, un-manufactured tobacco, areca nut, cashew kernels, essential oils and foliage and cut flowers. The total earning in agriculture sector during the year 2004 recorded 31 percent to over Sri Lankan Rupees 16 billion (US\$145mn), much more than the total export earnings from rubber and coconut in 2002. Cinnamon is the most important crop in this sector. Sri Lanka is the world's largest producer and exporter of cinnamon, accounting for nearly two thirds of the global output. Both the sectors are protected from imports by Government through domestic support in the form of credit, subsidised inputs like seed, fertiliser, and irrigation system.

Livestock is also an important sector of agriculture comprising dairy and poultry sub-sectors. Dairy sector of Sri Lanka covers 42 percent of the national milk requirement through domestic production of milk, however the buffalo milk production is used for the processing of curd. The poultry industry has made significant progress in recent years due to the active participation of the private sector. National poultry meat production increased that could be partly attributed to greater demand resulting from the revival of the tourist industry, uninterrupted power supply and the incentives provided by the government. Agriculture provides 33.1 percent employment in year 2002, and is the second big sector after services in the provision of employment opportunities (Annexure 20)

6.2 Agriculture and Trade

Tea contributes 70 percent to the total agricultural products exports, and of the total tea export, bulk form constitutes 64 percent followed by packed (29 percent) and the rest in high value added i.e. tea bags, blended tea, instant and green tea. The major importing countries of tea are Russia, UAE, Syria, Iraq, Turkey, Iran, Jordan, Saudi Arabia, EU and Egypt. The direction of trading export and imports are given in Annexure 21 & 22.

6.2.1 Imports and Exports

The import in Sri Lanka had varied from year 1999 to year 2002, and rose up about 2.2 percent in US dollars terms in 2002. The surcharge on import duties also reduced from 40 percent to 20 percent in year 2002 resulting into the importation of consumer goods. Under custom duty, Government of Sri Lanka has planned to have a two-band tariff structure in order to give protection to the local industries on uniform basis. The Tariff bands and product categories and specific duties are given in Table 1.26 and 1.27, showing zero duty crude oil and wheat, 5-10 percent on milk and infant milk products while 25 percent on vegetables. The complete lists of specific duties that are in force is provided in Annexure 23 The product categories and tariff bands that become applicable from 01.01.2004 are provided in Annexure 24.

Table 1.26: The Tariff Bands & Product Categories Applied from 01.01.2003 to 31.12.2003	
Ad Volarem Tariff Bands	Products
Zero duty	Crude oil, pharmaceuticals, yarn, sewing thread, fabrics, pearls, wheat;
2%	On previously exempt items other than above zero duty items
5%	Machinery, infant milk powder
10%	Intermediate goods, milk powder
25%	Finished products, Vegetable (frozen)
<i>Source: Department of Fiscal policy and Economic Affairs, Ministry of Finance.</i>	

Table 1.27: Specific Duties of Major Agricultural Imports		
Hs Number	Product	Rate
0701.90	Potatoes	Rs. 20.00 / kg
0703.10.01	Red onion	Rs. 5.00 / kg
0703.10.02	Big onion	Rs. 8.00 / kg
0713.31.01	Green gram	Rs. 5.00/ kg
0713.39.02	Cowpea	Rs. 5.00/ kg
0713.39.03	T/dhal	Rs. 5.00/ kg
0904.20.01	Chilies	Rs. 30.00 / kg
10.06	Rice	Rs. 9.00 / kg
1701.11	Sugar	Rs. 4.50 / kg
<i>Source: Department of Fiscal policy and Economic Affairs, Ministry of Finance.</i>		

6.2.2 Tariff on Agricultural Products

In 1978, Sri Lanka liberalised its economy, as a result most of the control measures were converted into high tariffs. In 1989, the tariff structure was converted into the new harmonised Commodity Description Coding System (HS Code), involving 7500 tariff lines including around 2500 national subheadings at the 8-digit level. And a three band tariff system of 10, 20 and 35 was adopted for imports. Besides, there are certain products, which are in the government's list of exemption, on which no import duties are levied and are linked with the livelihood of the people. (Annexure 25 and 26)

As the market access is liberal in Sri Lanka, restriction on imports from security, health, environment and SPS perspective are imposed, and these regulations are run by different statutory bodies. These laws and regulations are for the protection of human, animal and plant health. The Department of Imports and Exports has a formal procedure in issuing licences where conditions are imposed on import licences in respect of origin of the product for non-economic reasons. Similarly, the conditions are laid down on import procedures for importation of restricted and prohibited items due to SPS requirements. (Annexure 27). Government of Sri Lanka in order to promote/encourage value addition, export promotion and development, has put in effect fiscal levies (cess) and royalty fee on export.

The support government is providing is in the field of research, extension and infrastructure development under green box measures. In agriculture sector, it was mentioned that government is also providing support in term of input subsidies i.e. fertiliser, seed etc., and the subsidy amounted to roughly Sri Lankan Rupees 1.5 billion (US\$13.6mn) per annum in recent years. Irrigation subsidies have been estimated to be roughly Sri Lankan Rupees 12.5 billion (US\$114mn) in recent years, or about three percent of the total value added in the paddy sector. In the Uruguay Round, Sri Lanka did not report outlays on "trade-distorting" support measures as captured by the AMS, and thus committed itself to limiting the support to 10 percent of the value of production under the *de minimis* rule. It also did not report outlays on developmental measures (S&DT), but has the right to claim this exemption for such measures in the future if necessary.

6.3 Policies and Import Surges⁴³

As mentioned in previous section that compared to other developing countries, the market access is quite liberal in Sri Lanka though the tariff reduction on imports is in process and needs to be smooth. Due to trade liberalisation there are fervent chances of import surge on commodities related to livelihood and food security of the rural people. According to the study conducted by FAO, there are certain products, regarding which Sri Lanka will be facing the problem of import surges, i.e. paddy, wheat, chilies, onions, maize and sugar.

In Sri Lanka, the role of private sector in the marketing of agricultural commodities is very notable. In order to fulfill the market requirement of wheat the importers and the private companies are heavily involved in the import and value addition of wheat, making the market price very low as compared to rice/paddy. This in turn affects the production of rice, as well as causes imbalance in the price of wheat flour. Paddy is one

of the largest crops, occupying the large land area, with the contribution of about 15 percent to the GDP. Almost 70 percent of the farmers engaged in paddy cultivation are small landholders of about one hectare. For their food security they are dependent on the milling paddy, i.e. rice, main source of caloric intake in diet. As mentioned earlier that in order to protect the farmers and development in agriculture sector, government has introduced programme to increase paddy production to the self-sufficiency level. These programmes not only include the support to farmers but also some restriction on rice import through trade liberalisation, which would have adverse impacts on poverty. At the moment, the country is 90 percent self-sufficient in rice, and imports have dropped to less than 10 percent. As Sri Lankan agriculture has been liberal enough, and has no commitments pertaining to domestic support and export subsidies, ultimately having no commitment under AoA, and if in future there is need of further tariffication or subsidiation, then country may request under the S&DT.

Besides paddy, chillies, onion, maize and horticultural crops could be designated as Special Products, as the people involved in the production can lose their livelihood earnings and interest in growing these commodities if cheap import as a result of liberalisation could capture the local market.

Food security and livelihood: It is obvious from Table 1.20 that food imports are increasing significantly from 1985, i.e. US\$300 to double in 1998 and was about US\$180mn in 1995-98, showing that food accounts for almost 90 percent of agricultural imports while food products amount to less than 20 percent of agricultural exports. With the increase in food export after 1994, food imports consequently increased, with increase in net food import. Thus, the average annual value of net food imports in 1995-98 was 38 percent (US\$122mn) higher than in 1990-94 (Annexure 28). However, measured against the rising trend, the increase was only 12 percent i.e. US\$46mn (FAO). As is mentioned in previous sections that due to liberalisation of already liberal agriculture sector of Sri Lanka, and due to the elimination of NTBs and reduction in applied tariff at 35 percent, the chances of import surges has increased and has affected the livelihood of the rural people. Farmers stopped cultivating hence reduction in the area cultivated and production occurred. Besides, the level of competition of Sri Lanka was very weak in the supply of food products as compared to India (Table 1. 28). The issue of weak competitiveness is of important concerns from South Asian perspective, as well as in SAPTA or SAFTA, from food security and rural livelihood point of view.

Table 1.28: Relative Cost of Production of Chillies, Onions and Potatoes in Sri Lanka and India (Rs per kg)		
Crop	Sri Lanka	India
Chillies	72.0	20.0
Onions	9.8	2.5
Potatoes	25.0	2.3
<i>Source: Department of Agriculture, Government of Sri Lanka</i>		

In the previous section, the agriculture products discussed are of two major importance i.e. food security and livelihood. These include paddy, wheat, chilies, onion, potatoes and sugar. The production and import of all the products are interlinked and also directly connected with the farmer's livelihood. Sri Lanka is net food importing country and has been importing wheat and onions in huge quantities every year. The import surge of such crops can affect the food security and livelihood in two broad ways:

- By the import of low priced wheat, the dependence of rural and urban people on rice is reduced, causing threat to the domestic production and consumption of rice and food security.
- In Sri Lanka, onions were imported from India; in 1998 when the ban was imposed by India on export of onions, it led to a devastating situation in the market. The prices of onions hiked and the local production was decreased due to import surges, affecting the food security and livelihood of the farmers, producers and consumers.
- The imports of vegetables from other countries have affected the employment of the rural people involved in the production, cultivation and marketing of the imported crop/vegetables, especially onions and potatoes, which in turn resulted in decline in the area of cultivation.

The liberalisation of trade and tariffication on imports of agricultural products can affect the economy, livelihood and food security, but to which extent is difficult to analyse.

Agriculture sector of Sri Lanka is liberalised due to the structural adjustment programmes and economic reforms of the World Bank and IMF, and after joining the WTO and adopting its AoA. While negotiating, Sri Lanka has taken very keen interest on the debate on how to address the legitimate concerns of developing countries, such as rural development and food security. To deal with the issue of rural development and food security at country level in order to alleviate poverty, Sri Lanka has recognised to work on the domestic policies to cover the gap of inadequate production and resource constraints. This is meant to have high agriculture productivity and food security to secure the livelihood concerns of the rural economy.

During the Seattle Ministerial Conference, keeping in view the flexibilities under AoA, Sri Lanka along with the other developing countries proposed the idea of developing box to focus on measures that would enhance food security, and safeguard the livelihoods of rural communities.

The proposal aimed at responding to Sri Lanka's need to: (a) protect and enhance the food production capacity, particularly in key staples; (b) safeguard employment opportunities for the rural poor; and (c) protect small/marginal farmers from 'an onslaught of cheap imports. Among the key elements of the proposal were that basic food security crops, which are the main sources of livelihood for low-income and resource-poor farmers', should be exempted from reduction commitments under AoA. Moreover, developing countries, which are at or below the *de minimis* level of permitted domestic support, should be allowed to maintain 'appropriate' tariff bindings on their food security crops, by maintaining the current bound rates or raising them if current bindings do not provide effective protection, and should include an 'appropriate safeguard mechanism' to respond to import surges of food security crops. Sri Lanka has taken certain negotiating

positions in the area of market access, domestic support and export competition in the ongoing negotiations, keeping in view the multifaceted nature of the agriculture sector.

According to the above-mentioned facts about Sri Lanka's agriculture, experts have made strategies to provide maximum protection to the agriculture sector through safeguards, and have taken some decision to negotiate. They have proposed a formula to cut tariff by weighted average 15 percent as proposed by the WTO and is applying a maximum tariff of 50 percent or zero cut on SPs. During Uruguay Round, Sri Lanka has bound most of its tariff at 50 percent. A 30 percent tariff cut will be imposed for products at the other end and a 12 percent tariff cut for the remaining products. At the Hong Kong Ministerial, tariff bands were proposed to reduce tariffs. Sri Lanka and most of the developing countries have to comply with a weighted average tariff cut of 15 percent, a low level band. SPs are determined by three criteria: food security, rural development and livelihood improvement. Under this classification, 20 percent of our tariff lines could be designated as SPs⁴⁴.

In the view of above mentioned data and reasons, rice, potatoes, B-onion, red onions, fresh milk, green gram and coconuts are designated as SPs on the basis of food security and livelihood concerns, with the focus on strategies to control import surges either through bilateral agreements or regional agreements i.e. SAPTA and SAFTA, or through Free Trade Agreements (FTAs) with the exporting countries. Sri Lanka has already completed a study and has identified around 600 products covering about 10 percent of agricultural tariff lines and would strongly support this proposal at WTO along with other developing countries⁴⁵.

Due to tariff reduction/cut Sri Lanka is facing many problems, for example, the cereal production including green gram. Kurakkan and maize has been declining during the past years and due to import surge if sogam have been wiped out from local farmlands, resulting into the total collapse of economy in the rural areas. According to statistics the cultivated extent of other field crops (including all crops mentioned above) in Sri Lanka has declined by 37.5 percent from 320,000 ha in 1995 to 200,000 ha in 2001.

The further reduction in agricultural tariff in Sri Lanka would have devastating effect on the employment and food security in the long run. However, government has made some recommendations in term of *ad valorem* duty. The *ad valorem* tariff is reduced to 40 percent from 50 percent, for rice, chilies, brown onion, potatoes, maize, green gram, cowpea, groundnut and red onion. For these items, guaranteed producer prices were announced for 1998. These products can have contingency protection if designated as SPs under the safeguard provision of the AoA since bound tariffs are already relatively low and any further reduction would most likely render the domestic sectors more vulnerable to external shocks.

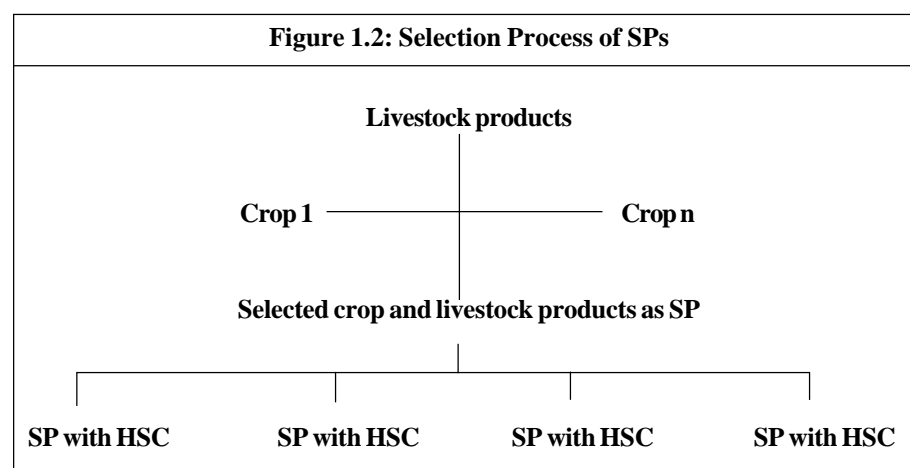
Sri Lanka did not submit AMS levels in the Uruguay Round and consequently its support for agriculture may not exceed the *de minimis* level of 10 percent. There is need for reexamining the status of the AMS –i.e. whether current flexibility in the AoA rules is adequate. If it proves not to be so, Sri Lanka should negotiate for additional flexibility to provide price and non-price support to farmers. Sri Lanka also needs to raise the issue

of technical and financial assistance in future negotiations, since current provisions in this respect in the various WTO Agreements have yet to be implemented effectively.

6.4 Position on SPs and SSM in Sri Lanka⁴⁶

Sequence in identifying SPs

Initially, all crops that are cultivated in all the nine provinces were considered. The initial section also included the livestock sector. Poultry, diary milk, egg production, pork and mutton and beef production were included under this. The selection process of the SPs is as follows:



The second layer of the chart demonstrates the selected crops and livestock products that will be designated as SPs. A set of criteria was used for this selection. Once the crops and livestock products are selected as SP commodities at the second level, the tariff line products at 6-digits HS codes under each of the crops/livestock products are designated as SPs.

Criteria of Selecting SPs

SP indicator

The SP indicators should reveal the relative contribution of any specific product to the following three issues:

- Rural development through agricultural production and contributing GDP;
- Livelihoods of rural population through income and employment generation; and
- Food security through supplying as much calorie, protein and fat requirements as possible

A set of indicators was used to assess the product contribution to these three issues. The indicators are grouped into four broad categories, which reflect the three main issues. Forward linkages of products were also assessed in qualitative terms. There are 11 quantitative indicators and 2 qualitatively assessed indicators in the four categories.

Indicators used in identifying special products

Economic development and livelihood security

- **Indicators:** Value of production in product n in a province as a percentage of the provincial agricultural GDP. Total labour used in product n in a given district as a percentage of agricultural production in that district to assess employment generation. Value of backward linkages attributed to product n in a given district as a percentage of the provincial agricultural GDP

National and regional level food security

- **Indicators:** Quantum of production of product n in a district as a percentage of the total national requirement of that product as reported in the food balance sheet
- Contribution of calories from product n to total calorie requirement in a given district
- Contribution of protein from product n to total protein requirement in a given district
- Contribution of fat from product n to total fat requirement in a given district
- Contribution of calories from product n to total national calorie requirement
- Contribution of protein from product n to total national protein requirement
- Contribution of fat from product n to total national fat requirement

Sustainability of production system

- Indicators percentage of product n that is imported to meet the total local demand
- Qualitative assessment of product n in terms of maintaining an environmentally sustainable production system

Forward linkages – rural development

- **Indicators:** Protein of the products in value added industries

Valuation of indicators

1. Value of production of product n in a province as a percentage of the provincial agricultural GDP (GDP contributor)
2. Total labour used in product n in a given district as a percentage of agricultural population in that district (Employment generation)
3. Value of backward linkages attributed to product n as a percentage of the provincial agricultural GDP (Backward linkages)
4. Quantum of production of product n in a district as a percentage of total national requirement of that product in the food balance sheet (Food supply contribution)
5. Contribution of calories from product n to total calorie requirement in a given district (District level calorie requirement)
6. Contribution of calories from product n to total protein requirement in a given district (District level protein requirement)
7. Contribution of calories from product n to total fat requirement in a given district (District level fat requirement)
8. Contribution of calories from product n to total national calorie requirement
9. Contribution of protein from product n to total national protein requirement
10. Contribution of fat from product n to total national fat requirement
11. Percentage of product n that is imported to meet the local demand (import dependency)

12. Qualitative assessment of product n in terms of maintaining environmentally sustainable production (environmental impact)
13. Qualitative assessment of value addition potential of products

Identified SPs for Sri Lanka

Above stated are the 11 quantitative indicators and 2 qualitative indicators to support the selection of SPs. Using these indicators, a screening criteria matrix (SC matrix) is developed to make a rational and justified selection of SPs out of the crops/products that were evaluated.

The percentage figures of the 11 quantitative indicators are then summed up over a province to compute a Provincial score per indicators, and secondly over the number of districts per province, and then obtained the provincial average of the score for each crop.

Next, a critical point or a cutoff score is selected to identify the products having the score more than the cutoff score, for the products to be selected as SPs. The purpose of computing the provincial level scores is to include the sub-national level concerns of rural development, livelihood security and food security into the SPs selection criteria. Therefore the cutoff point is based on the provincial level score rather than the national level total score. The minimum score of eight percent is considered as the cutoff point. This minimum eight percent means if a crop has an average score of eight percent in any one of the nine provinces that particular crop is important enough to be considered as a SP.

According to Ruffer (2004), depending on the GDP and the population of the country, Sri Lanka can have SPs with about 23 percent of import value out of total agricultural imports. In Sri Lanka case, eight percent cutoff score yield a group of SPs, which contribute to 17 percent of total agricultural imports. Therefore eight percent is a justifiable cutoff score. The crops which are nominated as SPs in Sri Lanka are: paddy, coconut, poultry, milk, vegetables, cowpea, ground nuts, maize, red onions, chilies, tomato, capsicum, green gram, potatoes, sorghum, black gram, ginger, soya, big onions. However, paddy, coconut, poultry, milk and vegetable have the top priority in the SPs list according to the order of importance.

Designating SPs at HS code Level

There are several products with specific HS codes under the product categories that were designated as SP. On the basis of the selected SP product categories, specific SP commodities at 6-digit HS code level have been selected.

SPs in each product categories in the HS nomenclature are as follow:

<u>Product category</u>	<u>Designated HS coded product as SP</u>
Rice	5
Coconut	8
Vegetable oil	6
Poultry	6
Milk	8

Vegetable (for SSM)	1
Red onion	1
Nuts including ground nut	3
Cereal	4
Maize	2
Chilies	2
Tomato	1
Cucumbers	2
Green gram	1
Legumes	2
Potatoes	4
Black gram	1
Soya	1
B-onion	3

At HS code 6-digit level, 61 products have been designated as SPs. This is about 10 percent of the total agricultural tariff lines. The three-year average import value of total SPs for the period 2001-03 is 17 percent out of the total agricultural import value.

Factors Considered in Selecting Products for SSM

The AoA provides the WTO members that have tariffed non- tariff measures (NTMs) access to a SSM. As Sri Lanka did not tariff, instead of offering ceiling bindings there is no access to this provision. Instead Sri Lanka is now availing herself to have SSM where rational selection of commodities and SSM are necessary. Access to SSM enables Sri Lanka to impose a measure either an additional duty above the bound levels or QRs for certain identified products in case of imports surging beyond a certain volume or price of the product falling below a threshold level (Price trigger).

The following factors are considered in selecting products to be identified for SSM:

1. SSM are proposed only for importable commodities in Sri Lanka. The three criteria adopted in selecting SPs are the basis used in nominating products for SSM too. In addition, import surges and low CIF prices are also considered in selecting products for SSM.
2. The application of SSM treatment will commence if either the volume trigger or price trigger indicates that the imports of a particular product is coming into the country at more than a threshold level. It is necessary to identify which trigger is more appropriate for a particular product.
3. Given due considerations to the above factors, the following rules are adopted in proposing a particular trigger mechanism to be applied to a specific group of commodities:
4. Volume trigger – this will be applied to products with:
 - Local prices lower than international prices so that such products are locally competitive, but imports of high volume even at a higher price may harm the industry;
 - Seasonal nature of harvest so that the product is adequately available at the harvesting seasons and any further imports will lead to depressed prices for the producers; and

- High food security concerns where even with lower price imports are allowed to some extent so that food security concerns are not hampered. If the volume is above a certain threshold level, which could harm the industry, then volume trigger is used to invoke any appropriate SSM, most probably a QR.
5. Price trigger – this will be applied to products with:
 - International prices lower than or close to the local prices so that local industry cannot compete and at the same time local industry will be severely hurt if cheap imports are flowing; and
 - High fluctuating prices so that even a small quantity can come into the country at a very low price.
 6. Application of trigger levels for both volume and price triggers need to be worked out at the implementation stages. It could be the reference trigger level as it is or a formula using the reference trigger levels that will be used as the effective trigger.
 7. The product eligibility is again based on the analysis conducted in the report for selecting SPs. In addition, the commodities having import surges and effectively low CIF prices are also considered for SSM treatment.
 8. The HS level at which the SSM would be applied is another practical issue need to be addressed. The import volume and value figures are recorded and could be monitored at the HS code 6 digit level. Therefore 6-digit HS code level is used for commodity identification.
 9. The type of SSM proposed for identified products are: (a) increasing applied tariff levels; or (b) quantitative restrictions are considered when imposing a SSM for a particular product.
 10. The products with the above characteristics are proposed for appropriate SSM. The time limits of the applied SSM would be one year in most cases. If the measure is invoked for seasonal consideration, then it will last for the season.

Designating Products Subject to SSM

Out of 261 products that are proposed for SSM, about 90 will have volume trigger as the trigger mechanism and the balance 170 will have the price trigger. Within each product group, some products will have volume trigger and others will have price trigger depending on the product characteristics and the current tariff structure.

SSM Products and SSM Treatments

Mainly two types of treatments are proposed as SSM namely, increasing applied tariff and applying QRs. At this stage, only the treatment is identified by type and the level of treatment will be finalised at the implementation stage.

The products proposed for SSM treatment are: rice, coconut, vegetable oil, poultry, milk, all vegetables, cowpea, red onion, cereal, maize, chilies, tomatoes, cucumber, green gram, legumes, potatoes, black gram, soya, big onion, kurakkan, fruits, cocoa, coffee, cardamom, nuts, root crop, pepper, nutmeg, meat bovine, meat swine, meat sheep.

Out of a total number of 261 HS code products proposed for SSM treatments, 235 products will be proposed for tariff increase as the SSM treatment. The balance 26 products will have QRs as the treatment. The level of tariff increase and the level of volume restrictions will be determined at the implementation stage of the proposal.

6.5 South Asian Common Position

6.5.1 Special Products

The debate on SPs first started from Doha Declaration as Non Trade Concerns (NTCs) and S&DT provisions of AoA. The paragraph 13 of Doha Declaration ask members for substantial improvements in market access and for S&DT for developing countries, that SDT shall be an integral part of all elements of negotiations and shall be embodied in the schedules of concessions and in the rules and commitments to be negotiated. A group of developing countries, the G-33 is fighting for special treatment as “SPs” (defined as products related to food security, rural development and rural livelihood concerns) and for a SSM (to be used when there is an import surge) for developing countries.

The July Framework 2003 stated that S&DT for developing members is “an integral part of the WTO agreements”, and also explains that developing countries are exempted from being required to reduce tariff and domestic support. The Framework also asks for a review of all the special treatment provisions of Doha Round, with the view to strengthen them and make them more precise, effective and operational.

The Article 41 of July Framework states that developing countries would be able to “designate an appropriate number of products as SPs, based on criteria of food security, livelihood security and rural development needs. It also stated that a SSM would be established for use by the developing countries”.

The idea of SPs proposed by developing countries, especially by G-33 countries, which have also supported the concept of SSM, and ask for certain instruments. How these instruments will be applied remains unresolved in the General Council Meeting/Decision (W/T/L/597). In the Harbinson draft, these products were firstly termed as Strategic Products, and developing countries were allowed to designate certain number of products at 6-digit HS level as Strategic Products, with the smaller tariff reduction in SPs. Later on, in the revised draft and Cancun and Derbis drafts, these products were named as SPs with the selection at 6-digit or 4-digit level and flexibility of lower reduction rate and exemption from Tariff Rate Quotas (TRQ) commitments.

Paragraph 7 of the Hong Kong Ministerial Declaration states, “.... We also note that there have been some recent movements on the designation and treatment of Special Products and elements of the Special Safeguard Mechanism. Developing country Members will have the flexibility to self-designate an appropriate number of tariff lines as Special Products guided by indicators based on the criteria of food security, livelihood security and rural development. [...] Special Products and the Special Safeguard Mechanism shall be an integral part of the modalities and the outcome of negotiations in agriculture.”

As mentioned above, the Article 41 of July Framework provides developing countries with the possibility to define SPs to designate certain agricultural products based on the criteria of food security, livelihood concerns and rural development. But in actual practice, it is very complex and tricky process having so many pros and cons. It could not be the answer for both developed and developing countries against the tariff and subsidies

reduction and import surges. However, the criteria itself can be a way to analyse the situation and then define them according to the needs.

For the identification of the products to designate as SPs, a study by International Gender and Trade Network (IGTN)⁴⁷ suggests some criteria, i.e. those products should be designated as SPs having socioeconomic importance and trade growth as per country's economic value of the product to the total GDP with economic implications at regional level. Those products should also be considered as SPs that have some cultural, nutritional and preferential acceptance by the communities whose livelihood and food security are linked with those products, and also the identification of the agricultural substitute products (Lusia, 2004)⁴⁸.

Furthermore, there should be identification of stakeholders, who can take part in consultation with the state and help in identifying the products to be considered important for them. These must include farming communities, producers, consumers, industry people, middlemen, market people and policy makers. The most important among all of them are the farmers and the poor, who can be identified on the basis of their income level, their access to economic and productive resources and geographical regions within the country, keeping in view poverty level in the country.

6.5.2 South Asian Context

In conceptualising a negotiating stance for SPs and SSM in the South Asian context, there are advantages and disadvantages. There are two main limitations in assuming a common position by the South Asian nations at the WTO negotiating table: first, the politics of the region; and second, the economics of the region.

In the past, regional politics have made it difficult to reach economic agreements within the region (Pakistan has yet not granted MFN status to India on a number of products). However, since the 10th SAARC summit and the agreement to establish SAFTA, some ice has started melting.

The second factor is the difference in economic size of South Asian countries: there are three developing countries (India, Pakistan, and Sri Lanka) and two acceded LDCs (Bangladesh, Nepal, Bhutan, and Maldives). Nepal and Bhutan are yet to become members of the WTO, however, they do possess observer status. Even within these classifications, there are major gaps with India being the economic giant in the region, and Sri Lanka having a much smaller economy. This leads to problems in prioritisation of issues and hence in developing a cohesive stance. For example, each country has its own concerns: the developing countries wish to improve market access, which may exacerbate LDCs' concerns on issues such as preference erosion. Moreover, in terms of agriculture, there is a wide difference in the negotiating positions of Net Food Importing Countries versus the Net Food Exporting Countries of South Asia.

Therefore, it is imperative that a Least Common Factor be determined and a collective stance be taken on it. But in order for advancement on the issues of SPs and SSM, it would be more realistic to assume that the developing countries took a lead to negotiating on SPs and SSM. For now, LDCs can not take a comprehensive view from the starting premise that very soon they too would become developing countries and thus what

may not be of immediate interest to them now, may become critically important in the near future. This view has been so far supported by Bangladesh⁴⁹, since it does not have to make any protection reduction commitments, the exercise of identifying SPs for the country is actually redundant. While for Sri Lanka as net food importing country, India as the largest producer and exporter of the region and Pakistan both as importer and exporter, there is need to have an overall understanding of the agriculture system as well as trade.

6.5.3 Negotiations on SPs and SSM

- On July 28, 2004, G-33 presented a proposal in July Agriculture Text, demanding the implementation of SPs and SSM.⁵⁰ They wanted to take into consideration the food security, livelihood and rural development concerns of the developing countries while taking any decision, and asked for the following measures to be included in the revised draft⁵¹ that developing countries should decide on their own the percentage of tariff lines to be considered as SPs:
- SPs must be a stand alone provision;
- There must be no tariff reduction commitment for all SPs;
- There must be no new tariff reduction quota commitment on all SPs; and
- Products considered as SPs must also have access to SSM.

Under Article 5 of the AoA, a provision of Special Safeguard (SSG) is already given to the countries. But the developing countries have demanded the establishment of SSM, on the basis that by reducing their bound tariff these countries will no be able to protect themselves against the agricultural market instability and will make them vulnerable to the import surges and cheap imports. In SSG, the options are limited to only those member countries that have already started tariffication and converting non- tariff measures into tariffs at the end of Uruguay Round. While the SSM makes the countries able to impose an additional duty above their bound tariff levels for certain products in the case of import surges beyond a certain volume and price trigger.

The SSM can be better modified, once the SPs are identified. Once the SPs are very well identified at the national level and the significance of the particular agricultural products has been determined on the basis of food and livelihood security and rural development concerns, it would be difficult to argue that such products may not be protected by the SSM⁵². SSM can also be used for those products, which are not necessarily SPs in the importing countries but are highly subsidised in the country of their origin i.e. fruits, vegetables, dairy products, sugar and poultry parts etc⁵³. In this scenario, developing countries have asked for the following modalities in SSM:

- Safeguard measures should be automatically triggered;
- It should be available to all agricultural products;
- Both price and volume triggered safeguard should be considered;
- Both additional and quantitative restrictions should be considered as response measures;
- The mechanism should be simple, effective and easy to implement.

In addition to the above-mentioned modalities, one proposal⁵⁴ on implementing the SSM on the basis of contingency levy is offered. It has devised three approaches to implement certain market access provision of July Framework, including:

- Implementing the SPs provision on the basis of an aggregate deviations from the general tariff cut formula;
- Implementing the sensitive products provision on the basis on an additional pro-rated TRQ commitment for non-compliance with general tariff cut formula; and
- The maximum contingency levy (MCL) could be applied, over and above other legitimate levies, when certain trigger⁵⁵ conditions are met. This negotiated maximum contingency levy (expressed in value terms, i.e. national currency or the equivalent of US dollar would be the total allowance that a member would have at its disposal on grounds of the SSM provision. When the cumulative value of extra tariffs (on account of the SSM) reaches that maximum contingency levy, no extra tariffs would be possible on subsequent shipments during the marketing year in question.

Table.1.29 is taken from Dr Sohail Jehangir Malik;s paper on “*Guidelines to facilitate the Selection of Special Products and Implementation of the Special Safeguard Mechanism in Pakistan*” in which he has discussed with a hypothetical example that how the SSM based on a MCL can work in practice. And in order to implement the SSM through this MCL that a member would have at its disposal to apply when either price and/or volume triggers are met.

6.5.4 Malaysian Informal Paper on Special Products⁵⁶

Malaysia in its paper circulated on March 23, 2006 proposed a series of quantitative/numerical indicators for the designation of SPs with the view that SPs have the potential to undermine the development agenda of exporting developing countries since the income of many poor farmers in such countries depends on the production and export of one or two crops and proposed that:

- Those products, which contribute in bulk to the world trade, should not be treated as SPs and proposed a threshold figure of 75 percent.
- Establishment of percentage thresholds for each of four other indicators, above which products would be eligible for SP status⁵⁷.
- SPs should be staples produced domestically.
- Tariff cuts on SPs should be a to-be-negotiated percentage lower than those on other products.
- SPs with bound tariffs below 20 percent should be exempt from reduction commitments altogether.
- SPs, which already have TRQ commitments, would face lower expansion requirements than other products.
- Maximum tariff that developing countries could apply on SPs should be higher than the tariff cap for other products.

The paper was assessed and pointed out that Malaysian proposal of numerical indicators to the staple crops (contributing to the nutritional requirement and livelihoods) denies the basic objectives of food security, livelihoods and rural development. It was also argued that Malaysia’s criteria were impractical, since a single set of thresholds would not be able to capture the diverse conditions that prevail in different developing countries. Mauritius said that under Malaysia’s approach, African countries would be unable to designate any SPs, since their crops would fail to qualify. It was also the exporters (exporting countries) are trying to get gains from the overall tariff cuts; so the exporting farmers should not be compared with the subsistence farmers.

Table 1.29: Implementing the SSM under the Maximum Aggregate Levy Approach											
1	2	3	4	5	6	7	8	9	10	11	12
SHIPMENTS during a market-ing year	Quantity of shipment	Cumulative volume imported	Import price of shipment	Applicable trigger	Theoretical extra tariff (price basis)	Theoretical extra tariff (volume basis)	Theoretical contingency levy (price basis)	Theoretical contingency levy (volume basis)	Applied contingency levy	Cumulative applied contingency levy	Remaining contingency levy
	(Tons)	(Tons)	(US\$/ton)		(US\$/ton)	(US\$/ton)	(US\$)	(US\$)	(US\$)	(US\$)	(US\$)
1	10000	10000	105	None	0	0	0	0	0	0	1500000
2	15000	25000	90	Price	10	0	150000	0	150000	150000	1350000
3	10000	35000	80	Price	20	0	200000	0	200000	350000	1150000
4	10000	45000	70	Price	30	0	300000	0	300000	650000	850000
5	20000	65000	80	Price	20	0	400000	0	400000	1050000	450000
6	15000	80000	85	Price	15	0	225000	0	225000	1275000	225000
7	25000	105000	92	Price	8	0	200000	0	200000	1475000	25000
8	10000	115000	100	Price	0	0	0	0	0	1475000	25000
9	15000	130000	100	Volume	0	30	0	150000	25000	1500000	0
10	10000	140000	100	volume	0	30	0	300000	0	1500000	0
<i>Assumptions</i> 100 US\$/ton = Import reference price 100000 tons = Average volume of imports in the immediately preceding three-year period 125000 tons = Volume trigger assumed equal to 125% of average volume of imports. 15000000 US\$ = Average value of imports in the immediately preceding three year period. 15000000 US\$ = Maximum contingency levy (MCL) assumed equal to 10% of average value of imports.											

6.5.5 Thailand's' Paper on Special Products⁵⁸

Thailand has proposed following indicators for the selection and treatment of SPs:

- Products exported by developing countries that cumulatively constitutes more than 50 percent of world export of that shall not be designated as SP;
- Product imported from developing countries that cumulatively constitutes more than 50 percent of the importing country's total import of such product shall not be designated as SPs;
- The number of SP tariff lines shall be limited and specified at least at HS-8 digit level;
- SPs should constitute greater than {a percent} of domestic consumption of the product is met through domestic production. Or greater than {b percent} of agricultural GDP;
- The product contributes at least {c percent} of the total nutritional value (dietary and caloric requirement) of the population;
- For the treatment minimum tariff cuts of {d percent} of the normal tariff reduction formula shall be applied to all SPs. For those TRQ products to be designated as SPs they shall be subject to quota expansion. SPs shall be eligible for tariff cap higher than that of normal products by {e percent}.

6.5.6 US Proposal⁵⁹

The US in its proposal on SPs says that only five farm products should be designated as SPs. Products that are domestically or are close substitutes of products produced domestically can be designated as SPs. Those products that are exported from a country on an MFN basis and is net exported cannot be designated as SPs. Regarding the treatment, SP tariff lines shall be subject to {x percent} of the general tariff cut, where {x percent} is less demanding than the tariff cut required for sensitive products. There will be no in-quota duties for TRQ.

The use of SSM takes place only when imports rise by 30 percent or more in either volume or price. The SSM shall only be available to a limited number of products at the detailed tariff line level. Eligibility for the SSM shall be limited to:

- [x] percent of tariff lines at the detailed duty level that take the full tariff cut as specified by the general tariff reduction formula for developing countries which result in new bound tariffs below current applied tariffs; and
- products that are produced domestically or are close substitutes of products produced domestically.

The SSM shall be based on import quantity and price-based triggers. If the price-based trigger is met, a market test will be used to ensure that the imports are rising, before the SSM remedy is applied. If the volume-based trigger is met, a market test will be used to ensure that domestic prices are falling, before the SSM remedy is applied.

The analysis of the paper shows that it limits the scope of safeguards to the extent that alternative to any such mechanism become useless. The US paper also made the applicability of the SSM bit difficult by linking the price based trigger with the increase in volume through a market test. And asks for the application of SSM to only those products where formula cuts have been applied. At the same time, condition of 130 percent volume threshold make some economies very vulnerable as in smaller economies even a small increase can devastate the whole local production base, the important is

the case of Kenya, where through ActionAid International (AAI) study, it has been proved that although there was only 20 percent increase in imports' volume, it has severe negative impacts on local production. The farmers returns have decreased exponentially, employment has decreased from 43000 in 1990 to 7500 in 2004. Similarly, closure of social services manipulated the problems in the area.

6.5.7 Falconer Paper on Special Products⁶⁰

On May 5, 2006 Chair Ambassador Crawford Falconer, provided a proposal to include market access consideration into the basis for selecting SPs. In the paper, wide gaps were identified in the positions of different countries on the selection of SPs either on the basis of tariff cuts or on the basis of food security, livelihood security and rural development. The major ones i.e. number of SPs and their treatment, were not even resolved in Hong Kong Ministerial, which results into the grouping of the member countries, especially the farm exporter seeking for extensive market access and G-33 asking for wide SPs coverage. Falconer further stressed those members before designating SPs must first agree on the modalities for tariff and subsidies cuts. It was also mentioned in the paper that the G-33 proposal of "at least 20 percent tariff lines are/should be eligible for SPs" would allow two unnamed developing countries to shield as much as 98.4 and 94 percent of the total value of their respective farm imports from Doha Round Tariff. Three options to resolve the SPs issue were discussed in the reference paper by Falconer:

- To make a lower percentage of tariff lines eligible for SPs designation;
- To require their tariff treatment to be "more permissive of trade; and
- "Particular Members" declare in advance that they would either not designate any SPs, or that they would utilise them "to a lesser extent than what might be generally agreed

The reference paper was criticised by the G-33 that the chair for unfavourable assessment of the market access flexibilities they are seeking, and about the approach that it will allow developing countries to shield an inappropriately high proportions of farm imports from the full force of tariff cuts. G-33 emphasised that the entire notion of SPs is not based on trade-related concerns, and thus should not be viewed through the prism of commercial considerations. The members come up with the following points:

- Indonesia argued that the need of the developing countries should not be held hostage to the exporting interests of the few. It was seconded by Cuba, India, Honduras, Peru, Philippines, Venezuela and the African Groups;
- Chile, Costa Rica, Malaysia and Thailand said that G-33 proposal would endanger south-south trade; and
- G-33 asked Falconer to revise his reference paper.

The agriculture chair acknowledged some of the group's concerns in his reference paper, saying G-33 delegates also took issue with Falconer's assertion that they had demonstrated "little readiness" to consider treating SPs "in anything other than a firmly import-limiting manner". They faulted his reference paper for failing to mention that their proposal would cut tariffs on one quarter of SPs by five percent, and those on another quarter by up to 10 percent, though the rest would be completely exempt from tariff reduction.

6.5.8 World Bank's Paper on Special Products (SPs) as Anti Development

G-33 has also criticised the World Bank's Paper on its assumptions and methodology that the paper has misinterpreted the operations and impact of SPs and denied the importance of the agricultural structure of the developing countries. The paper by World Bank pointed out that *"that raising agricultural prices substantially through SPs would create large increases in poverty, sufficient in some cases to undo decades of development progress and push the already poor deeper into poverty"*. G-33 warned that such a misleading paper could have adverse consequences for the Doha Round negotiations of the WTO. Further to this, the ambiguities in the paper include:

- With the slight change in the revised paper still the objective of the instruments of the SPs has not been understood by the author;
- The paper discussed that in order to reduce poverty successfully, the SPs flexibilities should also be seen carefully, on which G-33 pointed out that the product coverage in the study was very narrow, its scope was confined to only four countries, and that the situations, which were sought to be simulated, were completely arbitrary;
- The paper also ignores the reality of price declines, price volatility and predatory competition, including dumping of heavily subsidised products, which raises the risk levels of developing countries without providing an adequate safety mechanism or flexibility to deal with the adverse impacts of trade policy changes for their vulnerable agricultural sectors.

The G-33 has repeatedly explained that the aim of SPs is not to raise prices of qualifying products over an extended period of time. Rather, SPs are a flexibility intended to enable developing countries to address externally generated shocks that could disrupt incomes and food security, particularly for low income and resource poor agricultural producers. Besides, G-33 has urged the World Bank to substantially modify this fundamentally flawed paper as a matter of priority.

6.5.9 Pakistan's Paper on SPs (Annexure – 29)

On January 19, 2007, Pakistan submitted a proposal with four specific criteria on the designation of SPs besides the three options of food, security, rural development and livelihood security. But it is not perceptible whether the paper proposing the sub-criteria will be workable at national or multilateral level. The four specific criteria are:

1. share of the production of a product in total agricultural production (rural development);
2. share of consumption of a product in total apparent food consumption (food security);
3. share of domestic consumption by domestic production of a product (food security); and
4. share of employment of the product in the total agricultural labour force or in total agricultural employment (livelihood security).

According to the paper, the first two indicators show the relative importance of individual product in total national agricultural production and consumption, and their degree of importance to the agriculture base and consumption profile of the country. While the third indicators focusing food security shows the relation between the levels of domestic consumption as compared to the domestic production and its sustainability in terms of

self-sufficiency. While the last indicator, indicates the dependency ration of the people on agriculture for their livelihood. Based on these, it is proposed that countries should/ may develop a minimum threshold for each indicator according to their need, and based on threshold, including selecting a product leaving policy space of any change.

There are two speculations while using SPs criteria mentioned in the proposal, and one is very important if we talk about the common South Asian position. The two proposals are:

- a. in various countries, there are certain cases in which the locally produced crop or product is displaced by the imported substitute which is not produce in that specific country i.e. powder milk displacing raw milk, local ghee by vegetable oil; and
- b. indicators are based on the national data and works at national level but it could not reflect the regional importance of products within the country.

Based on the criteria of food security, rural development and livelihood with its sub indicators like wheat, rice, citrus, apple and edible oils are in the list to be treated as SPs, while crops of strong export potential like milk, raw cotton, sugar and poultry products and onions can be removed from the list. Since Pakistan's bound tariffs are rather high on these products (100 percent or more), the current applied rates of the current customs duty on these products are not likely to be affected if the G-20 formula cuts (maximum cut in tariff) of 40 percent is applied. In fact, even after the application of cuts in duty there would be enough gaps between the applied rates and the new bound rates (duty can not be raised beyond the agreed level) in case Pakistan feels the need to raise those rates.

While deciding the numbers if tariff lines that may be designated as SPs, it is proposed that the member countries may agree upon a benchmark score so that any products scoring above benchmark is automatically qualified for designation as SPs. Moreover, there should be a periodical review (x years) where the ranking index is reviewed based in the latest data and inclusion/exclusion of certain products, if any, is notified.

For the treatment, the paper says that most of the developing countries want very few lines to be designates as SPs with larger deviation. While very few countries would like to designate many SPs, they should avail lesser deviation. Members may decide any point to be availed from this relationship or the points can be fixed as well.

6.5.10 G-33 Ministerial Press Statement: Davos, January 26, 2007

G-33 Ministers while evaluating the developments on Doha Round negotiations in Davos accentuate the need to secure the modalities for SPs and the SSM, which are designed to effectively address the food security, livelihood security and rural development needs of the developing countries. At the same time, it asked for ensuring predictability and transparency and recalled that the Group's comprehensive and constructive contributions on modalities, with full legal drafts, on SPs and SSM are fully consistent with, and respect the integrity of the Doha and Hong Kong Ministerial Declarations, and the General Council Decision of August 01, 2004, 2004. Ministers particularly noted that the G-33 proposals embody within them deeply considered solutions to the heterogeneous interests of WTO Members. Studies show that there is no close relationship between agricultural imports and applied tariff rates. Moreover,

low tariffs do not cause imports to rise when income levels are very low. On the contrary, the main drivers of agricultural imports in developing countries are income levels and variations in domestic harvests, not tariff levels. In this context, G-33 underscored that developing countries need time and policy space to improve their poor farmers' productivity and incomes, and to curtail the risk of dislocation from agriculture, including unmanageable agricultural trade liberalisation.

6.5.11 Critique on the Pakistan's Paper

Government Officer's View: (Geneva Mission)

At present, there is no solid proposal on table except the extreme positions of G-33 (205 tariff lines) and the US (five products). Pakistan being the G-33 member genuinely feels that there should be some balancing proposal in order to have some progress on this issue. The proposal gives liberty to choose as many SPs as a country deserves to nominate under the selection system, which gives ranking of SPs based on the scores under each of the indicators. Members may agree on a benchmark score; therefore all products scoring more than the benchmark would be eligible for designation as SPs. It may be noted that as far as our defensive interests are concerned, and since bound rates for agricultural products in Pakistan are rather high (average 101 percent), it is not likely that our applied rates would be touched after applying the current G-20 formula. However, on the other hand, Pakistan has offensive interests as in future and expecting surplus production in several agricultural products such as milk and horticultural products (citrus fruit, potato, tomato and onion etc). Besides, this government does not want that because of excessive application of SPs by other countries, Pakistan have difficulty in finding export markets.

The positive aspect/effect of the proposal is that, it results in an increase of exports and improves the lives of poor farmers. Pakistan has the potential of exports in many horticulture products, if the other countries block Pakistani exports through designation of SPs. It would be counter productive for Pakistan, and through this proposal, we have tried to minimise this blockade in our proposal in the selection and treatment parts.

- SPs mechanism can be termed as an 'added tariff protection' instrument which could be helpful in providing protection to products, and which are crucial to food security and livelihood concerns of developing countries, provided that the Doha Round resultant tariff reduction commitments eat into the inbuilt safety net provided for the present tariff structures of the developing country. In other words, it is the difference between the applied rates and the bound rates in developing countries. In Pakistan's case, as is true in the case of many other developing countries, even if Pakistan take on very ambitious cuts on its agricultural tariffs, they would not be bound at less than 50 percent to 60 percent. Therefore, the question is: how can this negatively impact our existing policy space?
- Furthermore, as regards the perceived threat from other developing country exports to the livelihood of our farmers is concerned: do not we have enough water in our applied and bound rates to tackle this? Secondly, how many times in the last 10 years have Pakistan actually used the 100 percent tariff ceiling for providing protection to the farmers? If the threat is so real, then why do we still have applied tariff of zero percent on wheat, cotton, sugar, rice, milk, meat? As a matter of 'real' fact, it was always our domestic needs either to check inflation or provide cheaper food or input

for our industry e.g. cotton for our textile industry, which prompted reductions from bound rates. There is not a single example of an agriculture product where we ever had to lower the tariffs because of WTO commitments.

- Another fact is the linkage of SPs with SSM. In fact, SSM, even as a stand-alone mechanism, hypothetically speaking, would be enough to guard against unfair competition and dumping of subsidised agri products into developing country markets.
- If Pakistan go for excessive protection or an 'over kill', it would be completely ignoring its offensive interest, as we did in the past. Recent studies by the Ministry of Agriculture shows that even on a conservative side, we could achieve export target of agriculture products to the tune of US\$5.25bn to US\$6.5bn over a 6 to 7 year period, as a result of the conclusion of the Doha Round.
- It is also worth underlining the fact that, so far Pakistan has only been able to make reasonable exports of one agriculture product, i.e. 'rice'. One of the reasons is that Pakistan has a special zero rate for *basmati* in EU. During 2005 when Pakistan was able to negotiate a good deal and get EU to bind its duty rates on *basmati* at zero, the exports really took off. Other prominent sectors where we can see significant potential are: horticulture, livestock, fisheries and other primary commodities. If we are able to get a good deal in the negotiations and get developed as well as developing countries to cut their tariffs and subsidies, there is no reason why we cannot achieve the same kind of results as we did in rice.
- Regarding taking sides with US or G-33 or any other country or group, as an ex-negotiator for Pakistan can be termed that our only consideration is 'national interest', nothing more and nothing less. When Pakistan joined the G-20 before the Cancun Ministerial, both EU and US were 'not happy' with its decision. In fact, they even exerted pressure on countries, as a result of which some of them left the Group. We stood firm in our belief and in fact are one of the most active members of the G-20. Similarly, when we joined the G-33, it had a particular purpose, i.e. we believed in the SPa and SSM to be a tool for guarding against dumping of subsidised agri products and safeguarding livelihood concerns of our farmers, but when we realised that some countries in Group-33 have hijacked it for the purposes of completely closing South-South trade and for their own 'overtly defensive' designs, we lowered our support for the Group. Whilst, being a leader of G-77 and solidarity with LDCs and developing countries looks 'beautiful' on paper, it must not be allowed to be at the cost of the 'beauty' of our own country.
- Lastly, with reference to the Development Box, there is need to consider revisiting that concept *vis-à-vis* the time when Pakistan proposed it. Things have moved forward in terms of negotiations. The Development Box was a pre-Doha concept and was created for granting more flexibility for developing countries. As already elaborated above, Pakistan does not want to block South-South trade. Finally, I would like to state that my comments above are with a view to contribute to the debate so as to have a well considered negotiating strategy. Our mission at Geneva has always been to try to follow what our stakeholders as a whole have wanted. If, it is felt that in the long run, having an export-led strategy is not in our interest, then of course, we should revisit or revert to our old policies and keep ourselves within tariff walls.

Civil Society's View⁶¹

The critics however believe that the paper on SPs by Pakistan is too far from those of G-33 (20 percent tariff lines) and actually supports US position of five products. Paper takes in the main indicators only and ignores sub-indicators as per the G-33 proposal. The paper ignores other products of regional importance such as maize, gram, groundnut, chilly, banana, other vegetables, hides & skin, etc. Among the prioritised crops, the paper says that only rice has high regional importance from the food security perspective and rice, tomato, onion, citrus, apple and tea have high regional importance from the livelihoods perspective. As regards rural development, the paper categorises six products (cotton, potato, tomato, citrus, apple, milk) as highly important because of their potential for value addition. Based on this criterion, it appears that Pakistan would only be able designate five crops (wheat, rice, citrus, apple and edible oils) as SPs. All other important crops with strong export potential might be excluded from the list of SPs and would be subject to sharp tariff reduction. The critics also doubt that reductions would actually go beyond the current applied tariffs in Pakistan.

The designation of SPs is in fact one of the crucial development instruments in trade for developing countries and for Pakistani farmers. It is the basic trade safety net that will go a long way in providing a country legitimate time and policy space to adjust to the multilateral trading framework. The SPs paper by Pakistan provides little hope to Pakistani farmers and development in the country. Already, Chinese products are threatening many local sensitive agricultural products in the market and Pakistan's proposal, if accepted, will give free hand to rest of the countries, i.e. India to stop our farmers growing anything except the designated crops as SPs.

Seemingly, Pakistan is attempting to bridge the gap between the G-33 stance and that of the US, but the critics believe that the proposals are quite away from those of G-33 as well as development needs of the poor countries. As mentioned earlier that expected US/EU deal is likely to put pressure on G-33 for a compromise and G-33 member countries need more unity at the moment to resist these pressures. Pakistan should rather show solidarity with G-33 and tackle the pressures from US using the pressures of G-33 and G-20. Pakistan should be cautious, as any limiting criteria or exclusion of products as proposed by Thailand and Malaysia could dilute this privilege, while many countries may not be able to designate even a single product based on the criteria proposed by Pakistan.

Pakistan's stance that the excessive application of SPs could hurt Pakistan in finding export markets also seems irrelevant as SPs are not forever and already we have only 11 export products at the moment of which more than 80 percent goes to developed countries' markets. We are rather losing market in developing countries i.e. of mango and citrus fruits because of high cost of production, inadequate storage facilities and faulty trade facilitations. Similarly, as the food import is already on increase, many farmers are leaving their innate profession and hence, there are less chances that Pakistan will start growing huge surpluses in near future. Pakistan's foremost interests therefore must be defensive.

As compared to designating products on the basis of data, concessions on percentage basis is fine with all poor countries as most of these countries, including Pakistan lack

proper data. Concessions on percentage basis also gives us the option to assess the impact of trade flows and in cases where short-term import surges cause serious instability in prices, developing countries would have the flexibility to shift the lines categorised as SPs. The proposal of limiting SPs to a few lines was not in any way endorsed in Hong Kong Ministerial rather it was a percentage. Developing countries were granted the privilege of self-designating an appropriate percentage of agricultural products with flexibility to avoid strict reduction commitments based on the criteria of food security, livelihood security and rural development needs.

6.5.12 Indian's Critique on Paper⁶²

Indian Trade Minister, Kamal Nath showed optimism that a turn around in the Doha trade negotiations could be brought soon (WTD, 1/24/07). The Trade Minister – a key participant in G-20 developing countries coalition said that New Delhi was prepared to discuss indicators for SPs and SSM based on the 2004 Hong Kong Ministerial Declaration. He insisted that US should bring down its domestic subsidies from US\$22bn to US\$15bn with clear disciplines for product-specific caps in the most trade distorting aggregate measurement of support and counter-cyclical payments. The latest US offer is to cap its trade-distorting domestic supports at US\$17bn, while Brazil would prefer to see a US\$12bn to US\$13bn cap. On SPs, India insists on flexibilities for products of importance to developing countries – many of which are subsidised by major exporters. It is wrong to demand that items such as sugar, corn, rice and soya and cotton be accorded normal treatment by non-subsidisers like India. He said indicators for SPs can be discussed over the next two or three months on the basis of progress made on trade distorting domestic support and export competition. Mr. Nath said developing countries should not be asked to spell out what they will offer without first knowing what industrialised countries are proposing.

6.5.13 Comments on Paper from International Organization⁶³

Pakistan has circulated an informal paper suggesting options for dealing with SPs. However, its ideas have not found favour with at least some other delegations. Pakistan's paper identifies possible ways for members to reassure trading partners that the SPs they choose would indeed reflect legitimate concerns about food security, livelihood security, and rural development. Pakistan is a member of both the import-sensitive G-33 and the export-oriented Cairns Group countries (as are Indonesia and the Philippines). The paper, which does not purport to represent the views of either group, departs from many of the established positions of the G-33. Pakistan contemplates the option of an overall 'cap' (in terms of a total percentage of tariff lines) on flexibilities for both special and sensitive products. Both developed and developing countries will be allowed to make gentler tariff cuts to some 'sensitive products' in exchange for creating new import quotas. The paper noted, however, that no single number is likely to satisfy all developing countries. Pakistan floats the idea of excluding SPs from eligibility for the SSM, which has been designed to help developing countries protect farmers from import surges by temporarily raising tariffs beyond bound ceiling levels.

One G-33 delegate, it said that it was "very good of Pakistan" to try to see how a compromise could be reached on SPs. However, the negotiator said that the paper's suggestions might "further complicate what's [already] a complex issue in the negotiations" by, for instance, requiring members to agree on indicators. "This is

something that can be helpful at the national level, but I think it will very much complicate the negotiations. I think it's not very convenient at the multilateral level".

6.6 Conclusion and Recommendation

6.6.1 Global Gains⁶⁴

Before we look at the implications from the proposed SP/SSM regime, let us first take a look at what are the gains that are likely to be if the Doha Development Round succeeds.

Projections of global gains from full trade liberalisation dropped from US\$832bn to US\$287bn, while the developing countries' share fell from US\$539bn to just US\$90bn. Before the 2003 Cancun Ministerial, World Bank had projected the gains at more than US\$500bn for the developing countries.

After Hong Kong Ministerial 2005, the projections showed a "likely Doha scenario" of just US\$16bn, out of a global total of US\$96bn. Adjusting for Special and Sensitive Products in agriculture, developing country gains come to just US\$6.7bn out of a total of US\$38.4bn. In other words, US\$6.7bn is the total welfare gain that is expected from a successful Doha Round. This gain is for 110 developing countries. For India, it means nothing since India's annual budget for the Rural Development Ministry is higher than the total gains the entire developing world is being promised. The International Food Policy Research Institute, Washington DC, too estimates the gains in agriculture for the developing world between the range of US\$8-20bn. These are the statistical figures, but when translated into human cost it will mean millions of livelihoods lost. Already, studies have shown that a majority of the developing countries have turned into net importer of food thereby pushing of several millions of farmers out of agriculture.

6.6.2 Preferential Trade Relations

The experience of Sri Lanka in this field is limited to trade within the region. Within the SAPTA, preferential trade can be agreed upon between the participating countries. The classification of developing countries (India, Pakistan and Sri Lanka) and LDCs (Bangladesh, Bhutan, Nepal and Maldives) within SAPTA has caused certain imbalances in trade. Some of the specific experiences of Sri Lanka relate to the increase in duty levied on betel leaves by Pakistan on imports from Sri Lanka by as much as 265 percent from the Sri Lanka Rupees 88 per kg charged earlier. At the same time, Bangladesh benefited from a preferential rate (i.e. a reduction of 14 percent) in the market of Pakistan to the detriment of Sri Lanka. Another example is the preferential duty-free access to sesame seeds from Sri Lanka in US, a preference that is not accorded to Vietnam. Tea exports to Pakistan too declined gradually over the years due to competition from Kenya and India.

In the light of this situation, it is evident that strategies need to be drawn up for the development of a more secure food production strategy in the medium term. Sri Lanka does receive special consideration in this respect from its trading partners in regional trading arrangements and some bilateral ones, such as SAPTA and the Indo-Sri Lanka FTA. These agricultural commodities have been classified under the "sensitive list", which essentially means that they are not subject to further trade concessions. But without much MFN tariff protection, Sri Lanka faces problems in its multilateral trade.

Sri Lanka has agreed to cut tariffs for agricultural imports to 50 percent single line without considering strategic products we have to protect. It was not done by other developing countries. For example, India enforces 300 percent tariff on some products. Their tariff line is not a straight line and there are peaks. Therefore, negotiations in agricultural products, Sri Lanka have a disadvantage. Other countries have a massive advantage because the 15 percent weighted average tariff cut is applied to most of the developing countries, such as India can still apply a comparatively high tariff to protect their products.

India provides at least MFN treatment to all WTO Members. It has been a strong advocate of multilateral, rather than regional, trade initiatives and is party to a few regional trading agreements (RTAs). Efforts are nevertheless being made to strengthen regional agreements to which it is party, such as SAARC and the Bangkok Agreement. Under SAPTA, the members of the SAARC have completed three rounds of trade negotiations and expected to complete the SAPTA in 2002. In addition, India maintains bilateral trade agreements with several of its neighbours, including Bangladesh and Nepal, FTA with Sri Lanka, in effect since March 01, 2000. India grants duty-free access for over 1,000 tariff lines and a 50 percent margin of preference for the rest of the tariff, except for a negative list. Negotiations to conclude bilateral trade agreements with several other trading partners are presently under way⁶⁵.

Table 1.30: Comparison of Yield for Selected Commodities (kg/ha)

Rice/paddy		Wheat		Maize	
Bangladesh	3448	Bangladesh	2164	China	5022
Egypt	9135	China	3885	Egypt	7789
India	2915	France	7449	France	8813
Japan	6582	India	2770	India	1705
Myanmar	3532	Iran	1905	Italy	9560
Pakistan	2882	Pakistan	2262	Pakistan	1769
Thailand	2597	U.K	8043	Philippines	1803
U.S.A	7372				
World	3916	World	2720	World	4343
Sugarcane		Tobacco Leaves		Groundnut (in shell)	
Bangladesh	39890	Bangladesh	1233	Argentina	2329
China	66353	Canada	2600	Brazil	2043
Colombia	94789	France	2778	China	2986
Egypt	119893	India	1353	India	794
Guatemala	94032	Indonesia	829	Sudan	630
India	68049	Italy	3333	U.S.A	2869
Pakistan	48042	Pakistan	1848	Uganda	701
World	65802	World	1589	World	1381

Source : Ministry of Agriculture and Cooperation.

Pakistan and Sri Lanka have signed an FTA, which is operational since June 2005 in order to give preferential market access to each other's products by granting tariff concessions. Sri Lanka enjoys duty free market access for 206 products to Pakistani market including tea, rubber and coconut, while Pakistan has duty free access for 102 products including oranges, *basmati* rice and engineering goods. However, there are still some tariff lines, which are not entitled under tariff concessions on import.

SAFTA

SAARC Preferential Trade Agreement (SAPTA) of 1993 paved the way for a SAFTA. It took 13 years to transform SAPTA into SAFTA that came into force in the member countries in South Asia from July 01, 2006. So far, the quantum of trade deals among SAARC countries remained limited to around 4.5 percent of the total trade flows worth around US\$135bn dollars per annum. As against that, inter-country trade deals among countries in the EU accounts for 55 percent of total trade.

The SAFTA Agreement will be implemented through the following instruments to enhance intra-regional trade:

1. Trade Liberalisation Programme
2. Rules of Origin
3. Institutional Arrangements
4. Consultations and Dispute Settlement Procedures
5. Safeguard Measures
6. Any other instrument that may be agreed upon

Under SAFTA, Pakistan being a developing country would have to reduce its existing tariff rates to 20 percent within a timeframe of two years. The subsequent tariff reduction by Pakistan from 20 percent or below to 0-5 percent shall be done within a second time frame of five years, beginning from 2009 (third year from the date of coming into force of the Agreement). Following the ratification of the agreement, Pakistan had notified the first tranche of tariff reductions effective from July 01 on all items except 1183 items that are indicated in the sensitive list. The tariff reductions have also been allowed on 773 items, which are importable from India. Besides, member countries have shown agreement on four areas, which include finalisation of sensitive list, which would be 20 percent of their total tariff lines, compensation for the LDCs, rules of origin and technical assistance".

It is hoped that SAFTA would augment intra regional trade. However, lot needs to be done to achieve this objective; increased political will to materialise trade liberalisation is the prime prerequisite, especially number of items on sensitive lists needs to be reduced. Similarly, India and Pakistan would have to be more flexible if they want to see SAFTA flourishing in the region.

There is an important issue of granting "MFN" treatment to India. Pakistan is of the view that granting MFN status to India is not linked with SAFTA whereas the Indian government has challenged Islamabad's decision of not granting it the MFN status and wants to convene a ministerial council meeting to resolve its trade related issues with Pakistan.

6.6.2 Recommendation

The proposal from Pakistan will certainly undermine the gain already achieved by developing countries on the selection of SPs. The Hong Kong Ministerial has already provided for the self-designation of SPs based on the criteria of food security, livelihood security and rural development. Setting thresholds and identifying a set of specific indicators will limit developing countries' flexibility to choose which products will be declared as SPs. For instance, identifying the list of SPs based on the products' contribution to national production alone will not be sufficient. It will not cover commodity groups that, although not major contributors to national production, are crucial to meeting the food security, livelihood security and rural development objectives of vulnerable communities. The matter of SPs is already a complex issue in the negotiations and the Pakistan's suggestions might further complicate it, for instance, requiring members to agree on indicators.

On the other hand, policy makers and friends from Geneva mission, Ministry of Food, Agriculture and Livestock (MINFAL) and Trade Development Authority of Pakistan (TDAP) have also confirmed that "knowingly" they are proposing this. According to them, because of Pakistan's offensive interests, they do not want the other countries to apply SPs extensively as Pakistan is eyeing export markets in the South as well. They do have point provided Pakistan produces competitive and surplus agricultural production in future (And that they are not doing this under any external pressure/s).

The issue of Sensitive Products and TRQs, which are protection instruments, stemmed as an exception in July Framework. The Developing Countries on the learning curve realised that be it initial tariff levels or subsidy spending, these give some room *inter alia*, for bargaining informed position. In that context, many countries were at disadvantage in UR, as they already reduced tariffs and subsidies under Structural Adjustment Programme. So, besides domestic 'policy space' a 'negotiating space' is also needed, as negotiations are to continue, and members shall watch closely their trade and food security interests. Nevertheless, Pakistan needs to be rational in selecting, in terms of numbers and products, SPs by counterbalancing the tactical move, on part of developed world

- The paper really goes with 15 products as SPs and *not 5 or 15 tariff lines*, and if 15 products have been identified, looking at the chapters from tariff schedules, it could be numbered that how many tariff lines been covered under 15 products. (G-33 is calling for 20 percent tariff lines to be identified as SPs but 15 products may be covering around 17 percent tariff lines). In this scenario, it could be another chance for Pakistan to lead the WTO members by helping to end the impasse in the negotiations. However; if paper take only 5 or say 15 tariff lines as SPs, (US proposal called for five tariff lines maximum to be identified as SPs), then the civil society's worries really matter and in national interest we should extend our full cooperation to them. In this case, Pakistan mission should have to revisit the proposal and look whether the products identified really safeguard the national interest. Civil society thinks that the list is incomplete from Pakistan's perspective.
- Actually, Tim Ruffer (2002) in his paper first identified the products listed in Pakistan paper, and later by Dr Sohail Jehangir Malik in his paper on SPs in 2005, albeit the list did not changed much in Pakistan's proposal. Therefore, products important at the

provincial level or at a district level have always been ignored. List cannot be complete without the inclusion of products having GI importance such as chilies (Badin, Thatta), tobacco (Swabi, Mardan) gram (Bhakkar, Layyah), groundnut (Potohar) and many more. As mentioned in the previous chapter on Pakistan, a study conducted by ActionAid Pakistan on the SPs that may be helpful to revise the list but it's not conclusive at all.

- It is suggested that Pakistan mission should look into the Sri Lankan paper and may follow their approach while selecting SPs. Sri Lanka has identified – like Pakistan – only 20 products but the number of tariff lines in aggregate stands 18 percent of the total agricultural tariff lines. The products include cereals, livestock products, vegetables including potatoes, oil crops including coconut, and legumes. (<http://www.ictsd.org/dlogue/2007-01-21/SPPresent19thJan.pdf>)
- One of the queries from Pakistan's list of products is why cotton is low in ranking although it makes a lot towards the livelihoods, rural development and indirectly towards food security. Mangoes are not included in the list, and it is more surprising, especially when cotton does not come high and rice, milk and citrus in the list!
- In SPs, the important thing would be the treatment. And Will Martin, the World Bank Economist, has proposed that the lesser the number of SPs better would be the treatment. If Pakistan has suggested similar treatment for SPs in its paper, then this would be 180 degree distraction from G-33 proposal.
- It is better developing countries surrender the SP option if it is only to be used as protection mechanism against developed countries' exports because Countervailing Measures serve the purpose should imported products are subsidised.
- With the request to review the option two that 'export products from developing countries would be exempted from SP designation', referring to the Indian Policy of Periodic De-stocking of its Food Reserves. In 2002, India announced a new export/import policy, which included lifting of the quantitative export restrictions and lowering of the minimum export price for certain types of rice in order to reduce public stocks. This led to an increase of Indian rice exports from around two million to five million tonnes in 2002 and 3.5 million tonnes in 2003. This policy change contributed to an import surge, (Nepal & Bangladesh paid huge price) in many countries in Africa, and in Cameroon alone, Indian rice imports rose from 7,900 metric tonnes in 2001 to 60,300 metric tonnes in 2002.
- If Pakistan submits this paper as formal proposal to WTO, there would be Resistance from some developing countries having bound their tariffs low compared to Pakistan during Uruguay Round such as Kenya. Therefore, this paper may serve the Pakistan national interest (due to high water in applied and bound even after cuts) but may not fix the needs of all developing countries.
- Option five given in paper 'developing countries may use either Sensitive Products or SPs or both may be applicable but to a limited number of products without any overlapping', although last sentence in this paragraph clear some confusion but does this mean that treatment of Sensitive and Special Products would be similar?
- Another query related to option five is that it seems there is convergence on designating 4-5 percent tariff lines as Sensitive Products (which means US would be able to designate 44-55 products as Sensitive Products), then why it is unlikely that developing countries will use this option of Sensitive Products. It seems better if we go by number.

- Another caveat ‘products designated as SPs would not benefit from SSM’, which is contrary to some of the previous understandings
- One of the submissions is on exports –i.e. prosperity linkage. Recent UNDP report states that increase in exports does not mean that it would reduce poverty. However, it has been proved through various researches, increase in imports, especially in agriculture products has raised unemployment and food insecurity.

The forum also questioned the MINFAL and Ministry of Commerce that ‘why Pakistan joined Cairns Group’ and why it is sharing its paper only with it where most of the members stood against the whole concept of SPs. It would be good if somebody could elaborate on why Pakistan has not yet shared its proposal/paper with G-33 that really championed the SPs issue. One advantage, if this paper is submitted as Formal Proposal to WTO, there might be less resistance from Thailand on SPs and Malaysia may strengthen G-33 by joining the group.

In the light of all these reasons, a common position can help the South Asian countries to play part to:

- face the problem of famine with in the region;
- to have price control of agricultural commodities regionally and internationally;
- to develop potential for the export of agri and value added agricultural products; and
- to provide the protection to the farming communities to ensure food security and provide the livelihood to keep a balance in the domestic support, export subsidies and trade barrier by the developed countries.

Endnotes

- 1 <http://www.bangladeshgov.org/moa/moa.html#Role%20of%20Agriculture%20in%20Bangladesh>
- 2 http://www.fao.org/DOCREP/003/X8731E/x8731e02.htm#P14_28
- 3 <http://www.wider.unu.edu/research/2004-2005/2004-2005-4/papers/chand.pdf>
- 4 <http://www.fao.org/DOCREP/003/X8731E/x8731e14.htm>
- 5 <http://www.fao.org/DOCREP/003/X8731E/x8731e14.htm>
- 6 M. Asaduzzaman, *The Uruguay Round, WTO Rules and the Bangladesh Agriculture*, Consultancy report prepared for FAO, BIDS, Dhaka, August 1999
- 7 [Tim Ruffer 2003, SPECIAL PRODUCTS: Thinking Through the Details](#)
- 8 http://www.fao.org/DOCREP/003/X8731E/x8731e02.htm#P14_28
- 9 “Food security is primarily an individual or household affair. A universally accepted definition is that ‘Food security exists when all people, at all times, have physical and economic access to sufficient, safe and nutritious food to meet their dietary needs and food preferences for an active and healthy life’.’ This incorporates the requirements both of adequate supplies and of guaranteed access. Changes to government policy on international trade, whether decided nationally (e.g. as structural adjustment) or multilaterally (through the WTO) will affect individual food security if they influence either supply or the certainty of access...
...WTO rules can affect government actions that support food security in two ways: *directly* by introducing change to the policies (of both domestic and foreign governments) that impact on entitlements (e.g. by altering food prices); *indirectly* by making more or less feasible some of the policies that are considered desirable to promote or protect entitlements.

The rules most likely to have such effects are those on: tariffs - which could affect the price of imported food (with differential effects on consumers and producers) and also government revenue (which would impact on many policies); domestic *subsidies* - which could alter the feasibility of policies to enhance labour entitlements (e.g. input credits or market development); export *subsidies* - which could affect the feasibility of transfer and safety net policies that use imported food, since cuts will tend to increase 'commercial' import prices and may reduce the availability of food aid". (FAO Discussion Paper: <http://www.fao.org/trade/docs/DiscussionPaper4.htm>)

- 10 The G-33 currently consists of 44 developing countries: Antigua & Barbuda, Barbados, Belize, Benin, Botswana, China, Côte d'Ivoire, Congo, Cuba, the Dominican Republic, El Salvador, Grenada, Guatemala, Guyana, Haiti, Honduras, India, Indonesia, Jamaica, Kenya, Korea, Madagascar, Mauritius, Mongolia, Mozambique, Nicaragua, Nigeria, Pakistan, Panama, the Philippines, Peru, Saint Kitts & Nevis, Saint Lucia, Saint Vincent & the Grenadines, Senegal, Sri Lanka, Suriname, Tanzania, Trinidad & Tobago, Turkey, Uganda, Venezuela, Zambia and Zimbabwe.
11 http://www.wto.org/english/tratop_e/tpr_e/tp195_e.htm
12 <http://203.122.59.38/economy/agriculture.aspx>
13 Economic Survey of India, 2005-06
14 Pursell, G, (1996). Some Aspects of the Liberalisation of South Asian Agricultural Policies: How can the WTO Help?, in B. Blarel, G. Pursell and A. Valdés (eds.), *Implications of the Uruguay Round for South Asia: The Case of Agriculture*, Proceedings of a World Bank/FAO Workshop, Allied Publishers, New Delhi, 1999
15 <http://203.122.59.38/economy/agriculture.aspx>
16 <http://www.fao.org/DOCREP/003/X8731E/x8731e07.htm#TopOfPage>
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18 As regards major imported commodities, tariffs on rice and dried skimmed milk were bound at zero in 1947 under the Geneva Protocol; maize and millets in 1951 under the Torquay Protocol; and sorghum in 1962 in the Dillon Round
19 These are called 'basic custom duty' in India and exclude special duty
20 The restrictions on security, religious and environmental considerations have not been questioned.
21 For current notification (1995-96), India expressed support levels in US dollar terms, as against the Indian rupees in base period
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23 Ministry of Industry, commerce and supplies, HMG/N. 2004. - *Nepal Trade and Competitiveness study*. Kathmandu: MOICS
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26 The Economic Survey, 2006-07, pp.
27 The Economic Survey, 2006-07, pp.
28 http://www.statpak.gov.pk/depts/fbs/statistics/agriculture_statistics/agriculture_statistics.html
29 http://www.pakboi.gov.pk/Industry_Data/agriculture.html
30 The Economic Survey of Pakistan, pp
31 Economic Survey of Pakistan 2006, (chapter 2, Agriculture; pp 11)
32 Economic Survey of Pakistan 2006
33 www.finance.gov.pk/budget/2006_07/salient_feature.

- 34 www.finance.gov.pk/budget/2006_07/
- 35 <http://www.thenetwork.org.pk/cr%20pulses/cr%20pulse.htm>
- 36 http://www.sdpi.org/SDPI_in_the_press/articles_2006/articles_may_06.html (this page is not opening because of some error in website)
- 37 http://www.ustr.gov/assets/Document_Library/Reports_Publications/2006/2006_NTE_Report/asset_upload_file797_9198.pdf
- 38 Economic survey of Pakistan, 2006
- 39 [http://www.mopd.gov.pk/mtdf/18-Agriculture/18-Agriculture\(http://www.pakistan.gov.pk/ministries/planninganddevelopment-ministry/mtdf/18-Agriculture/18-Agriculture.pdf\)6](http://www.mopd.gov.pk/mtdf/18-Agriculture/18-Agriculture(http://www.pakistan.gov.pk/ministries/planninganddevelopment-ministry/mtdf/18-Agriculture/18-Agriculture.pdf)6) (<http://www.pakistanseeds.gov.pk/Distribution.asp>)
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- 41 Six Ways for developing countries to negotiate their demands in the 5th WTO ministerial
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- 44 <http://www.lankaeverything.com/vinews/technology/20060717013852.php>
- 45 News Alert, Economic Intelligence Unit, The Ceylon Chamber of Commerce; December 2005, pp 2
- 46 This part is extracted from the draft research paper by Dr Aruna Herath on “Special Products and Special Safeguard Mechanism in Sri Lanka”.
- 47 Maria Pia Hernandez. Paper on Incorporating Gender Considerations for the Designation of Special Products in WTO Agriculture Negotiations. March 2005.
- 48 Bernal, Lusía. Paper on Guidelines for approaching the designation of Special Products in Developing Countries. 2004.
- 49 Telephone interview with M. A. Razzaque, Assistant Professor‘ (Dept of Economics) University of Dhaka
- 50 A group of 42 developing countries that include Antigua and Barbuda, Barbados, Belize, Benin, Botswana, China, Cote d’Ivoire, Congo, Cuba, Dominican Republic, Granada, Guiana, Haiti, Honduras, India, Indonesia, Jamaica, Kenya, Korea, Mauritius, Mongolia, Montserrat, Mozambique, Nicaragua, Nigeria, Pakistan, Panama, The Philippines, Peru, Saint Kitts, Saint Lucia, Saint Vincent and the Grenadines, Senegal, Sri Lanka, Suriname, Tanzania, Trinidad and Tobago, Turkey, Uganda, Venezuela, Zambia and Zimbabwe.
- 51 G33 Issue statement calling for better treatment of SP and SSM in July Agricultural Text, Geneva, 28 July 2004.
- 52 Bernal, Luisa. Paper on Guidelines for Approaching the Designation of Special Products in Developing Countries. 2004.
- 53 FAO (2003). Analysis on Trends in imports.
- 54 drafted by Panos Konandreas, FAO Geneva Office,
- 55 Trigger conditions:
- a. Price triggered: an additional duty not exceeding any positive difference between the c.i.f import price of a shipment expressed in terms of the domestic currency of the importing developing country concerned, on the other hand, a corresponding import reference price representing the highest and three lowest price of the products concerned over a recent three year period excluding the three highest and three lowest monthly averages. In the absence of relevant average import price data for a particular product, the import reference price ay be constructed on the basis of published representative export price quotations, provided that details of the prices and methodology employed are notified in advance to the committee on Agriculture.
- b. Volume – triggered: An additional duty of not more than 30 percent *ad valorem* to be imposable in any year on any quantity of imports in excess of 125 percent of the average volume of imports in the immediately preceding three year period. This additional duty shall not be applied beyond the end of the year in which it has been imposed.
- 56 <http://www.ictsd.org/weekly/06-04-05/story2.htm>

- 57 Indicators are the proportion of domestic consumption of a product accounted for by domestic production, the product's share in the country's agricultural GDP, its share in farm sector employment, and its contribution to the total nutritional value (dietary and calorific requirement) of the population
- 58 Job (06)/135, 2 May 2006, Committee on Agriculture, Special Session
- 59 JOB(06)/120, 3 May 2006, Committee on Agriculture Special Session; United States Communication on Special Agricultural, Safeguard (SSG) and the Special Safeguard Mechanism (SSM), Article 5 of the Agreement on Agriculture
- 60 "Bridges Weekly Trade News Digest, May 10, 2006. Volume 10, Number 16, <http://www.ictsd.org/weekly/10.05.06/story1.htm>).
- 61 <http://www.ejad.org.pk/articles/article-12.htm>
- 62 Washington Trade daily volume 16, number 19 Thursday, January 25, 2007, trade reports international group
- 63 BRIDGES Weekly Trade News Digest - Vol. 11, Number 3 January 31, 2007
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Chapter 2

Negotiations on Non-Tariff Barriers Under NAMA

The Major South Asian Concerns

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1. Introduction

Countries bring into play various means to restrict imports, primarily to benefit their domestic industry. Import tariff had been one such principle mode of protectionism until the beginning of 1970s. The main objective of protectionism policy was not financial but economic, as tariff was levied with the purpose of not increasing a nation's revenue but to protect domestic industries from foreign competition. However, slowly but gradually with successive rounds of General Agreement on Tariffs and Trade (GATT) negotiations and unilateral trade liberalisation by many developing countries, there has been a large drop in the average tariff on manufactured goods. Since the inception of the GATT in 1947, average tariffs on manufacturing imports have fallen from around 40 percent to 4.7 percent.

In spite of this drastic reduction in tariffs, Member countries under the Uruguay Round committed themselves to further lowering of tariffs. Thus during the past three decades, tariffs have undergone continuous reduction. However, at the same time, while tariffs were being cut, bound by successive rounds of GATT agreements, Member countries began to resort to another form of administered protection known as Non-Tariff Barriers (NTBs). The NTBs consist of all barriers to trade, other than tariffs, emanating from plethora of government laws, regulations, policies or practices, which either protect domestic products from foreign competition or artificially stimulate exports of particular domestic products. These NTBs have effects similar to those of tariffs. In practice, the NTBs increase domestic prices and impede trade to protect selected producers at the expense of domestic consumers.

Till date, eight rounds of GATT negotiations have been completed with the first six focused exclusively on tariffs. The seventh round, known as the Tokyo Round, marked the first time for a GATT agreement on NTBs, as agreements were reached on an anti-dumping code. In several ways, the Tokyo Round prepared the ground work for the subsequent Uruguay Round during which agreements on many NTBs issues like technical barriers to trade (TBT), sanitary and phyto-sanitary (SPS) measures, anti-dumping, safeguards etc., were signed by GATT/WTO member nations.

The Doha Round of trade negotiations, which was launched in November 2001, first under the aegis of World Trade Organisation (WTO), decided to further liberalise trade in manufacturing goods by reducing tariffs and NTBs.

2. Definition, Classification and Measurement Problems

The definition of NTBs remained a problem that needs to be addressed. Major criteria used to define NTBs were its trade-restricting nature and stringency. Researchers like Baldwin (1970), Walter (1972), Mayer & Gevel (1973), and Deardorff & Stern (1997) have provided their respective definitions to NTBs.¹ However, the most general definition is credited to Walter (1972), who defines it as “any measure that distorts the volume of trade, the composition of the basket of goods traded between countries, or the direction in which goods are traded”.

While defining NTBs Baldwin (1970) focuses on a measure's effect on a country's real income and says that "any measure (public or private) other than a tariff which leads to internationally traded goods or services being reallocated in such a way that global potential real income is reduced".

Hillman (1991) defines a NTB as "any decision or government practice, apart from the imposition of a tariff, which directly impedes the entry of imports into a country and/or discriminates against imports, i.e. a measure that is not applied equally to domestic producers or distributors".

According to Deardorff and Stern (1997), NTBs have the following stylised characteristics, namely: reduction in quantity of imports; increase in the price of imports; change in elasticity of demand for imports; and variability and uncertainty in their implementation. While the authors' definitional analysis is mostly theoretical, they propose a classification system, which has, at its core, price (other than tariffs) and quantity border measures.

Moreover, several international organisations like United Nations Conference on Trade and Development (UNCTAD), the Organisation for Economic Co-operation and Development (OECD), The Pacific Economic Cooperation Council (PECC) and GATT/WTO contributed to formulation of the term "NTBs".² The OECD (1997) chose to define NTBs as "those broader measures other than tariffs that may be used by countries, usually on a selective basis, to restrict imports" for one of their studies". PECC (1995) study, on the other hand, described NTBs as "any non-tariff instrument that interferes with trade, thereby distorting domestic production".

UNCTAD's Trade Analysis and Information System (TRAINS) classification defines over 100 different types of Non-Tariff Measures (NTMs), and a much smaller subset called "hard core measures" that includes quantity control measures excluding tariff quotas and enterprise specific restrictions; finance measures excluding regulations concerning terms of payment; and price control measures. However, this classification excludes many internal regulatory measures that can also discriminate against imports such as production subsidies, tax concessions, and discriminatory government procurement.

The Association of South East Asian Nations' (ASEAN's) working definition on NTBs closely reflects those of the UNCTAD classification. However, there are some noteworthy omissions in ASEAN's definition, like some finance and price control measures are excluded, as are all quantity control and internal policy measures. The absence of internal measures, including those that explicitly discriminate against imports is also a serious omission.

There is no legal definition of NTBs in the WTO Agreements. Member countries define measures, which affect trade in goods as NTBs in a manner consistent with the Agreements. In other words, the major criterion of NTBs is WTO consistency in accordance with the provisions of relevant agreements, as well as decisions taken under the Dispute Settlement Understanding (DSU).

A careful review of these definitions as well as study of NTBs *per se* allowed authors to propose the following definition: “NTBs are measures, other than tariffs, that are closely associated with state (administrative) activity and influence prices, quantity, structure and/or direction of international flows of goods and services as well as resources used to produce these goods and services”.

2.1 Non-Tariff Measures (NTMs) versus Non-Tariff Barriers (NTBs)

Most countries hold different views on what constitutes a legitimate NTM. While for many, both NTBs and NTMs are mere synonymous terms, while for others, these two are quite different. Despite the fact that some NTMs may be perceived to be NTBs, even if there has been no legal judgement to that effect, the potential areas of disagreement are wide.

In the OECD report³, NTMs are defined as policy measures that have the effect of limiting trade, with no implied judgment on the legitimacy or otherwise of these measures. In other words, while an economic definition of NTMs is adopted, NTBs are defined as instruments that are in violation of WTO law. At the same time, there is no presumption regarding the legitimacy of NTMs that have not been subject to challenge at the WTO. There are many cases where NTMs are alleged trade barriers or NTBs. This terminology differs from that adopted in much of the economics literature, where the term NTBs is applied to all NTMs.

In the economic literature, both the terms are used interchangeably, and the distinction is quite vague. The *raison d'être* for using the term ‘measure’ instead of ‘barrier’ is primarily due to the reality of a few cases where policies that stimulate the volume of trade rather than retard trade, such as exports subsidies, cannot be held as a barrier. A barrier means prevention of something, which is trade here. But exports subsidies or agricultural production subsidies do not prevent trade, and hence cannot be a barrier. Thus the interpretation keeps many internal regulatory measures out of the NTBs bundle.

Hence, NTBs cannot be perceived as a synonym for NTMs, but rather as a subset of NTMs. All the more, though all NTBs are NTMs, all NTMs need not be NTBs. NTMs can include measures that promote exports, which are not “barriers” to trade at all. This more neutral sounding term is also preferred by governments to describe measures used to monitor imports for legitimate purposes. Further, for example, if quotas are non-binding, then it is difficult to characterise them as “barriers”.

2.2 Classification: (UNCTAD 1994; OECD 1994)

The UNCTAD's Coding System of Trade Control Measures (TCMCS) continues to be the most comprehensive international classification system available for NTBs. At its most detailed level, the classification identified over 100 different types of NTBs though it does not incorporate any measures applied to production or to exports. This classification comprises of six categories/chapters of NTBs, including: price control measures; finance measures; automatic licensing; quantity control measures; monopolistic measures; and technical measures. These classification categories on NTBs begin from Chapter 3 to Chapter 8 (See Annexure 1), while Chapter 1 and 2 are on tariff and Para-tariff measures.⁴

- (i) **Price Control Measures (Chapter 3):** Measures intended to control the prices of imported articles for the reasons, including: (i) to sustain domestic prices of certain products when the import price is inferior to the sustained price; (ii) to establish the domestic price of certain products because of price fluctuations in the domestic market or price instability in the foreign market; and (iii) to counteract the damage caused by the application of unfair practices in foreign trade.

Most of these measures affect the cost of imports to a variable degree calculated on the basis of existing difference between two prices for the same product compared for control purposes. The measures initially adopted can be administrative fixing of prices and voluntary restriction of the minimum price level of exports or investigation of prices to subsequently arrive at one of the following adjustment mechanisms: suspension of import licences; application of variable charges; antidumping measures; or countervailing duties.

- **Administrative price fixing of import prices:** By administrative price fixing, the authorities of the importing country take into account the domestic prices of the producer or consumer; establish floor and ceiling price limits; or revert to determined international market values. Various terms are used, depending on the country or sector, to denominate the different administrative price fixing methods, such as official prices, minimum import prices or basic import prices.
- **Voluntary export price restraint:** A restraint arrangement in which the exporter agrees to keep the price of his goods above a certain level.
- **Variable charges:** Variable charges bring the market prices of imported agricultural and food products close to those of corresponding domestic products, in advance, for a given period of time, and for a pre-established price. These prices are known as reference prices, threshold prices or trigger prices. Primary commodities may be charged per total weight, while charges on processed foodstuffs can be levied in proportion to the primary product contents in the final product. In the case of the European Union (EU), the charges applied to primary products as such are called variable levies and those as part of a processed product, variable components.

- (ii) **Finance Measures (Chapter 4):** Measures that regulate access to and the cost of foreign exchange for imports and define the terms of payment. They may increase the import cost in a fashion similar to tariff measures.

- **Advance payment requirements:** Advance payment of the value of the import transaction a/or related imported taxes, which is required at the moment of the application for, or the issuance of, the import licence.
- **Advance import deposits:** Obligation to deposit a percentage of the value of the import transaction for a given time period in advance of the imports, with no allowance for interest to be accrued on the deposit.
- **Cash margin requirement:** Obligation to deposit the total amount corresponding to the transaction value, or a specified part of it, in a commercial bank, before the opening of a letter of credit; payment be required in foreign currency.
- **Advance payment of customs duties:** Advance payment of the total or a part of customs duties, with no allowance for interest to be accrued.

- **Refundable deposits for sensitive product categories:** The deposit refunds are charges, which are refunded when the used products or its containers are returned to a collection system.
- **Regulations concerning terms of payment for imports:** Special regulations regarding the terms of payment of imports and the obtaining and use of credit (foreign or domestic) to finance imports.
- **Transfer delays, queuing:** Minimum permitted delays between the date of delivery of goods and that of final settlement of the import transaction (usually 90, 180 or 360 days for consumer goods and industrial inputs and two to five years for capital goods). Queuing takes place when the prescribed delays cannot be observed because of foreign exchange shortage, and transactions are settled successively after a longer waiting period.

(iii) **Automatic Licensing Measures (Chapter 5):** Freely granted approval of applications for imports or monitoring of import trends for specified products, sometimes through inscription in a register. They may be applied to signal concern over import surges and to persuade trading partners to reduce export growth. They may also be applied for environmental purposes. Sometimes they are a precursor to import restraints.

(iv) **Quantity Control Measures (Chapter 6):** Measures intended to restrain the quantity of imports of any particular good, from all sources or from specified sources of supply, through restrictive licensing, fixing of predetermined quotas or prohibitions.

(v) **Monopolistic Measures (Chapter 7):** Measures that create a monopolistic situation by giving exclusive rights to one economic operator or a limited group of operators for social, fiscal or economic reasons.

- **Single channel for imports:** All imports or imports of selected commodities have to be channelled through state-owned agencies or state-controlled enterprises. Sometimes the private sector may also be granted exclusive import rights.
- **Compulsory national services:** Government-sanctioned exclusive rights of national insurance and shipping companies on all or a specified share of imports.

(vi) **Technical Measures (Chapter 8):** Measures referring to product characteristics such as quality, safety or dimensions, including the applicable administrative provisions, terminology, symbols, testing and test methods, packaging, marking and labelling requirements as they apply to a product.

- **Technical regulations:** Regulations that provide technical requirements, either directly or by referring to or incorporating the content of a standard, technical specification or code of practice, in order to: protect human life or health or to protect animal life or health (sanitary regulation); protect plant health (phyto-sanitary regulation); protect the environment and protect wildlife; ensure human safety; ensure national security; and prevent deceptive practices.

The regulation may be supplemented by technical guidance that outlines some means of compliance with the requirements of the regulation, including administrative provisions for customs clearance, such as prior registration of the

importer or obligation to present a certificate issued by relevant governmental services in the country of origin of the goods. In certain cases, a prior recognition of the exporter or certificate issuing service by the importing country is also required.

- **Product characteristics requirements:** Technical specifications prescribing technical requirements to be fulfilled by a product.
- **Marking requirements:** Measures defining the information for transport and customs that the packaging of goods should carry country of origin, weight, special symbols for dangerous substances, etc.
- **Labelling requirements.** Measures regulating the kind and size of printing on packages and labels and defining the information that may or should be provided to the consumer.
- **Packaging requirements:** Measures regulating the mode in which goods must be or cannot be packed, in conformity with the importing country handling equipment or for other reasons, and defining the packaging materials to be used.
- **Testing, inspection and quarantine requirements:** Compulsory testing of product samples by a designated laboratory in the importing country, inspection of goods by health authorities prior to release from customs or a quarantine requirement in respect of live animals and plants.
- **Pre-shipment inspection:** Compulsory quality, quantity and price control of goods prior to shipment from the exporting country, effected by an inspecting agency mandated by the authorities of the importing country. Price control is intended to avoid under invoicing and over invoicing, so that customs duties are not evaded or foreign exchange is not being drained.
- **Special customs formalities:** Formalities which are not clearly related to the administration of any measure applied by the given importing country such as the obligation to submit more detailed product information than normally required on the basis of a customs declaration, the requirement to use specific points of entry, etc

2.3 Measurement and Quantification of NTBs

To address concerns related to the use and impacts of NTBs, quantification of NTBs is a must. And to quantify the particular occurrence of an NTB, it is very much necessary to look at the specific details of the implementation of that NTB. For instance, a quota usually permits an announced quantity of imports of a certain type, so that an analysis of the quota should begin with direct information pertaining to that quantity. Thus the two broad measurement methods commonly identified are NTB-specific and indirect consideration of NTBs.⁵

NTB-specific methods use direct information on NTBs to define their possible impact. But, obtaining the complete information set, even at the industry or sector level, is likely to be difficult and would require intensive and extensive data collection work. Even if exhaustive information were available, the construction of a general measure of NTBs could be tedious, as general equilibrium effects are likely to be excluded. Besides, missing information could introduce a downward bias on the estimates of the trade impact of NTBs. Direct information, then, is thus an appropriate approach only when trying to assess NTBs' impact at a quite disaggregated level, which should normally be avoided when dealing with a more general analysis.

There are grave shortcomings to this direct approach, especially when search is intended towards a broad measure of NTBs in general and not just specific. First, the direct approach captures only those NTBs that have been identified. If a country or industry makes use of a particular form of NTB that the investigator does not take into account or include in the analysis, then trade may appear much freer than it actually is. Second, even for those NTBs that are included, it is extremely difficult to process the diverse direct information that is available on each NTB in a way that will be comparable across NTBs and thus permit them to be added up to obtain a total measure of trade interference. Third, if more than one NTB is present in a given industry, it is conceivable that the presence of one reduces the effects of another whereby an analysis of each of them separately may lead to an overstatement of their total effects. Moreover, in evaluating overall levels of protection by NTBs, general equilibrium effects are bound to matter, such as the effects of barriers in one sector on trade in other, and the effects of all on exchange rates. Thus even though direct information about NTBs is likely to be the most accurate available, it does not necessarily provide a good starting point for a general analysis.

Nevertheless there exist arrays of more general approaches that are capable of addressing some of these shortcomings, including: the *frequency-type measures* based upon inventory listings of observed NTBs that apply to particular countries, sectors, or categories of trade; *price-comparison measures* calculated in terms of tariff equivalents or price relatives; *quantity-impact measures* based upon econometric estimates of models of trade flows; and measures of *equivalent nominal rates of assistance*.

2.3.1 General Methods for Measuring NTBs

Frequency-Type Measures

This method is simply to measure the policies in terms of their numbers and trade coverage. It records the number, form, and trade coverage of non-tariff trade policies as determined from special surveys, frequency of complaints by trading partners, and government reports. The data are derived from various official publications and information supplied by governments to the GATT.

Since many national governments and other international organisations like International Monetary Fund (IMF) and GATT, besides the World Bank and UNCTAD maintain lists of non-tariff policies affecting current trade flows, the trade coverage approach has the advantage of being relatively easy to implement.

The major advantage of this measure is that it is useful in directing attention to the frequency of occurrence of various types of NTBs. However it has its own limitations like, first, failure to distinguish among different types of non-tariff policies or forms of a particular policy in the degree to which they affect import prices and quantities and other variables of interest. Second is the sensitivity of frequency-type measures to the degree of country and product-line dis-aggregation used by the investigator, and for these and other reasons, most governments do not accept frequency-type indices as meaningful measures of non-tariff policies. Moreover, it is unable to quantify the effect on price and quantity.

Table 2.1: Major Categories of Non-tariff Measures and Related Policies

Table 2.1a: Quantitative Restrictions and Similar Specific Limitations		
1.	Import quotas	Restrictions on quantity and/or value of imports of specific commodities for some given time period; administered globally, selectively, or bilaterally.
2.	Export limitations	Same as above but with reference to exports.
3.	Licensing	Some system of licensing is required to administer the foregoing restrictions. Licensing may be discretionary and also used for statistical purposes.
4.	Voluntary export restraints	Restrictions imposed by importing country but administered by exporting country; administered multilaterally and bilaterally; requires system of licensing; essentially similar to an orderly marketing arrangement.
5.	Exchange and other financial controls	Restrictions on receipts and/or payments of foreign exchange designed to control international trade and/ or capital movements; will generally require some system of licensing; may involve multiple exchange rates for different kinds of transactions.
6.	Prohibitions	May be selective with respect to commodities and countries of origin/ destination; includes embargoes; may carry legal sanctions.
7.	Domestic content and mixing requirements	Requires that an industry use a certain proportion of domestically produced components and/or materials and labour in producing final products.
8.	Discriminatory bilateral agreements	Preferential trading arrangements that may be selective by commodity and country; includes preferential sourcing arrangements.
9.	Counter trade	Arrangements involving barter, counter purchases of goods, and payments in kind.

Table 2.1b: Non-tariff Charges and Related Policies Affecting Imports		
1.	Variable levies	Based on a target domestic price of imports, a levy is imposed so that the price of imports reaches the target price whatever the cost of imports.
2.	Advance deposit requirement	Some proportion of the value of imports must be deposited in advance of the payment, with no allowance for any interest accrued on the deposit.
3.	Antidumping duties	Imposition of a special import duty when the price of imports is alleged to lie below some measure of the costs of production of foreign firms; minimum foreign prices may be established to “trigger” antidumping investigations and actions.
4.	Countervailing duties	Imposition of a special import duty to counteract an alleged foreign government subsidy to exports; normally required that domestic injury be shown.
5.	Border tax adjustments	When indirect (e.g., sales or value added) taxes are levied on the destination principle, imports will be subject to such taxes but exports will be exempt; the effects on trade will be neutral except in cases in which the adjustments more than compensate for the taxes imposed or exempted, or when the size of the tax differs across commodities.

Table 2.1c: Government Participation in Trade, Restrictive Practices, and More General Government Policies		
1.	Subsidies and other aids	Direct and indirect subsidies to export and import competing industries, including tax benefits, credit concessions, and bilateral tied aid programs.
2.	Government procurement policies	Preferences given to domestic over foreign firms in bidding on public-procurement contracts, including explicit cost differentials and informal procedures favouring procurement from domestic firms.

3.	State trading, government monopolies, and exclusive franchises	Government actions that may result in trade distortions, including government-sanctioned, discriminatory international transport agreements.
4.	Government industrial policy and regional development measures	Government actions designed to aid particular firms, industrial sectors, and regions to adjust to changes in market conditions
5.	Government financed research and development and other technology policies	Government actions designed to correct market distortions and aid private firms; includes policies relating to intellectual property (patents, copyrights, and trademarks) and technological spill over from government programs, such as defence and public health.
6.	National systems of taxation and social insurance	Personal and corporate income taxation, unemployment insurance, social security, and related policies that may have an impact on trade.
7.	Macroeconomic policies	Monetary/fiscal, balance-of-payments, and exchange rate actions that have an impact on national output, foreign trade, and capital movements.
8.	Competition policies	Antitrust and related policies (e.g., intellectual property regulations) designed to foster or restrict competition and which may have an impact on foreign trade and investment.
9.	Foreign investment policies	Screening and monitoring of inward and/or outward foreign direct investment, including performance requirements affecting production and trade.
10.	Foreign corruption policies	Policies designed to prohibit or restrict bribes and related practices in connection with foreign trade and investment.
11.	Immigration policies	General or selective policies designed to limit or encourage international movement of labour and which have an impact on foreign trade and investment.

Table 2.1d: Customs Procedures and Administrative Practices		
1.	Customs valuation procedures	Use of specially constructed measures of price rather than the invoice or transactions price for the purpose of levying tariffs.
2.	Customs classification procedures	Use of national methods of customs classification rather than an internationally harmonised method for the purpose of levying tariffs.
3.	Customs clearance procedures	Documentation, inspection and related practices that may impede trade.

Table 2.1e: Technical Barriers to Trade (TBT)		
1.	Health and sanitary regulations and quality standards.	Technical regulations designed for domestic objectives but which may discriminate against imports.
2.	Safety and industrial standards and regulations	See above
3.	Packaging and labelling regulations, including trademarks	See above
4.	Advertising and media regulations	See above
<i>Source: Adapted from Deardorff and Stern (1985, pp. 13-14).</i>		

Price-Comparison Measures

This measure provides direct calculation of the price impacts of NTBs. In principle, this approach helps calculate the differential between the import price and the domestic price and the domestic price of each commodity at a disaggregated level and subtracts the tariff rate on the commodity from this differential. The result is treated as an NTB.

The main advantage of this measure is that it is easy to estimate and it provides a quick understanding of the situation. However, this approach has its own limitations too. First, the method makes it possible to quantify the effect of a set of NTBs present in the market but seldom makes it possible to identify precisely what those NTBs are. Second, formulas that measure the NTBs in an implicit way, as a percentage price wedge between imports and domestic prices, are valid only under the assumption that imported goods are perfect substitutes. The main limitation of the method lies in its practical difficulties. For large-scale studies, available data are often too aggregated to reflect differences in

the quality of imported goods. Plus, while it is fairly easy to obtain information on the price paid by the importers of a good, it might become difficult to obtain the corresponding price prevailing in the domestic market, especially at a fairly disaggregated level. This becomes even more difficult if data collection had to be done for a large set of countries.

Quantity-Impact Measures

Jager and Lanjouw (1977) in an article “*An Alternative Method for Quantifying International Trade Barriers*”, argued that a quantity measure is preferable to a price measure since quantity measure tries to tell us what we really want to know about the effects of an NTB: that is, by how much it reduces trade, whereas the price measures such as tariff equivalents fail to provide this information.

Unfortunately, there does not seem to be any way of getting such a direct measure of the quantity effects of an NTB, which is analogous to the price impact. While the quantity that is imported under the NTB is observable, there is usually no other quantity against which to compare it with. It might be very difficult to obtain appropriate data to compute the exact quantity impact of an NTB, it is generally believed that it is easier to come by than information on prices.

3. NTBs in Multilateral Trade Negotiations

Despite a long history of NTBs in international trade, the special attention was given to this area only in the early 1970s when discussion of the NTBs was explicitly scheduled in the framework of Tokyo Round of the GATT negotiations. To date, eight rounds of GATT negotiations (see Table 2.2) have been completed, with the first six concerned almost exclusively with tariffs. The understanding of importance of the NTBs has appeared along side the gradual reduction of tariff barriers and, hence the expected growth in importance of the NTBs. These barriers are less transparent, more flexible, and

Table 2.2: GATT Trade Rounds and the Subjects Covered

Year	Place/name	Subjects covered	Countries
1947	Geneva	Tariffs	23
1949	Annecy	Tariffs	13
1951	Torquay	Tariffs	38
1956	Geneva	Tariffs	26
1960-1961	Geneva Dillon Round	Tariffs	26
1964-1967	Geneva Kennedy Round	Tariffs and anti-dumping measures	62
1973-1979	Geneva Tokyo Round	Tariffs, non-tariff measures, “framework” agreements	102
1986-1994	Geneva Uruguay Round	Tariffs, non-tariff measures, rules, services, intellectual property, dispute settlement, textiles, agriculture, creation of WTO, etc	123

Source: www.wto.org

extremely variable. According to the UNCTAD classification, there are approximately 100 different codes representing various NTMs (OECD, 1997). These characteristics made the NTBs important substitutes for country's tariff regime.

3.1 The Tokyo Round

The Tokyo Round lasted from 1973 to 1979, with 102 countries participating in it. It continued GATT's efforts to progressively reduce tariffs. The results included an average one-third cut in customs duties in the world's nine major industrial markets, bringing the average tariff on industrial products down to 4.7 percent. However, it failed to come to terms with the fundamental problems affecting farm trade and also stopped short of providing a modified agreement on "safeguards" (emergency import measures). Nevertheless, a series of agreements on NTBs did emerge from the negotiations, in some cases interpreting existing GATT rules; in others, breaking entirely new ground. In most cases, only a relatively small number of (mainly industrialised) GATT member subscribed to these agreements and arrangements. Thus the 'Tokyo Round, was a comprehensive effort to reduce trade obstacles stemming from tariffs and NTMs

New or reinforced agreements called "codes," were reached on the following NTMs: 1) subsidies and countervailing duties; 2) government procurement; 3) technical standards; 4) import licensing procedures; 5) customs valuation; and 6) antidumping. The code on subsidies and countervailing duties prohibits direct export subsidies, except under certain situations in agriculture. This code is noteworthy in extending GATT's prohibition of export subsidies to trade in raw materials. Because nearly all governments subsidise domestic producers to some extent, the code established the criteria to distinguish between a domestic and an export subsidy. Domestic subsidies that treat domestic and export activities identically are generally allowed.

Countervailing duties, which are tariffs to offset a subsidy received by a foreign exporter, are prohibited unless the subsidised goods are shown to be causing (or threatening) "material" injury to a domestic producer. This code also allows a country to seek redress for cases in which another country's subsidised exports displace its exports in third-country markets.

The code on government procurement states that, for qualifying non-military purchases, governments (including government-controlled entities) must treat foreign and domestic producers alike. In addition to resolving disputes, the code establishes procedures for opening and awarding bids. The code on technical standards attempts to ensure that technical regulations and product standards such as labelling, safety, pollution and quality requirements do not create unnecessary obstacles to trade. Albeit the code does not specify standards, it establishes rules for setting standards and resolving disputes.

The code on import licensing procedures, similar to the code on technical standards, is not spelled out in detail. Generally speaking, governments stated their commitment to simplify the procedures that importers must follow in order to obtain licences. Reducing delays in licensing and paperwork are two areas of special interest. The code on customs valuation established a uniform system of rules to determine the customs value for imported goods. This code uses transaction prices to determine value and is designed to preclude the use of arbitrary values that increase the protective effect of a tariff rate.

Finally, the anti-dumping code prescribes rules for anti-dumping investigations, the imposition of anti-dumping duties and settling disputes. The standards for determining injury are clarified. This code obligates developed countries to treat developing countries preferentially.

3.2 Uruguay Round

The issue was tackled seriously in the Uruguay Round (1986-1994) by increasing the number of agreements dealing with NTBs, making them mandatory for all members and subjecting them to the WTO dispute settlement mechanism. Thus the Uruguay Round came out with various GATT Agreement concerning SPS measures, TBT, anti-dumping, customs valuation, pre-shipment inspection, rules of origin (RoO), subsidies and countervailing measures and safeguards. These agreements are extensive versions of those concluded in the Tokyo Round of negotiations. However, the Tokyo Round agreements were plurilateral in status, whereas the Uruguay Round agreements were multilateral – ensuring a global coverage of the rules.

4. Doha Mandate on NTBs under NAMA Negotiations

It was at the insistence of developing countries in Doha that NTBs be included in the non-agricultural market access (NAMA) text – both to address the use of non-transparent NTBs in developed countries and to counterbalance the effects of reducing their own tariffs.

The para 16 of the Doha Ministerial Declaration provides the mandate for negotiations on a range of subjects including NTBs, and other work including issues concerning the implementation of the present agreements. The mandate to the negotiation aimed to “reduce or appropriately eliminate NTBs, in particular on products of export interest of the developing countries”. The negotiation will take into account the special and differential needs and interests of developing and least-developed countries (LDCs), and recognise that these countries do not need to match or reciprocate in full tariff-reduction commitments by other participants.

At the WTO General Council meeting in July 2004, Members reiterated the importance of NTBs to the NAMA negotiations in the Annex B “Framework for Establishing Modalities in Market Access for Non-Agricultural Products” of the Chairman’s statement, commonly referred to as the “July Framework”. The agreement reads as follows:

“We recognise that NTBs are an integral and equally important part of these negotiations and instruct participants to intensify their work on NTBs. In particular, we encourage all participants to make notifications on NTBs by 31 October 2004 and to proceed with identification, examination, categorization and ultimately negotiations on NTBs. We take note that the modalities for addressing NTBs in these negotiations could include request/offer, horizontal, or vertical approaches; and should fully take into account the principle of special and differential treatment for developing and least-developed country participants”.

The Chairman of the NGMA has conducted two notification exercises. Members were invited to notify the NAMA group of NTBs that hindered their exports in various markets. Members continued to submit notifications and developed countries were encouraged to do so to ensure that there was a balanced set of interests on the table when real negotiations begin. In all, 32 WTO Members submitted notifications, 19 of which were developing countries. So far only three African countries (Egypt, Kenya, and Senegal), and one LDC (Bangladesh) have submitted notifications on the NTBs.⁶

Following the two notification exercises, the WTO Secretariat provided compilations of the proposals submitted regarding NTBs⁷. The compilation, dated October 29, 2004, consolidated 26 submissions from Members and distilled three central issues for discussion: whether to address the broad range of non-tariff measures identified or whether to limit the focus; the appropriate WTO Committee or negotiating group in which to address the NTBs; and the appropriate modalities (in other words, methodology) for negotiation of NTBs.

The Chairman's July 2005 report on the state-of-play of the NAMA negotiations made a short reference to NTBs. It did not introduce any new ideas for modalities, and indicated that while progress had been made in discussions on NTBs, real negotiations were not likely to start until after the 6th Ministerial Conference in Hong Kong, December 13-18, 2005. The Hong Kong Ministerial incorporates the view thus:

"We note that the Negotiating Group has made progress in the identification, categorisation and examination of notified NTBs. We also take note that Members are developing bilateral, vertical and horizontal approaches to the NTB negotiations, and that some of the NTBs are being addressed in other fora including other Negotiating Groups. We recognise the need for specific negotiating proposals and encourage participants to make such submissions as quickly as possible".

The declaration also recognises the fact that much needs to be done to establish modalities and to conclude the negotiations. The Member countries agreed to intensify work on all outstanding issues to fulfill the Doha objectives, in particular. Members also agreed to establish modalities by April 30, 2006 and to submit comprehensive draft Schedules based on these modalities by July 31, 2006.

5. Categorising the NTBs

The idea of categorising NTBs emerged as a pre-requisite to the establishment of modalities. The WTO Members need to first identify the barriers, including what is to be negotiated, and only then can decide on where and how to approach them (modalities). In its compilation of proposals submitted by Members on NTBs, the Secretariat identified four categories of NTBs.

NTBs in Category 1 are those that are covered by an existing WTO Agreement and do not have a specific separate negotiating mandate. Many of the non-tariff measures notified relates to regulatory measures taken by Members that fall under the scope of the Agreement on TBT. The TBT Agreement is a standing Agreement of the WTO and

not part of the Doha Round of negotiations. Other NTBs of this category include those covered by the Agreement on Import Licensing Procedures, the Agreement on RoO and the Agreement on the Application of SPS measures.

NTBs in Category 2 are those that are covered by a specific WTO Agreement and are also the subject of a specific separate negotiating mandate. Some of the NTBs identified relate to rules on the dumping of products and retaliatory measures. These NTBs would be covered by the Agreements on Anti-Dumping, and on Subsidies and Countervailing Measures (SCM), which are currently being discussed within the context of the Doha-mandated negotiations on Rules. Negotiations of this category of NTBs are less contentious since they are the subjects of a double mandate (for instance, both as part of the Rules negotiations, and as NTBs in the NAMA negotiations). The main issue in this category is whether to address them in their respective negotiating groups, and how to do so. Work is already underway in these areas in the Negotiating Group on Rules.

NTBs in Category 3 are defined as barriers that are not specifically covered in an existing WTO Agreement, but that are related to aspects of the Doha Work Programme. Several barriers identified by Members in this category that are related to customs procedures, which are being discussed in the negotiations to develop rules on Trade Facilitation (TF).

NTBs in Category 4 are classified as barriers that are not covered in a specific WTO Agreement, and are not the subject of a separate negotiating mandate. Some of these measures include tariff classifications, quotas, export taxes, 'buy national' campaigns, fiscal incentives, and tax and duty exemptions. Although partially covered by or linked to specific provisions of the GATT 1994, these NTBs do not fall under the scope of a specific WTO Agreement, nor are they the subject of a separate negotiating mandate. This however raises issues like whether they are closely enough related to the negotiations to be negotiable and in which WTO Committee or negotiating group they should be discussed. The language of the Doha Declaration however appears to indicate that the mandate covers all NTBs, irrespective of their classification and whether they relate to an existing WTO Agreement or is subject of a separate negotiating mandate.

6. Legal Effect to Commitments on NTBs

The means of giving legal effect to commitments concerning NTBs could be organised into four groups (as given by the latest submission TN/MA/S/20): Multilateral Agreements; Individual Members' Commitments; Plurilateral Agreements; and Others.

The WTO obligations concerning NTBs that are under Multilateral Agreements are binding on all Members. GATT 1994 itself sets out many obligations concerning NTBs, most of which apply in terms of the nature of the NTBs. Many of these obligations have been further elaborated and supplemented by other multilateral WTO agreements, such as those on particular aspects of import procedures in the Agreement on Implementation of Article VII (Customs Valuation), Agreement on Pre-shipment Inspection, Agreement on RoO and the Agreement on Import Licensing Procedures; those on trade remedies:

the Agreement on Implementation of Article VI (Anti-dumping), Agreement on Subsidies and Countervailing Measures and the Agreement on Safeguards; and one on investment measures: the Agreement on Trade-Related Investment Measures (TRIMs).

Certain WTO obligations concerning NTBs in particular sectors are given legal effect through plurilateral agreements. These agreements create obligations that bind Members that have accepted those agreements. However, these agreements do not create obligations or rights for Members that have not accepted them. There are now two plurilateral agreements in the WTO: the Agreement on Trade in Civil Aircraft; and the Agreement on Government Procurement.

Certain WTO obligations concerning NTBs are given legal effect through the commitments by individual Members. These commitments are binding on those Members that are making the commitment and create rights for all other Members. This applies irrespective of whether they result from multilateral, sectoral or bilateral negotiations.

Among the others, the Information Technology Agreement or “ITA”, formally named the Ministerial Declaration on Trade in Information Technology Products, was a declaration made in 1996 by the Ministers of 14 Members and one then-acceding Member. Its product coverage is limited. Its provisions on tariff reductions were given effect through individual Members’ commitments, brought into force by means of certifications of modifications to the participants’ goods Schedules. These create rights for all WTO Members. However, the ITA created obligations for participating Members only, like a plurilateral agreement.

7. Progress in NTBs Negotiations

The Doha Declaration does not instruct Members to begin discussions on NTBs by categorising them, although it has been useful exercise to assess and describe the notifications submitted. The notification exercises however have been perceived as extremely difficult and complex for many, especially smaller, developing countries, resulting that many of the countries have not notified the problematic NTBs for their industry. The overall picture of notifications is thus not representative of developing country concerns. Following the exercises on notification and classification, only seven Members have submitted proposals (only one of the seven proposals emanated from a developing country (Chile)) to the non-agricultural market access (NGMA) on possible modalities for addressing NTBs in the next stage of negotiations.

A common theme among the proposals has been separating the NTBs negotiations into three different fora: ongoing WTO Committee work (i.e., the TBT Committee); other negotiating groups (i.e., negotiating groups on Trade Facilitation and Rules); and the NAMA negotiating group. Several proposals support a horizontal approach to negotiations, which would have Members discuss several selected NTBs across all sectors. Some Members on the other hand strongly advocated a vertical approach, which would focus discussion on NTBs of interest to particular industries.

This suggestion however have been problematic for some developing countries that do not want to establish any formal link between a vertical approach in NTBs negotiations and the possibility of sectoral initiatives in tariff formula negotiations. Members that supported a vertical approach to modalities favoured the use of plurilateral group discussions, with the results to be applied on a most-favoured-nation (MFN) basis. In other way a small group of interested countries would decide to address NTBs in a particular sector, and then apply the benefits of these new rules to all Members (although those not party to the discussions would not be bound by the rules). Some Members have proposed that NTBs covered in the existing agreements should be addressed through dispute settlement as a “compliance” issue, and not through negotiations on the argument that the NTBs faced by exporters in practice sometimes occur because Members are not appropriately implementing their commitments.

Members’ suggestions for modalities are summarised in Table 2.3 as outlined in the various proposals.

Table 2.3: Members’ Suggestions for Modalities		
Category of NTBs	Approaches to Modalities	Country Proposal
Category 1: Agreement-specific NTBs, falling outside the Doha negotiating mandate (i.e. TBT, AIL)	To be discussed and clarified within the relevant Committees, keeping NGMA informed for transparency	Chile, Canada, EC Japan, New Zealand, US
	To be discussed on a request-offer basis within the NGMA, to be applied on an MFN basis.	Chile, US
	Dispute settlement, where the NTB is related to issues of non-compliance	New Zealand, US
Category 2: NTBs related to an existing WTO Agreement, also subject to a negotiating mandate	New rules and commitments to be discussed in the relevant negotiating groups (i.e., Rules) using multilateral, plurilateral or bilateral (request/offer) approaches.	Chile, Canada, European Communities, Korea, New Zealand, US
Category 3: NTBs not related to an existing WTO Agreement, but related to the Doha negotiations	New rules and commitments relating to customs procedures to be discussed in the Trade Facilitation negotiations, using multilateral, plurilateral or bilateral (request/offer) approaches.	Chile, Canada, European Communities, Korea, New Zealand, US
Category 4: NTBs related to unclear provisions of the GATT, falling into NGMA	Vertical/Sectoral (i.e., automobiles; wood products; electronics; textiles), using plurilateral or bilateral approaches	Korea, Japan, New Zealand, US

	Horizontal (across all sectors), using multilateral approaches	Canada, Chile, EC, New Zealand, Japan, US
	Class-based (i.e., quotas, export taxes, buy national campaign), horizontally and/or vertically, using multilateral, plurilateral or bilateral approaches.	EC, New Zealand

It is arguably sensible to treat NTBs in Category 2 (those pertaining to an Agreement with a specific negotiating mandate) and Category 3 (those relating to another area of the Doha Declaration) in the relevant negotiating group. Many of the NTBs notified that fall into these categories pertain to clarifications and improvements to non-transparent customs procedures and anti-dumping provisions, where work is currently taking place in the Negotiating Groups on Trade Facilitation and Rules, respectively. However, it is important that these groups regularly report back to the NGMA, because smaller developing countries do not have the capacity to follow negotiations spread over a large number of different negotiating bodies.

Some of the NTMs that have been notified and fall into Category 1 (those pertaining to an existing Agreement without a specific negotiating mandate) and Category 4 (those not pertaining to any Agreement) are alarming from an environmental perspective. For instance, the US has notified a policy that promotes fuel efficiency, distinguishing between vehicles based on engine size. Japan has notified the new REACH legislation in the EU as problematic, which covers registration and authorisation for chemicals. China has notified several EU directives that promote energy efficient policies for household appliances, air conditioning units and heating, while India has identified “measures used to implement International Organisation for Standardisation’s ISO 14000 and ISO 8000 standards – on environmental management system” as being problematic for its exporters. Thailand has notified requirements to label fish and seafood containing more than one percent of genetically modified organisms, and to label tuna as being ‘dolphin-friendly’.⁸

It is essential that these notifications relating to environmental standards do not call into question the legitimacy or legality of those measures. An appropriate solution cannot lie in diluting existing environmental standards, or rolling back Members’ abilities to adopt new legislation in the pursuit of legitimate policy objectives. The current WTO legal framework, framed by existing rules and jurisprudence, is already sufficiently strict to prohibit the adoption of meaningless or superficial environmental, health, or safety standards. At the same time, however, negotiators must acknowledge that a number of environmental non-tariff measures have been notified by developing countries as problematic and that these must be addressed. From a development perspective, and recalling the objectives of the Doha Development Agenda (DDA), the disconnect between legitimate standards and regulations of developed countries and the lack of capacity of developing country exporters to meet them, cannot be ignored. This requires

focusing on the specific needs of developing country exporters (rather than of developed countries) and moving away from the mistaken idea that those non-tariff measures notified in the NAMA process are automatically illegal or illegitimate.

The Chairman's report to the General Council in July 2005 indicated that negotiations on sectoral agreements would be ongoing informally, and encouraged "substantive reporting in the multilateral setting"⁹ to ensure transparency. It is essential that WTO Members and stakeholders insist on a transparent negotiating process that will ensure that sufficient information is available to assess the environmental trends that are likely to result from proposed liberalisation in sensitive sectors such as forestry and fish products, chemicals and raw materials. Negative environmental impacts could be particularly significant in these areas for countries that do not have established structures of environmental governance.

In the NAMA negotiating groups meeting, three points were made on the NTBs: firstly, capacity building is needed for LDCs to meet legitimate standards applied by some Members; second, flexibility in the deadline for the submission of NTB proposals is needed to allow LDCs identify their NTBs for appropriate action in the NAMA negotiations; and third, LDCs need to seek assistance for the WTO Secretariat for the purpose of identifying possible NTBs.

The report of the NGMA Chairman also stated that NTBs negotiations would likely to begin in earnest in 2006. While on the one hand this indicates that NTBs have, for the moment, taken a backseat in the negotiations, this reprieve may give developing countries extra time to consult with their domestic industry to identify current barriers and to clarify areas where they have offensive interests. NTBs were included by developing countries in the Doha Declaration to ensure a balanced outcome in the NAMA negotiations. In order achieve this objective, it is essential that developed countries ought not to be allowed to use their well-coordinated industry and negotiating influence to hijack the discussions solely for their own benefit.

Of equal importance, it must be noted that these discussions on NTBs are not and should not be transformed into negotiations that call into question legitimate public policy measures at the domestic level. While all standards and regulations may constitute non-tariff *measures*, not all should be considered as *illegitimate barriers*. Negotiators need to be creative in tailoring ways to address developing countries' concerns relating to NTBs whereby they might be able to collide with legitimate public policy interests, such as public health, safety and environmental protection. So far, no concrete options have been tabled that would assist developing country exporters in meeting developed country standards.

8. Notifications by South Asian countries

Till February 2006, countries like Japan, Korea, US, Argentina, Croatia, Cuba, Egypt, India, Mexico Singapore, Taiwan, Bulgaria, Norway, Venezuela, Hong Kong and some others have made notifications to the WTO on NTBs¹⁰. The notifications are mostly in the areas/sectors like automobiles, chemicals, electrical, energy, environmental goods, fish and fish products, LAB foods, forest products, LAB generic, health and safety, REG

leather, minerals, petroleum, pharmaceuticals, phyto-sanitary and textiles. The notifications are submitted to TBT (Agreement/Committee), NGMA, SPS (Agreement/Committee), Negotiating group on Rules and others. Table 3 shows the NTBs on different issue/sector includes.

Table 2.4: NTBs on Different Issues/Sectors	
Major NTBs	Countries-Submitted notification
Automobiles	
<p>Investment: Restriction on foreign investment in automobile parts</p> <p>Unduly strict testing due to strict standards for imported automobiles</p> <p>Restriction on manipulation of investments in automobile production</p> <p>Unique testing and certification procedure and diverse standards and regulations</p>	Japan, Korea, US
Chemicals	
<p>Registration of plant protection products required. Registration of all active substances (and formulated products) of plant protection products must be renewed in order for them to be marketed in their territory</p> <p>In relation of fertilisers there is anti-dumping measures, rules of origin requirements, quality of standards</p> <p>Restrictive and expensive procedures relating to the registration (registration of new and existing chemicals in the regulation for protection of health, safety and the environment), certification (e.g. sanitary certification procedure for food containers made from polyethylene and polypropylene are too costly) for evaluation, authorisation and restriction of chemicals (e.g. nickel product)</p> <p>Control of import of some chemicals on strategic purposes Restriction on use of certain substances like azocolourants for textiles and leathers</p> <p>Risk assessment requires material to be registered, assessed and approved by type and amount. Manufactures incurring high costs</p> <p>Labelling requirements to allow verification of whether dry cleaning is really necessary</p>	US, Argentina, Croatia, Cuba, Egypt, Japan Korea, Mexico, Singapore

<p>Ban on imports of textiles and clothing that contains certain dye</p> <p>Excessive /irrelevant requirement of documentation</p> <p>Refusal by importing countries authorities to accept manufacturer's self certification of conformance to foreign product standard.</p> <p>Adherence to packaging requirements</p> <p>Extensive licensing procedure</p> <p>Specific programme proposed for chemical increases cost</p> <p>Lack of transparency in administrative measures including regulatory and product registration procedure</p>	
Electrical	
<p>Onerous safety requirements and quality and quantity control requirements for range of goods including electronic goods and lead acid accumulators</p> <p>Excessive strict safety standard certificate</p>	Croatia, Korea
Energy	
<p>Standard establishing minimum levels of thermal efficiency of imported water heater, Minimum requirements for information to be public on the thermal efficiency values of such appliances</p> <p>Safety requirements in relation to imported water heaters <i>Draft official standard relating to energy efficiency of three-phase squirrel-cage AC induction motors</i></p> <p>Vehicle taxes-for motorcycles-based on engine displacement providing a competitive advantage to vehicles with smaller engine sizes</p> <p>Vehicle taxes-for automobiles-based on engine displacement providing a competitive advantage to vehicles with smaller engine sizes</p>	Argentina, US
Environmental goods	
<p>Many members maintain unique testing and certification procedures and diverse standards and regulations (including labelling)</p> <p>Many members maintain unique testing and certification procedures and diverse standards and regulations (including labelling)</p>	US

Fish and fish products	
<p>In relation to anchovies, squid and prawns. Sanitary barrier. The Regulations of a Member establish tolerances and maximum contents of heavy metals (lead, cadmium and mercury) in certain fisheries products. In relation to anchovies, Argentinian anchoita (<i>Engraulis anchoita</i>) considered to be different to the Member's own locally produced Anchovy (<i>Engraulis encrasicolus</i>) and different levels of tolerance are established. In the case of squid and prawns, although the CODEX considers that there is no possible damage, the Member established tolerances and maximum content.</p> <p>Labelling restrictions include attaching a card, which includes the following information: production method and area fished from. This requires developed technological systems that developing countries cannot afford.</p> <p>Prohibition of special vehicles such as a live fish carrier because of high gas emissions from vehicles</p> <p>Restrictive and non-transparent rules of origin</p> <p>National attestation and health certificates required for products or packaging made from wood, with respect also to fish and fish products</p> <p>Norway LED Fish and fish products "Restrictions on trade"</p> <p>Taxation on imported fish and fish products to promote local economic development</p> <p>Governmental aids to the fisheries sector Rules NG Norway REG Fish and fish products Unfair use of anti-dumping measures on imported products in relation to fish and fish products</p> <p>Certification required regarding the use of Turtle Excluder Devices, as a condition for exporting shrimp. In 2002 it was found that TEDs were not being used properly and Venezuelan vessels were decertified. An embargo entered into force in February 2003 preventing exports to our principal export market.</p> <p>Domestic regulations relating to tuna fishing and the protection of marine mammals. Delay in a favourable ruling has prevented exports to main export market since 2001</p> <p>Argentina LAB Food Embargo on exports of edible gelatin from Argentina</p>	<p>Argentina, Egypt, Korea, Norway, Venezuela</p>

Food	
<p>Embargo on exports of edible gelatin from Argentina Chicken meat required to be free of disease</p> <p>Different food hygienic and labelling requirements among Members increases costs</p> <p>Different food hygienic and labelling requirements among Members increases costs</p> <p>Requirement for mandatory labelling in a specific language on imported products</p> <p>Complicated labelling and certification procedures time consuming and costly</p>	<p>Argentina, Dominican Republic, Hong Kong, Korea, Taiwan</p>
Footwear	
<p>Ecolabelling of footwear based on recognized environmental management schemes initially notified, although challenge listed in November 2005 Secretariat compilation only mentions labelling of footwear in a general way.</p>	<p>Argentina</p>
Forest products	
<p>Furniture product require certified wood certificate</p> <p>Export ban and restrictions</p> <p>Export taxes and levies</p> <p>Export bans and restrictions, export duties NGMA</p> <p>Many members maintain unique testing and certification procedures and diverse standards and regulations (including labelling)</p> <p>Use of prescriptive rather than performance-based standards discriminating against wood products in building codes and generally</p> <p>And other products. Overly prescriptive standards focused on design rather than performance characteristics.</p> <p>Many members maintain unique testing and certification procedures and diverse standards and regulations (including labelling)</p> <p>EC REG Generic Export taxes (initial notification explicitly mentions forestry and minerals as two key sectors)</p>	<p>Egypt, Japan, Korea, US</p>

Generic	
<p>Several products.” Applying special requirements concerning regulations and standards including packaging, marketing and labelling requirements</p> <p>Strict sanitary and control measures within the framework of environmental protection regulations, leading to increasing packaging, marking and labelling specifications. Additionally, specific requirements relating to packaging, marketing and labelling</p> <p>Specific standards concerning the level of radiation in imported commodities</p> <p>“Several products.” Applying special requirements concerning regulations and standards including packaging, marketing and labelling requirements</p> <p>Imposing environment standards and measures...with the “pretext” of ensuring environmental protection</p> <p>Prohibiting imports of some goods for environmental purposes</p> <p>Adoption of arbitrary requirements or non-international standards by some</p> <p>Members have resulted in different standards and technical regulations among Members. This raises the compliance cost</p> <p>Especially in relation to food. Some importing countries are fixing standards without carrying out comprehensive risk assessment work</p> <p>Especially in relation to food, especially marine products...However, certain countries are building in prescriptions in the production process.</p> <p>Equivalence agreements. Members often do not enter into such agreements even after receipt of a formal request, or ignore certain aspects.</p> <p>“Under the guise of Social Accountability”, SA8000, which deals primarily with working conditions, the imports of various products can be restricted on alleged violation of ‘voluntary requirements’</p> <p>Imposition of voluntary international standards by buyers on their suppliers, under ISO14000 (on environmental management systems) challenged as restricting market access and increasing costs</p>	<p>Egypt, Hong Kong, India, Norway, Singapore</p>

<p>Restrictive and prescriptive standards and burdensome regulations including norms more stringent than those specified by relevant international bodies without any known/justifiable scientific basis or for demonstrably legitimate reasons and which are difficult to meet</p> <p>For several products. Various requirements for marketing a product in different markets prove to be cumbersome and onerous to developing country exporters. These requirements include detailed labelling requirements with extensive product / content description. Also includes registration requirements, including in relation to pharmaceutical products</p> <p>National requirements for labelling of products National testing and certification requirements.</p> <p>Comprehensive certification systems. Registration requirements. National standards and regulations more restrictive than international ones TBT and</p> <p>Industrial products, 'adherence to safety requirements', recommends review at TBT triennial review</p> <p>In relation to machinery. Extensive and costly certification process, refusal to accept manufacturer's self-certification</p> <p>In relation to machinery. Adherence to labelling requirements.</p>	
Health and safety	
<p>Labelling of medicines containing penicillins or streptomycins or derivatives thereof, for human consumption</p> <p>Safety specifications and testing methods for imports of new tyres Complicated certification procedures for medicines B Long, complex and very demanding procedures for registering new products. Clinical examinations required in the country/ market for granting new product registration.</p> <p>Conformity assessment procedures for electro-medical apparatus expensive</p> <p>Overly strict testing sensitivities for residues of the antibiotic <i>chloramphenicol</i> (sometimes found in exports from Asia of shrimp, crab and crayfish)</p> <p>Use of 'non-validated', non-international testing methods in certain countries to detect cholera bacterium, causing export samples to fail test</p> <p>Some countries have specified limits for the bacterium <i>Vibrio parahaemolyticus</i> in fish products which are to be cooked before consumption, without providing risk evaluation reports</p>	<p>Argentina, Bulgaria, Cuba, India, Taiwan, US,</p>

Travel cost are required to meet the safety standards of the European Union and the individual standards of each EU Member's relevant authority	
Leather	
<p>Compliance with animal health requirements in relation to exports of the leather of reptiles</p> <p>Exports face excessive marking, labelling and packaging requirements</p> <p>Exports face excessive marking, labelling and packaging requirements</p> <p>Campaigns carried out to create public opinion as well as to force buyers to change their source of imports" on non-trade-related grounds, e.g. ethical treatment to animals. "These campaigns could have various motivations not necessarily based on truth"</p>	Taiwan, Egypt, India
Minerals	
<p>Quantitative restrictions</p> <p>Exports face excessive marking, labelling and packaging requirements</p> <p>Export quantity restrictions and their untransparent quota allocations</p>	Egypt, Japan
Petroleum	
Restriction on foreign investment	Japan
Pharmaceuticals	
<p>Extensive and costly licensing procedures</p> <p>Federal government regulations are often implemented at local provincial levels</p> <p>"Adherence to labelling requirement"</p> <p>Non-acceptance by importing country authorities of manufacturer's self certification</p> <p>In relation to drugs: Complicated labelling and certification procedures time consuming and costly</p>	Singapore, Taiwan

Phytosanitary	Cuba
The sanitary authorities of the importing country require certification that the industrially processed jute is from a pest-free crop, but does not certification by the producer or exporter.	
Textiles	
Export restrictions on textile raw materials (cotton)	Mexico

Only India, Bangladesh and Pakistan from South Asia have notified to the WTO (TN/MA/W/25 on March 28, 2003) on the NTBs faced by these countries.

8.1 Notification on NTBs by India

India has submitted notifications on NTBs along with other countries to the NGMA. In its submission, India has stated that restrictive standards, burdensome regulations and procedures in several countries have been acting as barriers that significantly affect exports as also the capacity to trade. Several issues are involved with the NTBs: some of the measures, clubbed together, affect individual consignments, while some like those involving costs put additional burden on exports. Some measures are discussed below.

a) Both the SPS and TBT agreements seek harmonisation on as wide a basis as possible and for the applied measures to conform to international standards, guidelines or recommendations. A higher level of protection may be introduced or maintained if there is a scientific justification (in case of SPS measures) or for legitimate objectives (in case of TBT measures). However, it has been observed that certain countries are at times laying down norms more stringent than those specified by relevant international bodies without any known/justifiable scientific basis or for demonstrably legitimate reasons, and which are difficult to meet.

b) Testing methods specified for very high levels of sensitivity sometimes may not be justified or required and due to its cost of testing becomes disproportionately high and prohibitive. Sometimes, levels of sensitivity are raised only because better technology or testing equipment is available, and not due to any scientific evidence that a higher sensitivity is required to meet a health concern. Moreover, the standards are revised, mostly upwards, at regular intervals making it very difficult for developing countries to adapt to these changing requirements. An instance of the use of testing methods for high levels of sensitivity is the testing in marine products for *chloramphenicol* by High Performance Liquid Chromatograph Mass Spectroscopy (HPLC MS). MS has sensitivity at levels of 0.2 ppb whereas the AOAC1 specifies test by HPLC, which has sensitivity to a level of 10 ppb. The additional equipment means incurring expenditure of around Rs 1.5 crores (US\$0.3mn) per equipment with this cost increase being proportionately reflected in each test carried out. Some of the countries are using test methods, which neither are those accepted internationally, nor are those validated. An example is the use of non-validated test method by a country for testing *vibrio cholerae*, which is felt to be the cause of failure of samples in that country. Harmonisation of both standards and procedures applicable within a common customs territory is necessary for predictability.

More importantly, harmonisation with international standards and use of agreed testing methods with scientific justification will reduce the trade restrictive impact.

c) It has often been observed that there is absence of information and lack of transparency on the procedural norms and regulations of various countries regarding specifications as well as methods of sampling, inspection and testing. New regulations are brought out and implemented without even giving the producers in the exporting country a chance to get familiar with these. Often the standards are available only in the language of the importing country or are presented in a very complicated manner (Several countries lay down their specification in their national language with no official English version and for translating these, either facilities in the exporting country are not easily available or these are very costly. As a result, the exporters are often not clear about the specific requirements prescribed by the country of destination, which has led to rejection at the point of import.

d) Some countries have standards (e.g. for Hessian bags), which are not technically achievable and the details relating to the standards are not available in English. Similarly, requirements on using certain specified packing materials without providing any reason or justification for the same acts as a trade barrier.

e) Several conformity assessment issues have the effect of restricting trade, including: excessive costs levied against testing for small developing country exporters; location of testing facilities including testing being done only at single/limited centre(s); limited validity of certificates, requiring re-testing with the attendant costs; procedures involving site/factory visits by the certifying authorities – both the time taken and costs involved act as hindrances; non-recognition of certificates from accepted international bodies; and easier or preferential conformity assessment for regional trade agreement (RTA) Members which is discriminatory. For example, tyre marking is an expensive proposition, and in some countries it costs a company around US\$20,000 for the first application and approval. The certificate is valid for one year and US\$1100 has to be paid for every year for getting the certificate revalidated. In addition, for the factory visit of inspectors, US\$600 per day has to be paid which is inclusive of transportation charges, hotel charges, tickets, etc.

f) While risk to consumers resulting from hazard, particularly in foods, has been identified as a significant concern at the international level, as it has been observed that some importing countries are fixing standards without carrying out comprehensive risk assessment work and despite repeated requests, details of the basis for the standard are not made available. This may at times be in contravention of Article 5 of the SPS Agreement which requires that SPS measures should be based on risk assessment and should take into account an appropriate assessment of the actual risk involved and if requested by the exporting country makes known details of this assessment.

In the case of marine products where consignments are being rejected due to presence of certain microorganisms such as *Vibrio parahaemolyticus* a 'nil' limit has been laid down. *Vibrio parahaemolyticus* is a habitant of the marine environment of the tropical waters and there is every chance for the presence of this organism in raw fish and fishery products. However, they are generally destroyed during chilling/freezing or by

heating at 60 °C. Besides, the organism is not considered as a potential hazard in raw frozen products, which are to be cooked before consumption. Some countries are specifying limits for *Vibrio parahaemolyticus* only for ready-to-eat cooked products or seafood for raw consumption and at levels ranging from 1,000 to 10,000 per gram which may be acceptable. However, despite the above, some countries have specified limits for *Vibrio parahaemolyticus* in products, which are to be cooked before consumption and these also at levels as low as 100 per gram. Risk evaluation reports have not been made available in such cases.

g) In addition to end product criteria, a systems approach, which helps build in quality and safety throughout the food chain – from primary production to final consumption – is increasingly being used to ensure that food products are safe for consumption. Such a ‘safety management systems’ approach is being insisted upon by many countries for allowing import of products such as marine products. This system allows building in controls in a flexible manner based on conditions applicable in a country/industry etc. However, certain countries are developing prescriptions in the production process. Process standards based on conditions and production systems prevalent in the importing country are not relevant for the developing countries for achieving the required product standard. It is internationally accepted that alternate equivalent measures should be permitted if these standards meet the requirements of the importing country in the use of the final product. In the case of seafood units, some assessment teams, which have come for inspection, insist on flake ice machines being installed in the processing units whereas the same purpose can be served by crushing block ice in a hygienic manner. Insistence on such practices involves not only excessive costs but is also unjustifiable in terms of end-product safety criteria.

h) Equivalence agreements between Members are seen in the WTO as the means to address the standards related to trade problems as they enable pooling and utilisation of resources more effectively; avoiding duplication of inspection and testing; and ensuring that health and safety requirements are met effectively without unduly restricting trade. Such agreements would generally benefit exporters in a developing country, as financial burden as well as risk of rejection would be reduced. However, it is observed that Members often do not enter into such Agreements even after receipt of a formal request as either the administrative burden of entering into these is high or they do not want to lose their control over imports. Some countries use regulatory standards to address demand supply conditions. Further, at times it is seen that important components such as provision for re-testing and appeal in case of rejections are not addressed in such Agreements, as these are not considered to be in the interest of the importing country. It is also a requirement of TBT that alternate equivalent measures should be permitted if these meet the requirements of the importing country. A similar provision exists in SPS.

i) Health authorities in certain importing countries have recently started destroying the contaminated/damaged consignments instead of returning them to the exporting countries as requested by the exporters/importers. The decision regarding destruction of a consignment is often not a correct decision and is also not justified. It is necessary to involve the exporting country in such decisions of destruction for various reasons. The consignments found contaminated in the importing country may need to be brought

back to enable the competent authority to re-test them and ascertain whether the consignments were contaminated or not as certified. And whether importing the country examines the contaminated assignment to ascertain the cause and takes immediate corrective measures to control/eliminate its recurrence. Destruction of a consignment leads to wastage of a large amount of money as some cases of contamination can be taken care of through reprocessing.

j) Sometimes the importing country adopts different methods for sampling and testing and also testing for parameters/contaminants, which are not notified in their standards, which at times become reasons for rejections. In certain cases, the importing country may have higher standards than those followed by the country of export. The returned consignments could be utilised in domestic trade/purposes. It may be pointed out that a country can fix standards lower than, say Codex.

k) Sometimes a product is rejected in one port and accepted in another port of the same market. Sometimes a product is rejected based on a national standard by a buyer, and it is accepted after price discounts. This shows that the buyer uses, at times, standards primarily to depress the prices.

l) It may also be noted that Codex has brought out a guideline for the exchange of information between countries on rejection of imported foods wherein the standard provides for destruction of the consignment, retesting of the consignment, re-export of the consignment to countries which state in advance that they are prepared to accept the consignment knowing that it has been refused entry elsewhere.

m) Imposition of voluntary international standards such as ISO 14000 on Environmental Management Systems by buyers on their suppliers in exporting countries has the effect of not only restricting market access at least for some time until the industry upgrades itself, but also leading to high cost of implementation. The standard on Social Accountability, SA 8000 is a recently announced international standard for management systems primarily dealing with working conditions. Under the guise of Social Accountability, the imports of various products can be restricted on alleged violation of any of the above 'voluntary requirements'.

n) Imposition of high levels of port fees and taxes significantly add to the cost of exports. Similarly, fees for authentication of export documents by the Consulates of the importing countries add to the cost. The necessity for imposition of the fees and taxes as well as the need to have consular authentication procedures must be linked to the administrative necessity for the same.

o) Customs procedures including valuation rules in certain countries have been identified to be acting as trade barriers. Some of these include discriminatory valuation methods; appropriateness of the units of measurement for certain products like yarn, classification differences between the exporting and importing country systems and confiscation of the export cargos for minor transgressions.

p) Customs duty is calculated only on cost of Cut, Make and Trim (CMT) if the textile goods are made out of domestic fabrics whereas duty is levied on full cost of the

product if it is made in other developing countries. Such types of discriminatory valuation rules prevent realisation of export potential.

q) In some countries, the quota for yarn is expressed in Square Metre Equivalent (SME), but yarn is basically exported in kgs. Since the conversion factor is not on a scientific basis, it creates hurdles for yarn exports.

r) In some countries, customs clearance is deliberately delayed to increase the transaction cost and thus reduce competition to like domestic products.

s) Various requirements for marketing a product in different markets prove to be cumbersome and onerous to developing country exporters. These requirements include detailed labelling requirements with extensive product/content description. Such labelling requirements become a hindrance especially if the product is being exported to different countries each with different regulations.

t) In several countries, there are registration requirements for firms before exporting, distributing and selling, with the registration process itself being costly, time consuming and not always granted. In the case of pharmaceutical products, import in several countries are tacitly encouraged/allowed only from particular countries and sources, such policies are enabled by the registration mechanism which is not transparent and favours producers only from certain countries even for applying. Some buyer requirements like comprehensive product liability insurance also restrict the export and marketing ability of developing country exporters.

u) The restrictions on port of import, i.e. allowing imports of particular goods or goods from a particular country only through designated ports have been imposed by some Members. This increases the transit time and transaction cost in clearance of consignments. While in some cases it is demonstrably for administrative reasons with the facilities required for clearance of the goods being available only at the designated port, in some of the other cases the underlying reason for imposing such restriction is more to restrict trade than on account of any administrative necessity.

v) Non preferential rules of origin have often been cited in the context of exports of textile products, as an NTB. The issues involve non-recognition of certain processes as origin conferring in addition to discriminatory and unilateral changes to the rules. Such rules which are established/changed to favour imports from particular origins are barriers to trade and also discourage value addition taking place in the traditional region of production. In some cases, they adversely impact on the quota utilisation of some countries.

w) In some countries, making fabrics from wool, dyeing, printing and finishing operations are not recognised as origin conferring. Similarly, for made-up articles made of cotton or cotton blends, the origin is now being determined on the basis of where the constituent fabric is formed, thereby ignoring all operations such as dyeing, printing, finishing, designing, cutting, sewing, embroidery etc., which is contrary to the prevailing manufacturing or processing practices. It is recognised that clarification of the rules relating to RTAs is a subject of negotiation under a specific provision of the Doha Ministerial Declaration.

x) It is recognised that clarification of the rules relating to RTAs is a subject of negotiation under a specific provision of the Doha Ministerial Declaration. Nonetheless, certain non-tariff provisions included in some RTAs are significant barriers to trade of non-Members due to their trade diverting and trade restricting impact. Their sanction under WTO provisions may also be questionable. Use of preferential rules of origin (RoO) like the diagonal cumulation between RTA Members and non-Members allows preferential access to products of the benefiting non-Members to the RTA. While permissible preferences to RTA members are not questioned, it must be ensured that all non-Members are treated alike. Certain valuation practices adopted by some RTA Members for the purpose of assessment of customs duty are also not in conformity with the Agreement on Implementation of Article VII of GATT 1994. For example, in some RTAs, duty is charged on imported fabrics only on the basis of value addition to the fabric in the CMT when the fabric originates from any of the RTA Member countries. On the other hand, duty is charged on the basis of the value of the fabrics plus the value added when fabrics originate from non-RTA Member countries. This puts the goods of non-RTA Members at a disadvantage *vis-à-vis* similar goods of RTA Members; and inclusion of provisions relating to preferential conformity assessment for technical regulations and standards. These provisions tend to give RTA Members substantial time and procedural advantages. It is observed that the time taken for inspection and testing as well as establishing equivalence of standards under RTAs is much faster than the procedure applicable to non-Members of the RTA, who follow the much more extended route taking a much longer time diverting trade to Members of the RTA during this period.

y) Attention has been drawn to the increasing instances of campaigns carried out to create public opinion as well as to force buyers to change their source of imports on grounds other than trade related e.g. ethical treatment to animals. These campaigns could have various motivations not necessarily based on truth and certainly not based on any trade issues. There may be two aspects to discussing such measures. First, they do not follow from any governmental action and therefore the extent to which they could be discussed/disciplined in WTO would need to be deliberated upon. The second aspect is the increasing use of such methods and potential for these measures to divert trade and restrict market access especially from developing countries which may be vulnerable due to their own priorities, thus making it important to be discussed.

8.2 Notification by Pakistan

Notifications put forward by Pakistan to the Negotiating Group on market access for the NTBs faced by its exporters are discussed below.

Due to the pre-shipment inspection required by certain countries for certain goods, shipments get delayed and importers avoid sourcing from Pakistan. Non-transparent procedure for registration of drugs provides undue protection to domestic pharmaceutical firms in many countries and the foreign pharmaceutical companies and drug suppliers are denied market access. The registration procedures as laid down by the Agreement on Trade-related Intellectual Property Rights (TRIPs) needs to be made transparent.

Quarantine certification, food labelling and packaging regulations (description of food ingredients, and indication of nutritional claims-substantiated and specified)), high rate of inspection etc., raise the cost of export and delays the shipment of consignments for

the countries not having preferred status through bilateral Memorandum of Understanding (MoU). The quarantine certification, labelling and packaging regulations should be made less onerous and be brought at par with international standards. Non-discriminatory treatment is meted out to all irrespective of bilateral understandings.

The food sanitation law requirements are also too stringent and need to be brought at par with internationally accepted standards. The Inspections also need to be carried out at par with internationally accepted standards. For products like cotton yarn and cotton cloth, petroleum & petroleum products and other SPS measures, there is quarantine certification requirement. Market access of the product from the country is also being denied.

This trade restrictive requirements needs to be eliminated for products like art silk fabrics and art silk garments. The *Azo Dyes* certification test results differ from laboratory to laboratory and this leads to denial of market access and also increases costs to exporters. Safety test certifications are not standardised. The measures are often more stringent than internationally accepted standards and may be altered. The certification requirement needs to be standardised also for electrical products.

8.3 Notifications by Bangladesh

Regarding the inventory of NTBs, the Bangladesh authorities gathered information from chambers, associations and individual exporters. The NTBs faced by exporters are of different nature, and are categorised in the following broad areas:

(a) NTBs similar to SPS measures; (b) NTBs related to consular formulation; (c) NTBs related to TBT measures; (d) quantitative restrictions including ban; (e) labelling requirement; (f) Rules of Origin (RoO); and (g) visa requirement

In addition to above NTBs, it was found that some big importers while placing import order require compliance of several standards such as safety and health, child labour, working hours, wages and benefits, freedom of associations, environmental compliances, etc., which have direct impact on export. The packaging conditions require fumigation of the products by *Methyl Bromide* if wood or wooden substances are used in packing, while *Methyl Bromide* is banned in many countries. The requirement of SPS measure and certification are cumbersome. There is also restriction on exports due to extra formality, time and cost. The jute products are not live items, therefore, the products need to be excluded from SPS regulations.

There is requirement for special Certificate of Origin in jute yarn/twine, which requires extra formality and cost. This restricts exports due to extra formality and cost in part of the importers. Amendments by the shipper and/or the carrier company can be accepted instead of penalising.

There is also requirement of Import Licence by the importer. The provision of licensing for imports needs to be withdrawn. Extra documentation is required in the port of discharge for customs valuation, which should be withdrawn to avoid hassle and waste of time. The pre-shipment Inspections lead to extra formality and cost and time.

There are also problems like the printing of retail price on the packets in local currency and assessment of duties other than customs duty on the basis of retail sales price (RSP) printed on the packaging of the products. The export price increases due to labelling requirement and the total duty amount payable on imports increases. Hence, assessment needs to be conducted on the basis of invoice value of the products. Sometimes customs authority raises disputes on flimsy grounds, such as labelling on the packaging of products, etc. This causes unnecessary hassles to buyers and they get discouraged to buy these products. The custom procedures, therefore, should be flexible considering the type and the nature of products.

There is also requirement of attestation of export documents from various agencies like Chamber, Commerce, Ministry, Foreign Ministry and Embassy. It causes a lot of hassle, time lagging and incurring costs on exports. Consular formalities and documentation needs to be flexible for enhancing trade relations with those countries.

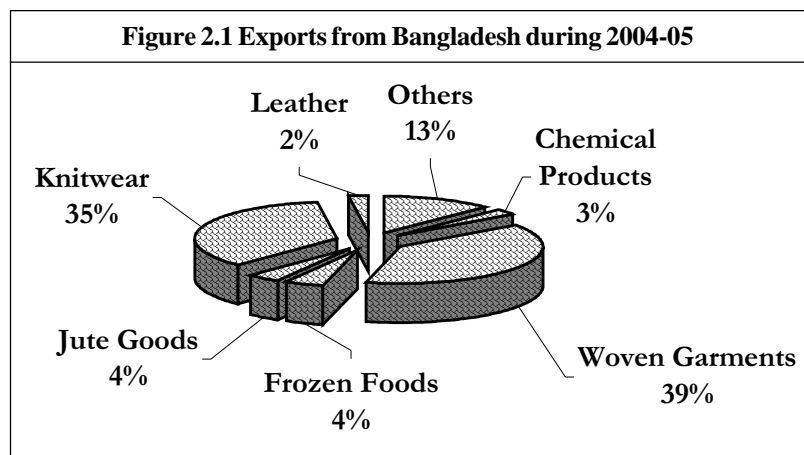
There has been a discontinuation of export since investment in manufacturing is a difficult option. There should be withdrawal of the restriction on ban of products that are locally manufactured. In addition, imports should be allowed along with local production. Import ban measure should only be applicable to health, security and environment ground. For pharmaceutical products, there is limitation of number of brands/products for registration for the purpose of import. This limits the scope of competition. There is also permission of imports only using the amount received from export. All these measures restrict imports. For pharmaceutical products, there is ban on imports of locally manufactured products, which limits competition. There is also ban on imports of juices, drinks, jam, jelly, pickles, spices and snacks etc. The attestation fee ranges from Bangladesh Taka 13,000-14,000 (US\$193-208). It increases the cost. The requirements of laboratory testing upon arrival of the consignment are time-consuming and expensive, and ask for payment of extra charges.

Requirement for release order and submission of many documents from the Ministry of Health for each and every consignment imported make the process lengthy and time consuming. As a result, products cannot be made available in the market due to lengthy bureaucratic procedures for releasing goods from ports. Releasing the product on the receipt of the import permission given by the relevant authority makes it cumbersome. The procedures for establishing LC are very lengthy and take about 3-4 months to establish an LC. Products cannot be shipped in time due to unavailability of LC in time.

9. Composition of Manufacturing Exports from South Asian Countries

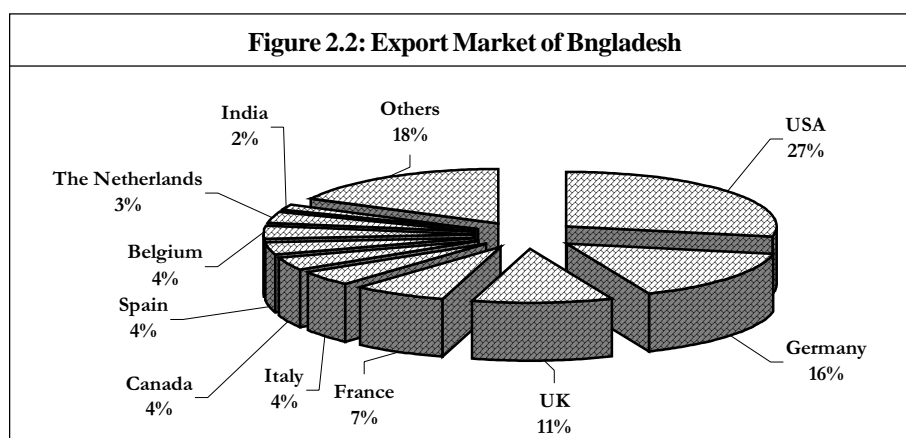
9.1 Bangladesh

Bangladesh's exports trade is featured by the dominance of a few export commodities in a few markets. Nonetheless, exports of a number of products and export in a number of markets from Bangladesh has increased over the years. The export basket of Bangladesh has also undergone an overhaul, as the significance of raw jute and jute product as a major export items from the country has decreased over the years (from 51.4 percent in 1971-72 to 3.4 percent in 2004-05 for jute products and from 38.5 percent in 1972-73 to



1.03 percent in 2004-05 for raw jute). The major exports of Bangladesh during 2004-05 include woven garments (38.86 percent), followed by knitwear (35.43 percent), frozen foods (4.43 percent), jute goods (3.94 percent), leather (2.31 percent), chemical products (2.52 percent) and raw jute (1.03 percent). The readymade garment sector comprising of the woven garments and knitwear products almost comprise of 75 percent of the total export from Bangladesh.

The major trading partners of Bangladesh include: US, EU countries, China, India, Pakistan, Japan, South Korea, Canada, Australia, Malaysia, Hong Kong, Taiwan, Thailand, Indonesia, Saudi Arabia and UAE. In 2004-05, US imports almost 27.95 percent of Bangladesh exports, followed by EU. The major countries in EU include: Germany (15.61 percent), UK (10.91 percent), France (7.23 percent), Italy (4.27 percent), Spain (3.81 percent), and Belgium (3.79 percent). The other countries include Canada (3.87 percent), Netherlands (3.38 percent), and India (1.66 percent).



9.1.1 Readymade Garments (RMG) (Woven & Knitwear Products)

The woven and knitwear products among the Bangladesh's readymade garment (RMG) exports are the major exports of Bangladesh. The country is one of the top five readymade garment exporters in the world with the annual export of over US\$7.50bn. RMG is also the fastest growing industry in Bangladesh, contributing to more than 76 percent of the export earning.

Woven garments are the largest export item of Bangladesh. The share of woven garments in the total export basket has increased significantly from a mere 1.10 percent (1981-82) to 38.78 percent (2005-06). Knitwear products are the second largest export of Bangladesh, with its share in the total export basket has increased significantly from a mere 7.64 percent (1991-92) to 36.26 percent (2005-06). EU is the major export market followed by the US. This is possible because of Bangladesh is complying with EU's rules of origin (RoO) norm of 75 percent value addition in the exporting country. After the adaptation of the guidelines for application of the scheme for the generalised tariff preference by EC, Knitwear exports from Bangladesh to EU rose significantly. The two-stage transformation required of RoO in 1999 boosted market penetration in EU further and contributed a growth of 101.19 percent since 2000-02.

9.1.2 Frozen Foods

Frozen foods are the second largest export sector in Bangladesh contributing for almost five percent of total export from Bangladesh. Shrimp and prawns are the major export items of the country. Shrimps alone accounts for 90 percent of the export income among the fish and fish products. The EU, US and Japan are the major importers of frozen foods from Bangladesh accounting for more than 95 percent of the total fish exports. The EU alone accounts for 52 percent of the total export market of Bangladesh. The other major countries that import shrimps from Bangladesh include Belgium, Netherlands, Germany, France and Italy. The rest are exported to countries in the Southeast Asia and Middle East.

Though there is a huge potential of export from Bangladesh the country is facing two major problem in exporting: a) the per acre yield of shrimp is low compared to other countries exporting the same; b) the quality of the product has often come under question due to the large-scale presence of *Nitrofurans*, an antibiotic used by the shrimp farmers in the export consignments.

9.1.3 Jute Products

Bangladesh is the second largest jute and jute good producing country in the world after India. Jute is the third largest export product of Bangladesh and almost 90 percent of the jute and jute products are exported from the country. The government of Bangladesh through the Jute Diversification Promotion Centre (JDPC) has initiated to promote production of eco-friendly jute and jute products in the country to take advantage of the vast export market. Jute items export include jute bags, decorative items etc. The main export market of the product includes US and EU.

9.1.4 Leather and Leather Products

Almost 95 percent of the leather products from Bangladesh are marketed abroad. Bangladesh has a domestic supply of good quality raw material, as hides and skins are

a by-product of large livestock industry. The exports are in the form of crushed leather, finished leather, leather garments and footwear. Footwear is the most important export item in terms of value addition. Most leather and leather goods goes to EU (Germany, Italy, France, Netherlands, Spain), Russia, Brazil, Japan, China, Singapore and Taiwan. Bangladesh share in the world's leather market is almost two percent.

The export of finished leather products from Bangladesh contributes to a significant amount of foreign exchange earning in the country. The growth of the export market for Bangladeshi leather has grown at an average of 10-15 percent per annum. The average yearly exports accounts for US\$225mn. The leather includes leather garments, which is exported mainly to the US market in a small quantity. Footwear is more important in terms of value addition and is the fastest growing sector for leather products. Presently, Bangladesh produces between 2-3 percent of the world's leather market.

9.2 India

India is the largest economy in South Asia and one of the fastest growing developing economies in the world. International trade has become an important contributor to India's growth as trade flows accounts for almost 30 percent of the GDP in 2004-05 and is expected to increase more in coming years. Out of this, manufactured products account for over 70 percent of total exports from India and it include textiles and readymade garments, gems and jewellery, engineering goods, transport equipments, machinery, chemical products, leather products, handicrafts etc. India's major trading partners are US, UK, Germany, Switzerland, Belgium and some Asian countries like Hong Kong, China, Singapore, Malaysia, UAE etc.

While US continues to be the single largest trading partner of India, China emerged as the second major trading partner in 2005-06 and the share of combined China-Hong Kong at 9.4 percent was close to that of US. The impressive growth in trade with China was contributed by ores, slag, ash, iron and steel and organic chemicals on the export side, and by electrical machinery, other machinery and organic chemicals on the import side. UAE is the next major trading partner, and is important both in terms of imports and exports; and another important country, whose share has been increasing steadily, is Singapore with which India has recently signed a Comprehensive Economic Cooperation Agreement (CECA). In the case of India-Singapore trade, precious stones, metals, mineral fuel, oil, ships and boats and other machinery have been the major contributors in exports, while other machinery, electrical machinery, organic chemicals, books, newspapers and manuscript, and aircraft & spacecraft in imports.

Composition of merchandise trade

India's export is broad-based with good performance in most of the sectors. Manufactured exports, with a share of 73.7 percent in total merchandise exports, continued to grow at 21 percent. The most notable feature was the 91 percent growth in exports of petroleum products, with a perceptible increase in its share in total exports. It reflected not only the rise in Petroleum, Oil and Lubricants (POL) prices, but also India's enhanced refining capacity developed with a supportive tariff structure. Exports of primary products grew by 29.4 percent with rapid growth in exports of ores & minerals, induced by strong international demand and higher prices. Within manufacturing, high performers were: engineering goods (mainly manufactures of metals, machinery and instruments, transport

equipment and primary, semi-finished iron & steel and non-ferrous metals); gems and jewellery; and chemicals and related products (including basic chemicals, pharmaceuticals and cosmetics, plastics and linoleum, rubber, glass and other products and residual chemicals and allied products). Despite the new opportunities that opened up with the phasing out of textiles quotas, textiles exports showed a disappointing negative growth.

9.3 Nepal

Foreign trade in Nepal has been characterised mainly by import of manufactured products and export of agricultural raw materials. The structure of the export has undergone a change in the present years, shifting the focus slightly towards manufactured goods as well. Export of manufactured products includes woollen carpets, garments, textiles, leather products, paper and cement, steel utensils, cigarettes, beverages and sugar. Nepal's export basket is restricted to a few exportable products, with exports concentrated on a few destination countries. Major trading partners of Nepal for export include India and the four Quad countries - US, EU (Germany, UK, France, Italy and others), Japan and Canada.

The top five manufactured exportable product of Nepal in terms of earning of foreign exchange, contribution to employment generation includes readymade garments, woollen carpets, *pashmina* products, leather and leather products, handicrafts. While in terms of total percentage share the commodities in 2004-05 are readymade garments (35.6 percent), woollen carpets (33.7 percent), woollen and *pashmina* goods (8.3 percent), handicrafts (2.7 percent), silver wear and jewellery (1.9 percent)

9.4 Pakistan

Pakistan exports are highly concentrated within a few items. Majority of the exports are in the textile and garment sector. The major export items of Pakistan include textile and garments, leather and leather products (e.g. Footwear), sports goods, wool raw/carpet and surgical instruments. Textile and clothing (T&C) has the significant share in the overall trade basket.

Table 2.5: Major Exports from Pakistan	
Major export from Pakistan	
Item	Percentage Share (As on 2004-05)
Textile & Garment	62.02
Leather & Leather Products	06.48
Sports Goods	02.13
Wool Raw/Carpets	01.93
Surgical Instruments	01.27
Others	26.17
Source: Export promotion Bureau, Pakistan	

Textile and garments

Major textile and garment products of Pakistan include cotton clothes, knitwear, readymade garments, towels and textiles made-ups and bed ware. The products are exported to US, UK, Germany, Hong Kong, Italy, China, Spain, and other countries. This sector is the backbone of Pakistan's economy and export earning from this sector contributes to about 68 percent of the total exports earnings of the country in 2003-04. The share of the products like cotton cloth, knitwear (hosiery), readymade garments, towels, and textiles made-ups has increased in the export basket of Pakistan. However, the export share of textile items like yarn, synthetic textiles and tents and canvas has declined.

Leather and leather products

Export of leather and leather products includes items like tanned leather, leather garments and footwear. Tanned leather contributed 32.4 percent; leather garments 56.1 percent and leather footwear 11.5 percent in the group of leather & leather products. The major export market of these products include countries like US, UAE, Afghanistan, UK, France Germany, Hong Kong, Italy, South Africa South Korea and others. Export of tanned leather increased by 20.6 percent in 2004-05. The export of leather fetched US\$304mn in 2004-05 as against US\$252mn of 2003-04. Quantity of export also increased by 14.86 percent from 16.05 million square metres to 18.44 million square metres. Export of leather garments, footwear and other products also registered a significant increase of export in 2004-05 in comparison to 2003-04.

Sports goods

Sports goods are the third important export product from Pakistan. However, overall export of the products had declined in 2004-05. Sports goods are exported to countries like US, UAE, Afghanistan, UK, Germany, Hong Kong, Italy, China, Spain and others.

9.5 Sri Lanka

The population of Sri Lanka remains the smallest in South Asia (excluding Maldives), which amounts to nearly 19.5 million people. Originally a rural economy like the rest of South Asia, a definite shift towards a more industrialised economy is now visible. In 2004, 19.9 percent of the GDP was in agriculture, 26.3 percent in industry and an impressive 53.8% was contributed by the service sector. The major exporting industries became food processing, textile and apparel, Gems, diamonds, petroleum products etc. Major import commodities included textiles, mineral products, petroleum, foodstuffs, machinery and equipment.

Table 2.6: Composition of Exports (in Sri Lankan rupees million): 1997 -2002						
Commodity	1997	1998	1999	2000	2001	2002*
Tea	42,151	49,867	43,231	52,516	60,776	62,264
Rubber	4,638	2,808	2,303	2,179	2,121	2,523
Major Coconut products	5,133	3,924	6,375	6,266	4,098	4,483
(a) Copra	401	458	631	587	612	944
(b) Coconut Oil	193	199	247	249	193	226
(c) Desicated Coconut	4,270	2,975	5,095	4,951	2,834	2,791
(d) Fresh Nuts	269	292	402	478	459	522
Garments	125,113	148,920	103,301	213,653	215,622	219,293
Precious and Semi - precious Stones	13,428	7,345	9,070	12,918	13,567	28,654
Other Domestic Exports	80,693	90,302	151,300	114,777	118,374	131,136
Total Domestic Exports	271,156	303,166	315,580	402,309	414,558	448,353
Re - exports	3,023	2,684	3,231	10,424	7,627	3,787
Total	274,178	305,850	318,810	12,733	422,186	452,140
<i>Source - www.statistics.gov.lk</i>						

10. Sectoral NTBs Faced by South Asian Countries

10.1 NTBs Faced by Textiles & Clothing Industries

The T&C sector in India has witnessed a relatively high incidence of trade defence action. This includes back-to-back anti-dumping action. Some of the restraining countries took frequent recourse to the anti-dumping and countervailing measures in respect of India's T&C products, notwithstanding the fact that their exports were already circumscribed by quota limits. In many cases, investigations were subsequently terminated. Nevertheless, damage to trade did occur due to the chilling effect caused by the initiation of such investigations.

Instances of domestic export consignments facing NTBs in the US market are on the rise, as textile exports to the US grow in volumes. The restrictions are mainly in the form of shipments being subjected to rigorous labelling and marking requirements, security parameters and document verification at US ports and issues relating to compliance with labour and environmental norms.

Several instances of clampdown on export consignments in the US have been brought to the India Government's notice, most of which have resulted in delay in shipments. Moreover, following the clampdown on Chinese exports, it is widely expected that Indian exports could also be targeted through non-tariff measures, mainly at the behest of the US textile industry's demands to curb imports.¹¹ The main forms of restrictions that have been raised, with respect to some Indian shipments in the US, are in the form

of norms violating US child labour policies, sanitary measures in the Indian suppliers' workplace, suspected use of *azo-dyes* and security checks of consignments.

Indian exporters, who have clocked a 25 percent average growth in 2005, second only to China, are already facing 'spot audits' from bigger US buyers such as Wal-Mart and JC Penney. The audits being conducted by the US buyers on their Indian suppliers, aims at checking instances of child labour and ensure that labour standards at workplace are of stipulated norms.

According to industry sources, these checks are over and above the mandatory social audits conducted annually by the bigger retailers on their supplier base in India and other countries such as Pakistan and Bangladesh.

The clampdown on Indian suppliers by the US and the EU can happen only through the NTBs route, unlike in case of China where shipments are being restricted by the US and the EU through provisions in China's accession agreement to the WTO. While China has already been subjected to 'safeguard quotas' in the US market, exporters could see more of such NTBs being imposed as Indian exports to these markets grow in volumes.

Some other forms of NTBs faced by the industry, i.e. custom procedures and valuation rules are subjective. Duties are calculated on cost of cuts, make and trimming for domestic producers, while custom duty is levied on full cost of product, resulting in discrimination. Measuring standards are not harmonised. For example, yarn is measured in square metre equivalent, while it is generally exported in kilograms. Some countries, particularly for fabrics made of wool, do not consider dyeing, printing and finishing operations as origin conferring, contrary to prevailing manufacturing practices.

Moreover, due to ease in application, anti-dumping measures have become the favourite tools for protectionist interests. For example, T&C imports from relatively competitive countries like China, India, Pakistan and Turkey have been routinely subjected to anti-dumping investigations in the past. Bed linen has been one of the most targeted products by the EU, with exports from India and Pakistan already carrying the brunt.¹²

Over the past few years, India's textile exports to the EU have been facing anti-dumping investigations of the European Commission (EC). In recent times, three textile product categories, namely: (i) Unbleached Cotton Fabrics (UCF); (ii) Cotton Type Bed-liner; and (iii) Polyester Texturised Filament Yarn (PTFY) originating from India have been subjected to anti-dumping action by the EC. India's exports to the EU of certain textile products are already under quantitative restrictions under the Indo-EU bilateral textile agreement. As a result of various initiatives taken either through intensive diplomatic efforts or legal course of action to defend the cases, the Unbleached Cotton Fabrics-III anti-dumping case of the EC was turned down.

In the cotton type bed-linen anti-dumping case, Government of India decided to contest the EC's action and initiated the process as a prelude to raising this issue under the Dispute Settlement Mechanism of the WTO. In its ruling, the Appellate Body held that the antidumping duties that were levied by the EU on cotton-type bed linen coming from

India were illegal as they were inconsistent with the provisions of WTO law. Hence, these duties need to be removed (see Box 2.1).

Box 2.1: Antidumping Dispute between India and EU on Bed Linen

India and the EU were involved in a hard and long legal battle in the WTO on the imposition of antidumping duties by the EU on cotton-type bed linen (a particular type of textile product) that was exported by India to the EU. The EU alleged that India was dumping (selling below the normal price) bed linen in the EU; that there was material injury to domestic industry in the EU; and that there was a causal link between the dumping of bed linen by India and material injury to the domestic industry. India challenged the imposition of such antidumping duties by the EU on its export of cotton-type bed linen with the Dispute Settlement Body (DSB) of the WTO.

The dispute at the WTO was finally decided in favour of India in 2001 where the Appellate Body held that the antidumping duties that were levied by the EU on cotton-type bed linen coming from India were illegal as they were inconsistent with the provisions of WTO law. Hence, these duties need to be removed. But by the time the verdict was delivered the exports of bed linen had fallen considerably – from US\$127mn in 1998 to US\$91mn in 2001. The Indian company ‘Anglo-French Textiles’, one of those affected by the EU action, saw its revenue fall by more than 60 percent in the three years in which the duties were imposed.¹³ Although the WTO ruled in favour of India in 2001, the EU merely altered the terms of the complaint and reapplied the duties.

Likewise, the EC had initiated two parallel investigations, namely, anti-dumping proceedings and anti-subsidy, concerning import of PTFY originating, among others, from India. The complainant has since withdrawn the case. Turkey also had initiated anti-dumping investigations on import of Polyester Texturised Yarn (PTY) from India, Republic of Korea, Thailand and Chinese Taiwan.

In the case of Pakistan, the Cotton and Allied Textile Industries of the European Commission – Euro cotton – lodged a complaint in November 2002, about the alleged dumping of bed linen resulting in ‘material injury’ to local industry, and demanded initiation of an anti-dumping proceeding. After necessary investigations, the EU imposed an anti-dumping duty of 13.1 percent on Pakistani bed linen in effect since March 5, 2004. According to Ahmed (2005), one reason for the decline in Pakistan’s export under HS 63 to the EU market has been the continued imposition of anti-dumping duties on bed linen. It is estimated that the imposition of 13.1 percent anti-dumping duty by the EC on bed linen imports would cause Pakistan an annual loss of US\$250-300mn. Recently, there have been some discussions on reducing the anti-dumping duty from 13.1 percent to 8.5 percent. However, no decision seems to have been made so far.

The Board of Tariff and Trade (BOTT), South Africa, had received complaints against large quantity of imports from India and also received requests for initiating anti-dumping and anti-subsidy proceedings against the following two items being exported from India: firstly, printed and dyed bed linen; and secondly, acrylic fibre blankets. Although BOTT has not initiated any anti-dumping and anti subsidy proceedings against imports of printed and dyed bed linen, in case of acrylic fibre blankets definitive anti-dumping duties have been imposed by the South African authorities

Imposition of regulatory and standards-related barriers on T&C products has been limited, but the future looks uncertain. Some examples of regulatory and standards related barriers on Indian T&C products, including:¹⁴ (a) recall of Indian-made *ghagras* (skirts) on the ground of non-conformity to flammability standards; (b) targeting Indian rayon scarves on the ground of non-conformity to flammability standards; (c) ban on import of goods (textiles and leather) treated with *azo-dyes* and *pentachlorophenol*. The latter was also the case with Nepalese woollen carpets in the German market, witnessed mainly in the first half of the 1990s.

10.2 NTBs Faced by Exporters of Marine Products¹⁵

The second important sector which has been subject to severe NTBs is marine products. Since South Asian countries are significant exporters of marine products to many developed countries, the testing requirements for all marine products are of very high level and sensitivity.

10.2.1 Lack of Harmonisation

Both the SPS and TBT agreements seek harmonisation on as wide a basis as possible and for the applied measures to conform to international standards, guidelines or recommendations. However, it has been observed that certain countries are at times laying down norms more stringent than those specified by relevant international bodies without any known/justifiable scientific basis or for demonstrably legitimate reasons and which are difficult to meet.

Similarly testing methods are specified for very high levels of sensitivity¹⁶ which may not be justified or required and due to which the cost of testing becomes disproportionately high and prohibitive. Sometimes, levels of sensitivity are raised only because better technology or testing equipment becomes available, and not due to any scientific evidence that a higher sensitivity is required to meet a health concern. Moreover, the standards are revised, mostly upwards, at regular intervals making it very difficult for developing countries to adapt to these changing requirements.

Certain countries are using test methods, which are neither accepted internationally, nor are these validated. An example is the use of non-validated test method by a country for testing *vibrio cholerae* which is felt to be the cause of failure of samples in that country.

10.2.2 Lack of Transparency

There is absence of information and lack of transparency on the procedural norms and regulations of various countries regarding specifications as well as methods of sampling, inspection and testing. New Regulations are brought out and implemented without even giving the producers in the exporting country a chance to get familiar with these.

Often the standards are available only in the language of the importing country or are presented in a very complicated manner. The result is that exporters are, at times, not clear about the specific requirements prescribed by the country of destination, which has led to rejection at the point of import.

10.2.3 Conformity Assessment Issues

Several conformity assessment issues have the effect of restricting trade, including:

- Excessive costs levied for testing for small developing country exporters are a significant barriers;
- Location of testing facilities including testing being done only at single/limited centre(s);
- Limited validity of certificates, requiring re-testing with the attendant costs;
- Procedures involving site/factory visits by the certifying authorities – both the time taken and costs involved act as hindrances;
- Non-recognition of certificates from accepted international bodies; and
- Easier or preferential conformity assessment for RTA Members which is discriminatory.

10.2.4 Risk-based Approach

While risk to consumers resulting from hazard, particularly in foods, has been identified as a significant concern at the international level, it has been observed that some importing countries are fixing standards without carrying out comprehensive risk assessment work and despite repeated requests details of the basis for the standard are not made available. This may at times be in contravention of Article 5 of the SPS Agreement which requires that SPS measures should be based on risk assessment and take into account an appropriate assessment of the actual risk involved and if requested by the exporting country make known details of this assessment.

In the case of marine products where consignments are being rejected due to presence of certain micro-organisms such as *Vibrio parahaemolyticus* a 'nil' limit has been laid down. *Vibrio parahaemolyticus* is a habitant of the marine environment of the tropical waters and there is every chance for the presence of this organism in raw fish and fishery products. However, they are generally destroyed during chilling/freezing or by heating at 60 °C. Besides, the organism is not considered as a potential hazard in raw frozen products which are to be cooked before consumption. Some countries are specifying limits for *Vibrio parahaemolyticus* only for ready-to-eat cooked products or seafood for raw consumption and at levels ranging from 1000 to 10000 per gram which may be acceptable. However, some countries have specified limits for *Vibrio parahaemolyticus* in products which are to be cooked before consumption and these also at levels as low as 100 per gram. Risk evaluation reports have not been made available in such cases.

10.2.5 Safety Management Systems Approach

In addition to end product criteria, a systems approach which builds in quality and safety throughout the food chain from primary production to final consumption is increasingly being used to ensure that food products are safe for consumption. Such a 'safety management system' approach is being insisted upon by many countries for allowing import of marine products. This system allows building in controls in a flexible manner based on conditions applicable in a country/industry etc.

However, certain countries are building in prescriptions for the production process. Process standards based on conditions and production systems prevalent in the importing country are not relevant for the developing countries for achieving the required product standard. It is internationally accepted that alternate equivalent measures should be permitted if these meet the requirements of the importing country in the use of the final product. It also may be in contravention of Article 2.8 of TBT and definition of technical regulations in Annex I.

In the case of seafood units some assessment teams which have come for inspection insist on flake ice machines being installed in the processing units whereas the same purpose can be served by crushing block ice in a hygienic manner. Insistence on such practices involves not only excessive costs but is also unjustifiable in terms of end-product safety criteria.

10.2.6 Equivalence

Equivalence agreements between Members are seen in the WTO as the means to address the standards related trade problems, as they enable pooling and utilisation of resources more effectively, avoiding duplication of inspection and testing, and ensuring that health and safety requirements are met effectively without unduly restricting trade. Such agreements would generally benefit exporters in a developing country as financial burden as well as risk of rejection would be reduced. However, it is observed, Members often do not enter into such Agreements even after receipt of a formal request as either the administrative burden of entering into these is high or they do not want to lose their control over imports. Some countries use regulatory standards to address demand supply conditions. Further, at times it is seen that important components such as provision for re-testing and appeal in case of rejections are not addressed in such Agreements as these are not considered to be in the interest of the importing country. It is also a requirement of TBT under Article 2.7 that alternate equivalent measures should be permitted if these meet the requirements of the importing country. A similar provision exists in Article 4 of SPS.

10.2.7 Rejection & Destruction of Consignments

Health Authorities in certain importing countries have recently started destroying the contaminated/damaged consignments instead of returning them to the exporting countries as requested by the exporters/importers. The decision regarding destruction of a consignment is often not a correct decision and is also not justified. It is necessary to involve the exporting country in such decisions of destruction for the following reasons:

- (i) The consignments found contaminated in the importing country may need to be brought back to enable the competent authority to re-test them and ascertain whether the consignments were contaminated or not as certified. And if contaminated examine the cause and take immediate corrective measures to control/eliminate its recurrence.
- (ii) Destruction of a consignment leads to wastage of a large amount of money as some cases of contamination can be taken care of through reprocessing.
- (iii) Sometimes the importing country adopts different methods for sampling and testing and also testing for parameters/contaminants, which are not notified in their standards, which at times become reasons for rejections.

- (iv) In certain cases the importing country may have higher standards than those followed by the country of export. The returned consignments could be utilised in domestic trade/purposes. It may be pointed out that a country can fix standards lower than, say Codex.
- (v) Sometimes a product is rejected in one port and accepted in another port of the same market.
- (vi) Sometimes a product is rejected based on a national standard by a buyer, and it is accepted after price discounts; this shows that at times standards are used primarily to depress prices by the buyer.

h) Imposition of voluntary international standards such as ISO 14000 on Environmental Management Systems by buyers on their suppliers in exporting countries has the effect of not only restricting market access for at least sometime until the industry upgrades itself, but also leading to high cost of implementation. The standard on Social Accountability, SA 8000 is a recently announced international standard for management systems primarily dealing with working conditions. Under the guise of Social Accountability, the imports of various products can be restricted on alleged violation of any of the above 'voluntary requirements'.

11. Conclusions

The NTBs that a country faces are determined by who its major trading partners are and the composition of exports to those markets. South Asia as a regional block has been the significant exporters of T&C and marine products. The major export markets of South Asian countries (except Nepal, Bhutan and Maldives) are OECD countries. Looking at the export composition of South Asian countries technical regulations and sanitary and phyto-sanitary measures seem to be the most significant NTBs for their exporters. India, Pakistan and Bangladesh too have highlighted NTBs arising out of these measures as major hurdles in their submission to the WTO under NAMA negotiations. Besides, LDCs like Bangladesh who is getting preferential market access in developed countries have reported that RoO are discriminatory, unreasonable and inconsistent.

While TBTs are the primary reported barrier for T&C sector, SPS measures is the most frequently reported barrier for in case of marine product exports from South Asia. In T&C, labelling requirements by importing countries are emerge as being the most significant NTBs in terms of the volume of exports affected. As regards SPS measures, South Asian countries do recognise that risk to consumers is an important concern at an international level, but they claim that certain countries tend to establish onerous standards without first conducting comprehensive risk assessment work. These measures include chemical residue limits, disease freedom, and specified product treatment, amongst others. While SPS measures may serve legitimate purposes, the notifying countries report extra formalities, time, and costliness that restrict or inhibit exports. Obtaining SPS approvals also reportedly involves tedious and substantial documentation and bureaucratic procedures.

The future export expansion of South Asian countries depends upon how meaningfully and comprehensively Non Tariff Barriers are addressed in the present Doha round of

trade negotiations. So far no real progress has been made on NTBs under NAMA negotiations except vertical and horizontal proposals on NTBs by WTO member nations. However, these negotiations are not yet sufficiently advanced to propose either the adoption or rejection of modalities for specific proposals.

Annexure 1

Table 2.7 UNCTAD Coding System of Trade Control Measures

1000	TARIFF MEASURES
1100	Statutory Custom Duties
1200	MFN Duties
1300	GATT Ceiling Duties
1400	Tariff Quota Duties
1410	Low Duties
1420	High Duties
1500	Seasonal Duties
1510	Low Duties
1520	High Duties
1600	Temporary Reduced Duties
1700	Temporary Increased Duties
1710	Retaliatory Duties
1720	Urgency and Safeguard Duties
1900	Preferential Duties Under Trade Agreements
1910	Interregional Agreements
1920	Regional and Sub-Regional Agreements
1930	Bilateral Agreements
2000	PARA-TARIFF MEASURES
2100	Customs Surcharges
2200	Additional Taxes and Charges
2210	Tax On Foreign Exchange Transactions
2220	Stamp Tax
2230	Import Licence Fee
2240	Consular Invoice Fee
2250	Statistical Tax
2260	Tax on Transport Facilities
2270	Taxes and Charges For Sensitive Product Categories
2290	Additional Charges NES
2300	Internal Taxes and Charges Levied On Imports
2310	General Sales Taxes

2320	Excise Taxes
2370	Taxes and Charges for Sensitive Product Categories
2390	Internal Taxes and Charges Levied on Imports NES
2400	Decreed Customs Valuation
2900	Para-Tariff Measures NES
3000	PRICE CONTROL MEASURES
3100	Administrative Pricing
3110	Minimum Import Prices
3190	Administrative Pricing NES
3200	Voluntary Export Price Restraint
3300	Variable Charges
3310	Variable Levies
3320	Variable Components
3330	Compensatory Elements
3340	Flexible Import Fees
3390	Variable Charges NES
3400	Antidumping Measures
3410	Antidumping Investigations
3420	Antidumping Duties
3430	Price Undertakings
3500	Countervailing Measures
3510	Countervailing Investigations
3520	Countervailing Duties
3530	Price Undertakings
3900	Price Control Measures NES
4000	FINANCE MEASURES
4100	Advance Payment Requirements
4110	Advance Import Deposit
4120	Cash Margin Requirement
4130	Advance Payment Of Customs Duties
4170	Refundable Deposits For Sensitive Product Categories
4190	Advance Payment Requirements NES
4200	Multiple Exchange Rates
4300	Restrictive Official Foreign Exchange Allocation
4310	Prohibition Of Foreign Exchange Allocation
4320	Bank Authorisation
4390	Restrictive Official Foreign Exchange Allocation NES
4500	Regulations Concerning Terms Of Payment For Imports

4600	Transfer Delays, Queuing
4900	Finance Measures NES
5000	AUTOMATIC LICENSING MEASURES
5100	Automatic Licence
5200	Import Monitoring
5210	Retrospective Surveillance
5220	Prior Surveillance
5270	Prior Surveillance For Sensitive Product Categories
5700	Surrender Requirement
5900	Automatic Licensing Measures NES
6000	QUANTITY CONTROL MEASURES
6100	Non-Automatic Licensing
6110	Licence With No Specific Ex-Ante Criteria
6120	Licence For Selected Purchasers
6130	Licence For Specified Use
6131	Linked With Export Trade
6132	For Purposes Other Than Exports
6140	Licence Linked With Local Production
6141	Purchase Of Local Goods
6142	Local Content Requirement
6143	Barter Or Counter Trade
6150	Licence Linked With Non-Official Foreign Exchange
6151	External Foreign Exchange
6152	Importers' Own Foreign Exchange
6160	Licence Combined With Or Replaced By Special Import Authorisation
6170	Prior Authorisation For Sensitive Product Categories
6180	Licence For Political Reasons
6190	Non-Automatic Licensing NES
6200	Quotas
6210	Global Quotas
6211	Unallocated
6212	Allocated To Exporting Countries
6220	Bilateral Quotas
6230	Seasonal Quotas
6240	Quotas Linked With Export Performance
6250	Quotas Linked With Purchase Of Local Goods
6270	Quotas for Sensitive Product Categories
6280	Quotas for Political Reasons

6290	Quotas NES
6300	Prohibitions
6310	Total Prohibition
6320	Suspension of Issuance Of Licences
6330	Seasonal Prohibition
6340	Temporary Prohibition
6350	Import Diversification
6370	Prohibition for Sensitive Product Categories
6380	Prohibition for Political Reasons (Embargo)
6390	Prohibitions NES
6600	Export Restraint Arrangements
6610	Voluntary Export Restraint Arrangements
6620	Orderly Marketing Arrangements
6630	Multifibre arrangement (MFA)
6631	Quota Agreement
6632	Consultation Agreement
6633	Administrative Co-Operation Agreement
6640	Export Restraint Arrangements on Textiles Outside MFA
6641	Quota Agreement
6642	Consultation Agreement
6643	Administrative Co-Operation Agreement
6690	Export Restraint Arrangements NES
6710	Selective Approval of Importers
6700	Enterprise-Specific Restrictions
6720	Enterprise-Specific Quota
6790	Enterprise-Specific Restrictions NES
6900	Quantity Control Measures NES
7000	MONOPOLISTIC MEASURES
7100	Single Channel For Imports
7110	State Trading Administration
7120	Sole Importing Agency
7170	Single Channel For Sensitive Product Categories
7200	Compulsory National Services
7210	Compulsory National Insurance
7220	Compulsory National Transport
7900	Monopolistic Measures NES
8000	TECHNICAL MEASURES
8100	Technical Regulations
8110	Product Characteristics Requirements

8120	Marking Requirements
8130	Labelling Requirements
8140	Packaging Requirements
8150	Testing, Inspection and Quarantine Requirements
8160	Information Requirements
8170	Requirement Relative to Transit
8180	Requirement to Pass Through Specified Customs
8190	Technical Regulations NES
8200	Pre-Shipment Inspection
8300	Special Customs Formalities
8400	Return Obligation
8900	Technical Measures NES

Endnotes

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Chapter 3

Services Trade Negotiations after WTO Hong Kong Ministerial *The South Asian Perspective*¹

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1. Introduction

The service sector now constitutes about 50 percent of South Asia's gross domestic product (GDP) and is the second largest source of employment in the region. In all the South Asian countries, for which information is available, viz. Bangladesh, India, Pakistan, and Sri Lanka, the growth of the service sector has been faster than the overall GDP growth. Between 1995 and 2003, India registered an expansion of services value added by a staggering US\$ 108 billion. The corresponding figures for Bangladesh, Pakistan and Sri Lanka are US\$ 9 billion, US\$ 11 billion and US\$ 3 billion respectively. The South Asian countries have also witnessed their service sector growing at a rate much faster than the world services output growth. During 2000-03, services in the South Asian region grew at an average rate of 6.7 percent per annum as against of only 3.3 percent in the world economy. More importantly, services trade has also become important for the countries in the region. The total value of service trade in 1995 was US\$ 26 billion, which increased to US\$ 51 billion in 2003, half of which was services exports.

Remittances sent by nationals working abroad are the significant source of foreign exchange earnings in South Asian countries, implying the importance of labour-based services exports. Currently, the remittances-GDP ratio for Bangladesh is estimated to be about six percent, while the comparable figures for India, Pakistan, and Sri Lanka are about three, five, and eight percent respectively. It needs to be mentioned here that a significant proportion of remittances sent to these countries is channelled through the informal mechanism e.g. *hundi* (an informal money or value transfer system) and thus is not included in the official record. The inclusion of remittances sent through the informal channel would further have significantly amplified the importance of remittances in GDP, as there is a general perception that informal sources could comprise 25-50 percent of all money sent by the people working abroad.

India is by far the most prominent player in services trade amongst the South Asian countries. In fact, during the 1990s India had the highest growth of the services exports amongst the world economies. It has been estimated that between 1996 and 2000, India's revealed comparative advantage in services exports increased by 74 percent. Its services trade is also much more diversified compared to any other country in the region with business services, including software exports, finance, communication, management and consultancy services growing rapidly.

In general, low-skilled and semi-skilled workers dominate the labour endowment in Bangladesh, India, Pakistan, and Sri Lanka. Consequently, the export of services from these countries is dominated by Mode 4 exports, i.e. movement of natural persons. Currently, more than three million Bangladeshis, 20 million Indians, three million Pakistanis and 1.2 million Sri Lankans are working abroad. If one goes beyond the broad feature of relatively less skill composition of this migrant workers' pool, it becomes evident that India is an important exporter of skilled manpower. While Sri Lanka used to be a source of professionals and skilled workers, in relatively recent times the composition of its migrant labour force has changed.

Apart from Mode 4, Mode 1, i.e. cross-border supply is important for India because of rapid growth in business process outsourcing (BPO) and Information Technology (IT)

services, in which the country has a great comparative advantage. Mode 2, i.e. consumption abroad is becoming increasingly important for India. In fact, India is an attractive place for temporary movement of people for medical treatment (health tourism) and for academic pursuit. According to one estimate, five countries in Asia, namely, India, Thailand, Malaysia, Jordan, and Singapore, attract 1.3 million medical tourists, and medical travel spending is growing very rapidly (UNCTAD, 2004). Given the low cost and quality of medical services, India is likely to gain further from this sector. India has also become an important regional destination for medical and educational services. India, Nepal and Sri Lanka also attract a large number of tourists and thus have tremendous scope to export travel and tourism services.

Indian firms are also becoming source of foreign direct investment (FDI) flows, and services now constitutes about 45 percent of total FDI flows from India (Chanda, 2005). A US\$2bn investment proposal in Bangladesh from a leading Indian industrial group is being negotiated while some Indian companies have already set up overseas subsidiaries e.g. the establishment of the Apollo Hospital in Dhaka. It goes without saying that in software, health, and education related services there is a very big potential for commercial presence by Indian firms.

The upshot of the aforementioned discussion points to the fact that, apart from India, the scope of services export for other South Asian countries is largely concentrated in Mode 4. On the other hand, India has an interest in all modes of services trade, and its exporting opportunities also appear to be well diversified across developed, developing, and regional markets.

Against this backdrop it can be mentioned that there is significant scope for the South Asian countries for taking common position in the case of services, especially with respect to the Mode 4. As has been mentioned before, all these South Asian countries have large endowment of low and semi-skilled labour, and the remittance incomes from the low and semi skilled labour have significant shares in their national incomes.

2. Services Trade in South Asia

Going by the recent global trend, the South Asian region comprising Bangladesh, India, Pakistan, Sri Lanka and Nepal have by now experienced a significant shift in the structure of economy towards dominance of the services sector (from the traditional sectors of agriculture and industry) in national production and employment. Table 3.1 suggests that, with the exception of Nepal, the contribution of the services sector to GDP is above 50 percent in individual South Asian countries with the sector gaining further prominence. Moreover, with the dominance of India, South Asia does not lag behind the significant growth of world services trade over trade in merchandise commodities.

Table 3.1: Sectoral Composition of GDP: South Asian Countries									
Countries	Services			Industry			Agriculture		
	1990	2000	2004	1990	2000	2004	1990	2000	2004
Bangladesh	48	51	52	22	24.7	27	30	24.3	21
India	41	48.9	52	28	27.1	27	31	24	21
Nepal	32	–	37	16	–	23	52	–	40
Pakistan	49	48.9	53	25	24.9	25	26	26.2	22
Sri Lanka	48	52.1	55	26	27.3	27	26	20.6	18
South Asia	43	49.2	52	27	26.7	27	31	24.2	21
<i>Source: World Bank (2006) and Chanda (2005)</i>									

For the period 2000-04, the growth rate of South Asian services sector (7.5 percent) outperformed the other sectoral growth rates within the region and against a 2.3 percent world average rate of growth of services output.

Among the different services categories, South Asian success lies in the sectors like IT, BPO, tourism, banking, construction etc., especially in the manpower based services export. South Asian region is the second largest remittance recipient area in the world having a remittance-GDP ratio of 20 percent (Chanda, 2005). In recent years, India has emerged as an important source of ‘Call for Services’ in business performance. From regional perspective, there are shifts towards business and various deregulated infrastructure services where private participation has increased considerably.

There are numerous trade barriers against the service sector, which, if removed, would have resulted in huge welfare gains for all countries, especially in sub-sectors within the services trade where there exist comparatively more restrictions, like Mode 4, liberalisation is supposed to bring in the highest possible gain. For example, Winters (2003) found that if developed countries increase their quotas by three percent of their labour force, then there would be gains of US\$150bn from the liberalisation of labour mobility alone. Furthermore, liberalising the FDI inflows in services sector would result in significant gains for the South Asian countries as well.

The contribution of the services trade in South Asian total trade is increasing over time, more than doubling in actual amount during 1995-2003 (from US\$26bn to US\$51bn). In terms of proportion, within 2000-03, services trade was on average one-fourth of the regional total trade flows (Chanda, 2005). Considering individual country performance, as reflected in Table 3.2, there is an increasing contribution of services in country’s total trade, and for India, Sri Lanka and Nepal, the figures are quite impressive. Workers remittances are gaining importance overtime for all economies of the region, especially for the low-income countries, reflecting the significance of labour-based services exports (Table 3.3). As an additional feature of service trade of the region, there is a compositional shift in Indian services trade from travel and transport based to more business related services like IT, ‘Call for Services’ and various professional services (UNCTAD, 2005).

Table 3.2: Significance of Services in Total Trade (% of country's total trade)						
Country		2000	2001	2002	2003	2004
Bangladesh	Services exports	11	11	12	13	12
	Services imports	17	16	15	15	16
India	Services exports	28	28	28	28	29
	Services imports	26	28	28	27	25
Pakistan	Services exports	14	14	20	20	17
	Services imports	19	19	18	22	24
Sri Lanka	Services exports	15	22	21	22	-
	Services imports	20	25	22	22	-
Nepal	Services exports	39	36	33	35	-
	Services imports	11	13	14	14	-
<i>Source: UNCTAD (2005)</i>						

Table 3.3: Importance of Workers Remittances (% of GDP)					
Country	2000	2001	2002	2003	2004
Bangladesh	4.2	4.5	6	6.1	6.8
India	2.6	2.3	2.7	2.9	3.0
Pakistan	1.5	2.0	5.0	4.8	4.0
Sri Lanka	9.0	9.0	9.0	10.0	-
Nepal	2.0	2.0	11.0	13.0	-
<i>Source: UNCTAD (2005) and Chanda (2005)</i>					

In general, all the four modes of services trade negotiations are important for India. Within South Asia, the growing importance of services trade is basically driven by the Indian comparative advantage in this sector. For example, according to the revealed comparative advantage ratio, the South Asian stand is basically driven by the Indian performance. Furthermore, during the last decade, the growth rate of Indian services trade was the highest among all other countries: an average annual growth rate of 17.3 percent during 1990s, compared to 15.8 percent in China, 8 percent in Taiwan and the world average being 5.6 percent. Between 1997/98 and 2001-02, this was 23 percent (Chanda, 2005).

South Asian countries' large labour endowment, including low-skilled, semi-skilled, high skilled categories, places the regional comparative advantage in exporting labour based services under the Mode 4 of WTO's General Agreements on Trade in Services (GATS), i.e. temporary movement of natural persons category. Some country specific features are presented in this study.

From the statistical point of view, the contribution of services trade under Mode 4 is the lowest in world trade in services. The Mode 4 category has horizontal rather than sector specific commitments and that includes limitations for 100 countries as opposed to four

countries for Mode 2. However, India is a dominant player in this narrow field too. Export of professionals, especially health workers and IT professionals from India is a significant portion of the international workers in the developed countries like Canada, US and Australia. For example, in US, a quarter of the total professional immigrants are Indians while in the context of Canada, India has been ranked as 2nd (Chanda, 2005). As a source country, India dominates in three major categories of manpower exports, specialty occupations (based on professional education, skills and experiences), registered nurses and entertainers in culturally unique programmes (CUTS, 2004). Another significant portion of Indian migrants are the low-skilled or semi-skilled category, majority of whom are working in the Middle East countries, like Saudi Arabia, Kuwait, UAE, Oman, Bahrain and others, dated from oil-driven boom. In general, majority of these categories of workers are employed in construction related jobs or for domestic help. On the whole, more than 20 million Indian migrants are living abroad who generate US\$400bn worth of output annually an equivalent of 80 percent of Indian GDP (India Today, 2002).

Indian export of IT professionals has been driven by the IT boom in the US market during early 1990s with a shortage of skilled labour force. Gradually, there has been an increased demand for Indian IT professionals in markets like Japan, Germany, Austria and Singapore. In terms of the institutional arrangements, Indian government policy is supportive to the high skill categories of manpower exports and they are not required to get any emigration clearance. At present, there is a common trend among the professional migrants from India to developed countries, especially US, in seeking entrance to the permanent labour market.

About 1.2 million Sri Lankan workers are working abroad of which 70 percent is employed in the Middle East countries (CUTS, 2004). The specialty of the Sri Lankan manpower export among the South Asian countries is the dominance of female migrants. In 2001, 68 percent of the 183,888 total migrants were female workers. There are both high skilled and low skilled migrants, but most of the female migrants are employed as housemaids, i.e. 56 percent of the total in 2001 (Chanda, 2005). Provisions for training programmes for the semi-skilled and low-skilled migrants under government initiatives are designed to promote foreign employment and the Sri Lanka Foreign Employment Bureau works for protecting the interest of the migrant workers.

According to the government estimates of 1999, about 3.18 million Pakistanis are working abroad, like other countries of the region; Middle East is the major destination for low skilled migrants from Pakistan. On the other hand, considering the high skilled and professional categories, Pakistan is an important source in the industrialised country markets, and was ranked 3rd in Canada.

In case of Bangladesh, the primary destination of the low and semi-skilled workers from the country is Middle East, although the choice for relatively skilled workers has been shifted to some East Asian countries like Malaysia. Going beyond the underestimated official statistics, about 3.2 million Bangladeshi people are working abroad (Blanchet *et al* 2005) with major occupations being construction labour, domestic maid, engineers, health workers and nurse. Bangladesh government regulates the outflow of workers through the Bureau of Manpower, Employment and Training, although their works unofficial channels of manpower export as well.

Among the South Asian countries, India dominates almost all the modes of services trade with its more matured service sector in comparison to other regional partners. At present, there is a growing importance of services trade under Mode 1, or cross-border supply of services with the country's well performing IT sector. India is considered as the most competitive in providing BPO services in terms of volume of services delivered and firm level capabilities. The annual growth rate of this sector in India is 50 to 60 percent and forecasts indicate that this will continue to increase Indian share of the global BPO from 2 percent in 2003 to 4.8 percent in 2008 (Chanda, 2005). Considering the other modes of services trade, India is in a position to be benefited from liberalisation process. Education and health services under Mode 2 or, consumption abroad criteria is made attractive through better service quality and cost effectiveness. Further, both in the case of FDI inflow and outflow in services sector, India is leading the South Asian region and at the same time making a global stand.

3. Development Elements in WTO's GATS

There are important development elements in GATS. Under GATS, the WTO Members are free to choose the sectors, modes of supply and regulatory conditions in which market opening commitments are made. Furthermore, GATS allows its member countries in integrating the multilateral trading system (MTS) at their own pace and in accordance with their national priorities and objectives. Because of such features of GATS, the Agreement is often described as the most "development-friendly" of all Uruguay Round agreements.

A number of GATS' provisions place special focus on the specific needs and problems faced by developing countries in services trade. For example, in the GATS' Preamble it is highlighted that the developing countries may have particular needs to regulate their services markets in line with their national policy objectives. Furthermore, Article IV underscores the need for devising practical mechanisms with the aim of enhancing the participation of the developing countries in world trade in services. More specifically, this article calls for improved access of the developing countries to information networks and distribution channels in order to achieve that aim.

In an analogous manner, Article XIX, which lays the foundation of the modalities guiding the ongoing multilateral negotiations on services states: *"there shall be appropriate flexibility for individual developing country members, and especially least developed countries, to open fewer sectors, liberalise fewer types of transactions, extend market access in line with their development situation and attach conditions aimed at strengthening their domestic services capacity and competitiveness"*. Finally, GATS calls on developed countries to lift restrictions from sectors and modes of supply of export interest to developing countries.

4. Services Trade Liberalisation and Poverty Alleviation

It has been argued that liberalisation in the service sector, especially allowing temporary movement of natural persons, can have a vital role in the alleviation of poverty. It has been estimated that liberalising the movement of natural persons, i.e., by introducing a temporary visa system in rich countries permitting movement of labour up to three

percent of the total labour force, would increase world incomes by nearly US\$160bn (Winters and Walmsley, 2002). However, regarding the liberalisation of the movement of natural persons little progress has been achieved so far in the WTO negotiations. The agreements so far achieved in the WTO negotiations – and in various regional talks like the North American Free Trade Agreement (NAFTA) and the EU's agreements with East European countries – mostly concerned with relatively highly skilled workers (McCulloch, *et. al.* 2001). In fact, McCulloch, *et. al.* (2001) argue that when skilled personnel leave a developing country for a developed one, typically their incomes get increased significantly. This contributes to raising the national income of the developing country, but its poverty implication is not so clear. Since skilled workers were initially non-poor, it does not entail direct contribution to poverty alleviation. But, if the higher incomes of these skilled workers lead to greater remittances in the developing country, there could be a positive effect. Furthermore, working abroad may facilitate individuals to acquire greater skills and these benefits would be doubled if they eventually returned home.

On the contrary, liberalising the movement of low-and medium-skilled workers from the developing countries to the developed one is a far more secure route to general income growth and poverty alleviation in the developing countries. As because, developed countries are poorly endowed with low-and medium skilled people, the income increase for these people is likely to be proportionately larger and by moving, they also reduce the over-supply of labour at home. Moreover, far more workers would potentially be affected at the less skilled than at the highly skilled end of the spectrum. Thus, it is argued that developing countries should concentrate their negotiating efforts on the free movement of natural persons.

5. Services Trade: Existing Barriers and Scope of Liberalisation

Immigration regulations and barriers related to visa and work permit procedures are one of the major restrictions of services trade liberalisation, especially under Mode 4 of services trade. In most of the cases, no distinction has been made between temporary and permanent movement of workers and the process involves complicated, non-transparent and costly steps through labour market regulations. Even sometimes, temporary workers have to undergo a two-permit entry procedure: one for visa and the other for work permit. The restrictions and regulations get more demanding for the developing and LDCs due to their existing administrative barriers. Moreover, service trade barriers for developing country suppliers are more binding than those for developed country suppliers in each other's market.

In terms of migration regulations, the developed countries are biased towards high skilled workers and it is relatively easier to obtain visa for intra-company transferees and those associated with establishment of commercial presence. In general, movement of low skilled workers is the most restricted one. There are barriers in terms of Economic Needs Test, which restricts the market driven process of free movement of natural persons. Lack of clearly established criteria of service providers make the process unpredictable, non-transparent and therefore create arbitrary barriers to Mode 4.

The evaluation process of quality and skills of workers in the developing countries and LDCs is considerably underscored. Domestic constraints like lack of uniformity in training

and standards within the country upgraded the recognition requirements for the developing and LDCs. To assess qualification and skills, some countries apply Mutual Recognition Agreements (MRAs), which is mostly used for certified and licensed professionals who already have internationally established standards. There are different testing procedures like United States Medical Licensing Examination (USMLE) for medical professionals and Commission on Graduates of Foreign Nursing Schools (CGFNS) for nursing in the developed countries like US prior to providing licence for job to foreigners.

In some cases, the host country discriminates Foreign Service providers against domestic service providers in terms of tax or some other requirements. At present, US has higher tax requirement for foreigners for their services trade. Further, the services trade under Mode 1 or cross border service provision faces barrier with the application of some 'data protection laws' in some developed countries.

The above-stated reasons act as barriers to service trade liberalisation, especially for the South Asian developing countries and LDCs affecting their areas of comparative advantage. In addition to service categorisation and classification problems, commitments under Mode 4 are the least in WTO services negotiations and after the incident of 9/11, 2001, there is not much scope for considerable liberalisation in this regard.

Among the current initiatives, India proposed a GATS visa that is distinct from other visitors as a horizontal commitment. The country also requested elimination of all forms of economic needs test, labour market test and nationality and residency requirements. The initial communications included greater market access provisions beyond higher skilled categories, ensuring transparency, special administrative provision e.g. GATS visa, work permit etc. However, there is much left to be done in terms of country specific negotiation strategies and capacity building for negotiations to foster South Asian services trade.

6. Review of the Hong Kong Ministerial Outcomes

The issue of trade in services is often termed as the least controversial among WTO negotiations. However, because of a sluggish progress achieved in services talks even after the mandated renewed negotiations beginning from 2000, in the July Framework members were urged to make 'high quality of offers', with a view to ensuring 'substantive outcome' particularly in sectors and modes of supply of export interest to developing countries, with special attention to be given to LDCs. Members were also supposed to 'aim to achieve' progressively higher levels of liberalisation with no prior exclusion of any service sector or mode of supply and to give special attention to sectors and modes of supply of export interest to developing countries. Members also fixed a new date of May 2005 to table revised offers.

In the Hong Kong Ministerial Declaration, Members agreed to intensify the negotiations on services 'with a view to expanding the sectoral and modal coverage of commitments and improving their quality' (paragraph 27). In this document, the service sector trade negotiations are placed from a development perspective for all the member countries. The Declaration specifies special provisions for the developing and LDCs.

Annex C of the Hong Kong Ministerial Declaration provides the guideline for future negotiations with specified objectives to facilitate services trade liberalisation under the four modes of negotiation. There are several interesting features associated with the Hong Kong Ministerial Declaration, including:

- The Hong Kong Declaration, for the first time, explicitly recognised that LDCs are not expected to undertake new commitments in services negotiations (paragraph 26). This provision is to protect LDCs from liberalising sectors where they do not wish to make a commitment.
- Members also committed to developing methods for full and effective implementation of the Modalities for the Special Treatment for LDCs in the negotiations on Trade in Services, i.e. LDC Modalities (paragraph 25 and item 3 in Annex C). LDC Modalities should therefore be an important instrument and the basis for their participation in services negotiations.
- Members are supposed to develop appropriate mechanisms for according special priority to sectors and modes of supply of export interest to LDCs (item 9 (a) in Annex C). Although this provision is a mere reaffirmation of what is already provided for in the LDC modalities, it reflects members' commitment to resolve it before July 31, 2006. It may be noted that the concept of special priority in trade in services has not been tested or operationalised. Unlike trade in goods, where under the legal cover of enabling clause developed country members can provide preferential market access to LDCs, there has not been any such mechanism in services trade. The LDC Modalities, reaffirmed by the Hong Kong Declaration, provided the LDCs an opportunity to work out a framework so that they receive special preference in market access of their services and service suppliers.
- The Declaration has emphasised on assisting developing countries and LDCs to enable them to identify sectors and modes of supply that represent development priorities. The full and effective implementation of the LDC Modalities also calls for providing targeted and effective technical assistance and capacity building for LDCs.
- It has been clearly stated that amongst others the targeted technical assistance should be provided through the WTO Secretariat 'with a view to enabling developing and LDCs to participate effectively in the trade negotiations' (item 10 in Annex C).
- Another important inclusion in the Declaration was the reference to give particular attention to sectors and modes of supply of export interest to developing countries (paragraph 27). The Declaration also urged members for new and improved commitments on the categories of Contractual Services Suppliers, Independent Professionals and Others, de-linked from commercial presence, to reflect *inter alia*, removal or substantial reduction of economic needs tests (item 1(d) in Annex C).
- The Declaration reiterates the scope of appropriate flexibility for individual developing countries as provided for in Article XIX of the GATS. This implies a special consideration that the LDCs can make, to take into account the individual interests of the developing countries while designing negotiation strategies.
- Members have been asked to develop disciplines on domestic regulation as mandated under Article VI: 4 of the GATS before the end of the current round of negotiation and there was a call on members to develop text for adoption.
- Members in the Hong Kong Ministerial agreed to pursue plurilateral approach to request-offer negotiations in addition to the traditional bilateral approach to negotiations. Plurilateral requests will be addressed directly from the demands to other members to whom these are made. The WTO Secretariat is not systematically

informed of such requests or their content. Exchanges in those meetings are strictly private, unless otherwise provided for by participants. As stipulated in the Hong Kong Ministerial Declaration, members will organise such meetings with a view to facilitating the participation of all members, taking into account the limited capacity of developing countries and small delegations.

Additionally, commitments have been set to reduce the most-favoured nation (MFN) exemption list and to set duration for the remaining ones. There has been a call for setting timelines and mandates on rule-making regarding emergency safeguard measures, government procurement and balance of payment considerations and developing a working definition of subsidies in services for enhancing necessary exchange of information on multilateral basis.

7. Issues in the Services Trade Liberalisation: The South Asian Perspectives

Given the features discussed above, the focus of the present study is on the developmental elements in services negotiations from the perspectives of the South Asian countries' interest. Here some issues of specific interest are presented to fulfil this objective.

7.1 Operationalisation of Article IV (Special & Differential Treatment) of GATS

As has been mentioned before, there are a number of general flexibilities in the GATS (OECD, 2006). These flexibilities include the followings:

- i) members may exclude an entire sector or parts of a sector from their commitments;
- ii) members are free to define the sector as they wish –and may refer to a list developed for the GATS negotiations, or the United Nations Central Product Classification to which the GATS list refers, or may use their own definitions;
- iii) members may also exclude some modes of supply, or apply special conditions to particular modes of supply across all sectors in their schedules;
- iv) members may place limits on the market access they offer provided they list them in their schedules;
- v) members may discriminate against foreign providers in favour of nationals provided that they list any such measures in their schedules;
- vi) members may discriminate among foreign suppliers if they have a MFN exemption for the relevant service or are party to a regional trade agreement notified under Article V;
- vii) members may commit to providing less access than they currently provide in their market; and
- viii) members may commit to liberalising at a chosen future date, rather than immediately.

Article IV of GATS stresses that in order to increase the participation of the developing countries in world services trade there is a need to: (i) strengthen domestic services capacity of these countries and its efficiency and competitiveness, *inter alia* through access to technology on a commercial basis; (ii) improve these countries' access to distribution channels and information networks; and (iii) liberalise market access in sectors and modes of supply of export interest to them. Such calls were re-emphasised

in the Doha Development Round as well as in the July framework. In the Hong Kong Ministerial, it was again highlighted to give particular attention to sectors and modes of supply of export interest to developing countries.

It is, however, important to note that a large number of developing countries have been facing difficulties in identifying the sectors of their specific interests in the negotiations and the constraints to the expansion of their exports. Also, registering any meaningful liberalisation commitments in the negotiations has achieved little progress. There is a serious concern about the developing countries' lack of capacity to evaluate the requests received from other member countries and the development of their own requests and offers. With respect to formulating their own requests and offer the developing countries face the major challenge to determine their national policy objectives and the competitiveness of each sector or sub-sector. In case of the liberalisation of Mode 4 services, in the categories and skill levels of interest to developing countries, no real progress has been achieved so far. Even, no progress has been achieved so far with respect to streamlining or increasing the efficiency of processing mechanisms for visa and work permits.

7.2 LDC Modalities

There are a number of reasons why LDCs should receive special priority in the services trade liberalisation. These are as follows (South Centre, 2006):

- For LDCs, services continue to play a key role in the eradication of poverty because of their social, cultural, and welfare-enhancing functions.
- The services sector plays a crucial role in human development in the form of essential services.
- The pre-requisites for a strong services sector such as basic infrastructure, telecommunications, banking and financial services, entrepreneurial, and technical skills, administrative and institutional capacities, are still under-developed in most of LDCs.
- Expecting LDCs to compete in international trade in services on MFN basis (equal footing) with the rest of the WTO Membership, as provided for in the GATS, excludes them from the benefits that this trade presents.
- LDCs remain net-importers of services.
- LDCs have comparative advantages in provision of services through the movement of their natural services suppliers (Mode 4) in all skill levels. Typically, these services suppliers send remittances to their countries of origin. For LDCs, remittances have proved to be a major, and relatively stable, source of capital inflows.
- Special priority market access for LDCs is a critical first step in ensuring their beneficial participation in the international services economy.

One of the most important developments at Hong Kong Ministerial was the decision to pursue full and effective implementation of the modalities for the special treatment for LDCs in trade in services. It means developing methods for effective implementation of the LDC Modalities, including assisting LDCs to enable them to identify sectors and modes of supply that represent development priorities. The Hong Kong Declaration set out specific timeline for developing appropriate mechanisms regarding this, but there has not been any attempt made yet to meet the deadline of July 31, 2006.

In Annex C: 9 (a) of the Hong Kong Ministerial Declaration, it has been clearly written that members ‘shall’ develop mechanisms for according ‘special priority’ to ‘sectors and modes of supply of interest to LDCs’. And as of 11(e), there has been set a binding timeline of July 31, 2006 for members to complete the requirements. Providing effective access of LDCs’ services and services suppliers in the developed country markets, strengthening their domestic services capacity, efficiency and competitiveness through access to services technology on a commercial basis, providing information on ‘registration, recognition and obtaining of professional qualifications’ – all these were committed in the GATS article IV and followed up in LDC Modalities and Hong Kong Ministerial Declarations for implementation purposes.

In comparison to the goods market provisions for Special and Differential Treatment (S&DT) for LDCs, there is no such arrangement made under GATS negotiations as the achievements and documentations regarding the services trade focus on the developed countries having developing countries under special considerations, and LDCs exempted. According to the GATS document, the rules and commitments made will be applicable for all the members as a whole on an MFN basis. The implementation of LDC Modalities with S&DT provisions like goods market was one of the commitments of Hong Kong Declaration. Box 1 summarises the mandates for according especial priority for the LDCs.

Box 3.1: Summary of Mandates for According Special Priority
<ul style="list-style-type: none"> • GATS Article IV:3 provides special priority for LDCs • Paragraph 6, LDC Modalities requires Members to provide effective market access • Paragraph 7, LDC Modalities requires Members to develop appropriate mechanisms with a view to achieving full implementation of GATS Article IV:3 • Paragraph 47, Hong Kong Ministerial Declaration calls on Members to implement the LDC Modalities and give priority to sectors and modes of interest to LDCs • Paragraph 3, Annex C, Hong Kong Declaration calls for full and effective implementation of the LDC Modalities • Paragraph 9 (a), Annex C Hong Kong Declaration requires Members to develop appropriate mechanisms for according special priority in sectors and modes of interest in accordance with Article IV:3 and paragraph 7 of the LDC modalities • Paragraph 9 (b), Annex C, Hong Kong Declaration calls for undertaking commitments in sectors and modes of supply of interest to be identified by LDCs • Paragraph 11 (e), Annex C, Hong Kong Declaration provides a deadline for implementation of 9(a) of 31 July 2006
<i>Source: South Centre (2006)</i>

In March 2006, the LDC Group submitted a proposal to the Council of Trade in Services (CTS) in special session 13, aimed at creating a mechanism to accord special priority to market access in sectors and modes of LDC export interest. The proposal contended that there were no provisions under existing rules that would allow countries to accord ‘special priority’ to LDCs without having to extend it to all Members in order to comply with the WTO’s core MFN treatment obligation prohibiting discrimination among trading

partners. It argued that the Hong Kong mandate instructs Members to make this possible. To this end, it proposed the creation of a new mechanism which would allow Members to provide “non-reciprocal special priority... only to LDCs,” in areas of export interest to them. LDCs are particularly keen for instance on obtaining specific commitments providing Mode 4 quotas in favour of LDCs (South Centre, 2006).

The LDC proposal generated mixed reactions. Various concerns were raised, i.e. the legal form that such a mechanism would take, whether an amendment of the GATS was necessary, or the proposal had to be binding, inconsistency with the MFN principle; what special priority means in practice; whether bilateral approaches cannot solve the problem; and whether reporting to the CTS on unilateral processes would not suffice. Some developing countries were supportive of the LDC proposal, notably the African group. However, some others were wary of the introduction of preferences in the context of the GATS, arguing that this would divert their markets. On the basis of these questions, LDCs made responses at various sessions of the CTS. In the meeting, however, it became clear that developed countries would not support the proposal. They would not support a permanent legal exception to the MFN principle of the GATS. They argued that MFN is sacrosanct and as such, cannot be contravened (ICTSD, 2006a). Developed countries also argued that implementation of the proposal would be burdensome, as it would require a two-track regulatory regime for its administration. The Quad, headed by the European Communities, presented a counter proposal by way of room document. In essence, it was proposed that each member would submit a report indicating how their offers take LDC interests into account, and these reports would then be circulated to LDCs for comment, and a dedicated session of the CTS-SS would collectively assess them (South Centre, 2006).

Considering sectors and/or modes of supply of special interest of LDCs, there is a growing importance of temporary movement of natural persons under Mode 4. The growth of the services exports of LDCs on the whole, and of the South Asian LDCs in particular, is concentrated in this area with a large pool of low and semi-skilled labour force. Workers remittance is a significant portion of GDP of these countries and its upward trend helps reducing their dependence on foreign aid. However, this area of services trade is the most restrictive one having horizontal commitments rather than sector specific and almost in all cases exhibit the ‘unbound’ note in the negotiation list. As with the progress made in Hong Kong Ministerial Declaration, there was a hope for some negotiations towards Mode 4 liberalisation, but still there is no development in implementation procedures while the timeline set is almost reached.

There is not much difference in terms of commitments made by the developed and developing countries so far regarding modes of supply. However, most of the developing countries have their commitments in the Modes 1 and 3, while a lesser extent for Mode 2. Further, there arise distinctions in terms of the number of commitments made by the Uruguay Round Members and the Members joined afterwards: it has been observed that new Members undertook broader commitments.

On the whole, the LDC policy stance should focus on negotiations relating to the ‘non-reciprocal’ Mode 4 liberalisation, separation of temporary from permanent movements of natural persons, and to go for plurilateral negotiations with the developing countries

to place the request for multiple entry GATS visa. Further, there should be requests for provisions to bring uniformity in definition of service personnel and to increase coverage.

7.3 Market Access Problems

It has been explored in many studies that of the four modes of supply, the Mode 4 is the most important one for the developing countries and the LDCs. However, market access under Mode 4 is the most limited and still there has not been much progress achieved. In principle, there have been placed a number of proposals relating to the liberalisation of labour market, albeit the basic causes of limitation includes the administrative barriers relating to immigration policies, quota on visas, mutual recognition of qualifications of the workers. Besides, barriers like economic needs tests or the local needs test also put constraints against the movement of labour in the developing countries and LDCs. Developing countries like India have their growing interest in negotiations regarding services trade under Mode 3 incorporating movement of professionals.

It is noteworthy that unlike the goods market, where increased market access is used to mean increased tariff cut, market access in the services sector is much complicated and requires special consideration. Therefore, the progress in terms of negotiation process, rather than specified 'substances' cannot be underscored.

The Service Provider Visa (SPV) proposal placed for greater market access incorporates short term company visits, short term visits to fulfil contracts either as part of juridical entities or independently, and does not cover employment based movement. Further, the emphasis of negotiation in the high skilled and at least minimally qualified persons neglects many of LDC's and developing countries' comparative advantage. To foster the negotiation under Mode 4 market access, it is the only way not to lower the skill category to make any progress. Therefore, developing countries and LDCs should prepare for submitting proposals highlighting the sectors of their interest for consideration of the negotiators focusing on issues like inclusion of the less skilled through contractual service suppliers under a new sub-category, addressing definitional and classification issues, non-uniform enforcement issues regarding SPV and to develop a revised model schedule to incorporate lower skill categories of service providers. At the same time, developing countries and LDCs should take into consideration the need for (and costs of) commitments to liberalise their own markets in response to their requests to other countries. The LDCs may seek for the special provisions under LDC Modalities, in terms of 'non-reciprocal treatment'.

7.4 Technical Assistance

In the Hong Kong Declaration and in GATS Agreement, special emphasis has been given on the targeted technical assistance with a view to enabling developing countries and LDCs to participate effectively in the negotiations. The full and effective implementation of the LDC Modalities also calls for providing targeted and effective technical assistance and capacity building for LDCs. It has been clearly stated that amongst others the targeted technical assistance should be provided through the WTO secretariat. However, there is no such initiative from the developed country members to consider the special priority sectors in relation to needs of the LDCs and the developing countries. A more careful reading reveals that the development initiatives relating to market access are either objectives for commitments or, procedural under the request-

offer approach. There is a lack of developing country and LDC initiatives to prepare a negotiable ground and it is quite reasonable that without proper technical assistance many of the developing countries and LDCs will not be able to come out identifying areas most important for negotiation for them within such a short time frame. In the case of evaluating or formulating requests and offers, there is a need to look into the kind of capacity available in the ministry and the technical assistance needed.

It is recognised from the outcome of negotiations on telecommunications that technical assistance benefits countries to come up with specific negotiation schedules. For the developing countries, and especially the LDCs, there lies much importance of the proposed direct technical assistance programme for negotiations by five intergovernmental agencies incorporating WTO Secretariat itself, UNCTAD, International Trade Centre (ITC), the World Bank and International Telecommunication Union (ITU).

The complications relating services trade negotiations call for developing countries and LDCs to know ways to deal with intricate matters associated with specific details of various provisions. It is also important for policy makers to be able to assess the potential implications arising out of certain provisions. Furthermore, taking effective participation in services trade may require enacting the necessary domestic regulations in place. All these will require technical assistance to LDCs and developing countries, and their effective utilisation.

7.5 Domestic Regulations

Domestic regulation has its importance in protecting national policy objectives with a reservation of not to be applied as a means for undue trade restrictions. Regulation can protect consumers through ensuring quality and appropriateness of services in the midst of a wide range of providers under progressive services trade liberalisation. Regulatory measures can be applied to limit anti-competitive practices that may arise from market penetration by dominant foreign firms. There is a rising concern about repatriation of profits, which may result in serious balance of payments crisis for many LDCs and developing countries. Therefore, these governments can regulate this capital outflow by imposing restrictions, like investing in the local securities market, as a measure against potential balance of payments shocks. The measures of domestic regulation should aim at ensuring a healthy environment for capital inflows in terms of attracting FDI and also offer a friendly mechanism incorporating domestic and foreign services providers.

Article VI.4 of GATS is related to Domestic Regulation, which highlights the right of Members to regulate and to introduce new regulations, governing the supply of services within their territories in order to meet national policy objectives. Also in the preamble of GATS, given the existing asymmetries with respect to the degree of development of services regulations in different countries, the particular need of developing countries to exercise this right has been recognised. Paragraph 7 of the Doha Ministerial Declaration reaffirms the right to regulate and introduce new regulations governing the supply of services. In Hong Kong Ministerial, Members have been asked to develop disciplines on domestic regulation as mandated under Article VI: 4 of the GATS before the end of the current round of negotiation in December 2006 and there was a call on Members to develop text for adoption. However, in presence of confusions among the developing

countries (let alone the LDCs) about the appropriateness of development friendly, or set back strategies, and the need for capacity building in this line to come up with a suitable policy framework, the timeline that was set was unrealistic.

In June 2006, developed and developing countries submitted what a WTO official characterised as a ‘critical mass’ of formal and informal proposals on a broad set of issues relating to the disciplines (ICTSD, 2006a). All the submissions stressed the need to strike a balance between respecting Members’ right to regulate and curbing regulatory measures that could potentially undermine market access. One area where this tension is particularly evident is in the sensitive debate over the so-called ‘necessity test’ for regulatory measures. While the GATS mandate stipulates that qualification and licensing requirements should not be “more burdensome than necessary to ensure the quality of a service”, some Members are concerned that such a test may constrain their ability to introduce regulations, which seek to implement national policy objectives that go beyond simply ensuring the quality of a service.

Many LDCs as well as developing countries lack established and well functioning regulatory and institutional frameworks. As for policy stance, there lies common position for the developing countries and the LDCs as to place the need for adequate time to come up with appropriate domestic regulation policies considering the specific economic requirements and at the same time to ensure necessary technical assistance for capacity building in this line. There should also be considerations regarding ensuring adequate regulatory flexibility for LDCs as well as developing countries and possible future disciplines to promote developing countries’ and LDCs’ export capacities and opportunities.

The provisions for domestic regulation in GATS article VI: 4 apply horizontally for all sectors. Sector specific priorities, e.g. telecommunications, are the potential ones for future consideration. Additionally, the provisions under article VI: 1, 2 or 3 generate some overlapping with market access and national treatment articles, and therefore may result in disciplines creating legal uncertainty. The quantitative maximum set to limit market access and the qualitative minimum under domestic regulation provisions should be distinguished clearly to avoid such confusions.

According to GATS document (Article XIX), the developing countries are allowed with appropriate flexibility in an individual country basis for negotiation. This implies that the LDCs should consider the country specific interests of the developing countries to take proper policy stance. Finally, disciplines in WTO Members’ domestic regulation should facilitate Mode 4 commitments, ensuring that technical standards and licensing procedures were not unnecessarily burdensome, and establishing effective mechanisms to recognise foreign qualifications.

7.6 Plurilateral Negotiations

Members in the Hong Kong Ministerial agreed to pursue plurilateral approach to request-offer negotiations in addition to the traditional bilateral approach to negotiations. Plurilateral requests will be addressed directly from the demandeurs to other members to whom these are made. Under the plurilateral negotiations, any Member or group of Members may present requests or collective requests to other Members in any specific

sector or mode of supply, identifying their objectives for the negotiations in that sector or mode of supply. Moreover, plurilateral negotiations should be organised with a view to facilitating the participation of all Members, taking into account the limited capacity of Developing Countries and smaller delegations to participate in such negotiations.

After the Hong Kong Ministerial, plurilateral meetings took place during March-April 2006 to discuss and negotiate the requests. Available information suggests that 22 collective requests were placed and discussed between demandeurs and 'demandees', i.e. the countries receiving the requests. Of these, 16 were sector specific, 3 were related to modes of supply (including Mode 4), and the final three were concerned about the elimination or reduction of existing exemptions from MFN treatment (ICTSD, 2006a). Amongst the developed countries, Japan participated in 13 requests, while EU and US joined in 12. Hong Kong, from the developing world, showed the strongest offensive interest in services trade participating in 11 requests followed by Mexico (10), Singapore (9), and Chile (8). In computer and related services, and in those on Mode 4 and cross border services through Modes 1 and 2, India participated in the plurilateral requests. India received 15 requests in opening up the key sectors like, financial services, telecom, energy, legal, maritime, retail, education, environment and construction. In the plurilateral meetings the plurilateral requests on Mode 4 involved the highest number of 15 developing countries, and none of the LDCs received any plurilateral requests, which is consistent with the Hong Kong Declaration that they are not expected to undertake new commitments.

At Hong Kong, the text on services (Annex C) was vigorously opposed by many civil society groups. Doubts and scepticisms were expressed particularly about the new plurilateral approach of negotiations. It is being feared that this new approach will erode the existing flexibilities under GATS and eventually lead to binding commitments by developing countries. Another concern was related to opening up of essential services such as water, energy, etc.

Given that LDCs are not expected to undertake new commitments, potentially making their request unattractive to demandees, there lies a scope for the LDCs whether they can join with other developing countries in making plurilateral request. LDCs should take into account the individual interests of the countries in this respect, and should seriously consider the provision of the Hong Kong Declaration that developing countries have 'individual' flexibilities, besides flexibilities enjoyed as a group, in negotiations.

7.7 "Benchmarking of Commitments"

In the post Hong Kong situation, one important issue is whether demandeurs will have to undertake the same level of liberalisation commitments as they are requesting. While the services negotiation modalities as agreed in Hong Kong do recognise the need for the appropriate flexibility for individual developing countries (as in the original GATS text), it needs to be assessed how the balance is struck between developed and developing countries with special reference to the South Asian developing countries.

Given the slow progress in GATS negotiations, EU proposed benchmarking of commitments similar to the formula approach for merchandise trade liberalisation. The proposal includes provision for differentiated levels of commitments for the developed, developing and LDCs, where the former have to undertake greater liberalisation

commitments. There should be benchmarks set for reducing the number of horizontal commitments, economic needs test, percentage of foreign equity participation etc. However, these provisions may go against GATS principles that allow for sector specific and country specific flexibilities.

7.8 Developing vs. Least Developed Countries in South Asia

To what extent South Asian LDCs (Bangladesh, Maldives and Nepal) can collaborate with their regional developing counterparts, namely India and Pakistan is an emerging concern. Given that India has witnessed rapid growth in Modes 1 and 2, and given that the prospect of liberalisation of Mode 4 is bleak, a shift in the emphasis in favour of Modes 1 and 2 can greatly jeopardise the negotiating position of South Asian LDCs.

Like other LDCs, South Asian LDCs are reluctant in undertaking negotiation initiatives and are mere observers in the request-offer approach. Even with the enhanced possibility of negotiations on a plurilateral basis, there has not been any attempt to consider plurilateral negotiations with India. With the current position of India, any type of progress in services trade liberalisation will be its special interest and given the 'individual' flexibility of the developing countries. This may enhance Indian growth, but virtually may have no impact on the economies of the South Asian LDCs. Given the situations, South Asian LDCs should try to consider Indian interest and to process joint negotiation schemes if possible.

8. Concluding Remarks

The need for a greater cooperation within South Asia on Mode 4 is reasonably justified. There is also a need to come out with a common South Asian negotiating agenda on rules on services liberalisations. The South Asian countries should conduct studies on the problems and prospects of services trade liberalisation, including the possibilities of greater cooperation among themselves in this regard. Special emphasis should be given to submitting request lists and developing country specific strategies and action plans for the movement of natural persons under Mode 4. Also, the supply-side constraints and bottlenecks should be addressed properly with a view to develop the request lists and the schedules of commitments on other prioritised sectors of trade in services. South Asian countries should ask for technical and financial assistance in this regard. However, targeted technical assistance should be provided through, *inter alia*, the WTO Secretariat, with a view to enable developing countries' and LDCs to participate effectively in the negotiations. There is also a need to tag Aid for Trade (A4T) with Services. Such assistance should be provided on, *inter alia*, compiling and analysing statistical data on trade in services, assessing interests in and gains from services trade, building regulatory capacity, particularly on those services sectors where liberalisation is being undertaken by the LDCs and the developing countries. GATS transparency rules, which simply require publication or public availability of measures, are not adequate to meet procedural problems.

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Chapter 4

Hong Kong Duty-Free Quota-Free Market Access Decision *Implications For South Asian LDCs*

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1. Introduction

The development challenges for least developed countries (LDCs) have been to alleviate poverty and reduce income inequality. The prescribed policy at the domestic façade is pro-poor broad based development programmes and at the external front is the establishment of multilateral trading system that addresses their development needs. LDCs' efforts, in searching for 'development dimension', within the multilateral trading system, dates back to 1960s, when trade rules of GATT incorporated provisions to facilitate the growth and development of LDCs and other developing countries, by providing special rights to protect and increase access to export markets (Walley 1999). The provisions of the so-called special and differential treatment (S&DT) were further broadened and expanded in the agreements, declarations and arrangements of the WTO, albeit of the best endeavour nature. Notable examples of tailored-agreements for developing countries include the 1994 Decision on Measures in Favour of LDCs and the Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least Developed and Net Food Importing Developing Countries.

The Uruguay Round also included the requirement to phase out trade-restrictive measures against key products of export interest to many developing countries. In addition to LDCs' specific agreements, many WTO agreements include provisions for S&DT and tariff reductions, pursuant to the implementation of the Uruguay Round commitments that favour LDCs market access. Walley, analysing the provisions of S&DT in the WTO agreements, succinctly concludes that a 'veritable smorgasbord of special and differential measure were sprinkled throughout the Uruguay Round decisions' (Walley 1999). Such provisions were not helpful in expanding LDCs' exports and deepening their integration into the world markets and, thus, LDCs and other developing countries were questioning the enforceability of S&DT provisions. Hence, the utility and value of these provisions and asking for concrete and enforceable provisions that could contribute to their development process.

With the objective of converting rhetoric of S&DT into reality, LDCs put forward the proposal of duty-free and quota-free market access for their exports in the first WTO Ministerial Meeting in 1996, held in Singapore. The 1996 Singapore Ministerial Declaration re-launched the idea of special trade preferences for LDCs, by agreeing to a plan of action in favour of LDCs, including provisions for taking positive measures, for example, duty-free access on an autonomous basis, aimed at improving the overall capacity to respond to the opportunities offered by the trading system (UNCTAD 2001). During the preparation for the third WTO Ministerial Conference in Seattle in 1999, the European Union (EU) made a proposal to enter into a commitment to ensure duty free market access for essentially all products exported by LDCs. In the same proposal, the EU also requested most advanced developing countries to contribute as well.

It took about a decade for WTO Members to address the demand of LDCs, with less than 0.6 percent collective share in world exports, of duty-free and quota-free (DFQF) market access. The Ministers agreed to provide DFQF market access in December 2005 in the Hong Kong Ministerial Conference. The Ministerial Declaration text states: '...building upon the commitment in the Doha Ministerial Declaration, developed-country Members, and developing-country Members declaring themselves in a position to do so, agree to implement DFQF market access for products originating from LDCs, as

provided for in Annex F to this document' (WTO 2005 para 47). The relevant section of Annex F provides 'We agree that developed-country Members shall, and developing-country Members declaring themselves in a position to do so should: (i) provide duty-free and quota-free market access, on a lasting basis, for all products originating from all LDCs, by 2008, or no later than the start of the implementation period, in a manner that ensures stability, security and predictability; (ii) Members facing difficulties at this time to provide market access, as set out above, shall provide duty-free and quota-free market access for at least 97 percent of the products originating from LDCs, defined at the tariff line level, by 2008, or no later than the start of the implementation period... In addition, these Members shall take steps to progressively achieve compliance with the obligations set out above, taking into account the impact on other developing countries at similar levels of development, and, as appropriate, by incrementally building on the initial list of covered products; and (iii) developing-country Members shall be permitted to phase in their commitments and shall enjoy appropriate flexibility in coverage' (WTO 2005, Annex F).

Given the fact that Quad countries' market (Canada, EU, Japan and US) constitutes 57.2 percent of total LDCs exports (WTO 2006) and the weighted average tariffs faced by LDCs in the Quad markets are 20 percent, the Hong Kong Ministerial Declaration, at the first glance seems impressive to address the development needs of LDCs. In fact, the Declaration is loaded with conditions and loopholes. Given the export concentration and high dependency of most of the LDCs in few products, the flexibility provided to developed countries to exclude three percent of tariff lines under DFQF initiatives, there might not be any additional and effective market access for LDCs. Interestingly, it is an LDC-specific provision, but it talks about the export interest of other developing countries, rather than that of LDCs. Furthermore, it not only diluted the decision during Doha Ministerial conference, but also opened the door to rollback the existing preferences received by some of the LDCs. Although the Declaration obliges Members to take steps to progressively achieve the obligation of providing DFQF market access to LDCs, because of the lack of clarity on the term 'progressively' and the missing deadline for achieving full obligation, the value of the proposal has become dubious. Regarding DFQF market access in developing countries, the decision urges them to provide such preferences on voluntary basis, without any legal effect.

Against these backgrounds, the objective of this paper is to analyse the value and utility of the proposal of DFQF access agreed in the Hong Kong Ministerial meeting, from the perspectives of South Asian LDCs, in particular Bangladesh and Nepal, and recommend the negotiating position for these countries in the process of defining modalities of the initiative.

This paper is structured in five sections. While Section I outlines the overview of the DFQF in the context of GATT/WTO, Section II analyses the export structures and directions. Section III assesses the market access conditions in developed and developing countries, including discussion on the system of non-reciprocal preferences enjoyed by South Asian countries. Section IV highlights the trade structure of South Asian developing countries, so as to assess the implications of DFQF market access preferences to these countries. Section V presents the conclusion with the recommendations.

2. Export Performance

The prerequisite for the desired benefits of any non-reciprocal trade preference scheme is that the preference-receiving country must have exportable surplus, on the one hand, and such scheme should cover the products that are exported, or potentially exported, to the preference-granting country, on the other. It also requires that the Rules of Origin (RoO) match the existing levels of manufacturing activity in the preference-receiving countries and there is no unnecessary administrative hassle in the preference-granting countries. This section briefly presents the exports performance, exports composition, direction of exports and identifies potentially exportable products, using Revealed Comparative Advantage (RCA) Index of Bangladesh and India.

2.1 Product and Market Profiles

The economic reform policies, particularly focusing on trade regime were adopted in the mid-1980s by both Bangladesh and Nepal, with the expectation that removal or reduction of tariffs and non-tariff barriers (NTBs) or reduction in transaction costs, due to procedural simplification, would improve allocative efficiency and international competitiveness, which would increase exports and change export composition. The increasing degree of openness in trade policy is evident from the increasing trade/GDP ratios (Table 4.1). Table 4.1 also shows that the liberal trade policies had paid off in the export performance. The exports recorded satisfactory growth and increased the share in world trade for both countries, except in 2004. The exports declined for Nepal during the period 2000-04, mainly due to domestic insurgency and its impact on the production process.

Table 4.1: Export Performance									
Country	Trade /GDP Ratio (in percent)			Export Growth Rates (average annual percentage)			Share in World Exports (in percent)		
	1990	2000	2004	1980-90	1990-00	2000-04	1990	2000	2004
Bangladesh	17.6	31.5	35.7	7.8	15.7	7.4	0.0478	0.0994	0.0933
Nepal	24.7	43.2	39.2	8.1	10.7	-0.2	0.0058	0.0125	0.0084
Source: UNCTAD, <i>Handbook of Statistics</i> (various issues) and World Bank, <i>World Development Indicators</i> (various issues).									

Table 4.2: Commodity Composition of Exports (in percent)						
Country	Share of Primary Products			Share of Manufactured Goods		
	1990	2000	2003	1990	2000	2003
Bangladesh	22.5	8.9	7.7	77.5	91.1	92.3
Nepal	16.7	33.3	6.0	83.3	66.7	74.0
Source: UNCTAD, <i>Handbook of Statistics</i> (various issues).						

Bangladesh experienced a significant change in the sectoral composition of exports during the period 1990 to 2004; the dominant primary products have been replaced by manufacturing sector. The share of manufactured goods in the export basket increased from 77 percent in 1990 to 92 percent. However, the share of manufacturing sector has declined in the recent past (Table 4.2). Both the countries are not successful in diversifying their export structures, as carpet and readymade garments constitute more than 40 percent of total exports in Nepal and the share of textiles and readymade garments

is more than 80 percent in the total exports of Bangladesh. The export concentration indices show that the commodity concentration of Bangladesh has increased over the period, but Nepal has witnessed some improvement in diversifying the export base (Table 4.3).

Table 4.3: Export Diversification Index						
Country	1993			2003		
	No. of Commodities Exported	Diversi- -fication Index*	Concen- -tration Index*	No. of Commodities Exported	Diversi- -fication Index*	Concen- -tration Index*
Bangladesh	63	0.518	104	695	0.309	
Nepal	35	0.470	0.551	96	0.475	0.160
*The Diversification Index, which ranges from 0 to 1, reveals the extent of the differences between the structure of the country's trade and world average. An index value closer to 1 indicates a bigger difference from the world average. **Concentration Index measures the degree of market concentration and ranges from 0 to 1 (maximum concentration).						
Source: UNCTAD 2005.						

It is not only the product concentration that both south Asian countries, Bangladesh and Nepal, are facing in their exports, but also the market concentration. About 80 percent of the exports of Bangladesh are destined to developed countries and the

Table 4.4: Direction of Bangladesh's Exports											
Year	Developed Countries						CIS and Eastern Europe	Developing Countries			
	Total	European Union	Other European Countries	US and Canada	Japan	Others		Total	America	Africa	Asia
1990	75.2	35.4	1.9	32.2	3.9	1.9	4.6	19.7	0.5	4.1	16.1
1995	83.3	44.8	0.6	34.0	3.3	0.6	1.0	15.4	0.7	2.3	12.4
2000	75.9	40.2	0.6	33.6	1.2	0.3	0.3	9.2	0.4	0.7	8.0
2004	78.3	50.0	0.4	26.5	1.0	0.2	0.1	8.7	0.4	0.9	7.4
Source: UNCTAD 2005.											

Table 4.5: Direction of Nepal's Exports											
Year	Developed Countries						CIS and Eastern Europe	Developing Countries			
	Total	European Union	Other European Countries	US and Canada	Japan	Others		Total	America	Africa	Asia
1990	85.0	60.0	6.2	24.0	0.8	0.1	0.0	15.0	0.1	0.1	14.8
1995	89.2	53.3	3.5	31.6	0.5	0.3	0.1	10.7	0.5	0.1	10.2
2000	62.0	22.5	1.7	33.6	3.8	0.4	0.0	36.6	0.1	0.0	36.5
2004	43.0	17.5	0.8	23.4	1.0	0.3	0.0	54.0	0.0	0.0	54.0
Source: UNCTAD 2005.											

magnitude of market concentration has not changed over the period. Among the developed countries, EU and US are the major markets for Bangladesh. However, the dependency of Nepal on developed countries' markets has decreased from 85 percent in 1990 to 43 percent in 2004. Moreover, developed countries' markets are replaced by India, implying no significant change in market concentration. As in the case of Bangladesh, EU and US are the major markets among the developed countries for Nepal (Tables 4.4 and 4.5).

The combined effects of market and commodity concentrations imply that Bangladesh and Nepal are exporting few products in few markets. Bangladesh has exported under 98, 239, 265 and 452 tariff lines, at 6-digit HS level, to Australia, Canada, Japan and the US, respectively, in 2003. In terms of the percentage of tariff lines, three percent tariff lines constitute almost 100 percent in all markets and 0.5 percent tariff lines, at 6-digit HS level, comprise of more than 70 percent in Canada, Japan and the US markets and it is more than 90 percent in Australia. With regard to the trade with EU members, the export structure of Bangladesh is also concentrated in a few products. Table 4.6 shows that three percent of the tariff lines cover 100 percent of the exports to six countries, more than 99 percent in seven countries and more than 98 percent in one country. In fact, 0.5 percent of the tariff lines contain more than four-fifths of the exports of Bangladesh in all EU member countries.

Table 4.6: Distribution of Bangladesh's Exports to Developed Country Markets at HS 6-digit Level, 2003									
Products Covered	Australia	Canada	Japan	United States	Member Countries of the European Union				
					Austria	Belgium	Denmark	Finland	France
3 %	100.00	99.51	99.16	98.88	100.00	99.80	100.00	100.00	99.45
1%	98.55	89.76	90.49	87.80	97.13	95.69	98.15	100.00	94.48
0.5%	95.14	77.47	79.80	72.17	87.22	90.35	93.52	97.52	88.37
0.2%	89.52	52.22	58.36	46.57	67.28	74.57	82.21	88.56	73.65
0.1%	86.21	36.64	43.17	30.29	52.54	61.13	63.69	74.90	56.26
No of tariff lines	98	239	265	452	93	209	125	49	286

The commodity composition of bilateral trade of Nepal with the developed country partner is more concentrated than that of Bangladesh. The product composition of exports shows that Nepal exports in all the countries of observation except Japan, US, France, Italy and UK under less than 100 tariff heading at 6-digit HS level. In terms of tariff lines, three percent of the tariff lines include 100 percent of the exports in Australia and Canada and it is more than 99 percent in Japan and US. Just 0.5 percent of the tariff lines comprises of more than 90 percent in Australia and Canada and more than 80 percent in Japan and US. The bilateral export trade flows with the members of the European Community shows that three percent of the tariff lines include 100 percent of the exports of Nepal. It also shows that 0.5 percent of the tariff lines contain 100 percent exports in five EU members and for the rest of the countries the share is more than four-fifths of bilateral trade (Table 4.7).

Table 4.6 (Contd...)

Products Member Countries of the European Union									
Product Covered	Member Countries of the European Union								
	Germ any	Greece	Ireland	Italy	Nether lands	Portu gal	Spain	Sweden	United kingdom
3 %	99.45	100.00	100.00	99.71	99.72	100.00	99.88	99.80	98.87
1%	94.82	99.60	97.81	94.61	94.82	100.00	95.60	94.73	92.56
0.5%	87.79	91.35	91.22	87.40	87.32	96.91	88.70	86.59	83.75
0.2%	70.95	74.82	78.00	71.72	69.23	81.24	72.22	68.70	66.93
0.1%	50.26	60.09	61.83	53.26	48.55	67.41	52.36	51.67	50.66
No of tariff lines	310	64	96	239	236	49	185	192	390
<i>Source: WITS.</i>									

Table 4.7: Distribution of Nepal's Exports to Developed Country Markets at HS 6-digit Level, 2003

Products covered	Aust-ralia	Cana-da	Japan	Unit-ed States	Member Countries of the European Union				
					Aust-ria	Belgi-um	Denm-ark	Finland	France
3 %	100.00	100.00	99.91	99.28	100.00	100.00	100.00	100.00	100.00
1%	99.80	98.53	92.78	92.32	100.00	100.00	100.00	100.00	96.05
0.5%	94.23	92.51	84.12	81.28	99.31	99.84	96.64	100.00	84.41
0.2%	81.99	76.67	67.91	59.58	97.01	97.19	74.90	98.29	59.53
0.1%	73.23	69.96	52.86	43.96	70.17	94.06	56.55	87.54	40.06
No of tariff-lines	55	87	161	272	31	32	34	14	105

Table 4.7 (Contd...)

Product Covered	Member Countries of the European Union								
	Germ any	Greece	Ireland	Italy	Nether lands	Portu gal	Spain	Sweden	United kingdom
3 %	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00
1%	100.00	100.00	100.00	96.32	99.70	100.00	97.80	100.00	94.75
0.5%	100.00	100.00	100.00	82.13	91.97	100.00	89.86	99.01	84.17
0.2%	84.04	84.04	84.55	55.97	75.16	99.84	68.17	85.07	65.21
0.1%	65.19	65.19	57.77	38.15	62.75	98.13	46.11	73.35	52.67
No of tariff lines	26	26	23	108	58	16	81	31	143
<i>Source: WITS.</i>									

The above discussion implies that the reason for aggressive posture of the South Asian LDCs on the proposal of DFQF market access is because of the prevalence of high levels of product and market concentration of exports, along with the existing and potential preference erosion, due to tariff reductions under various rounds of trade negotiations. The existing market share is also put into risk due to the conclusions of bilateral free trade agreement (FTA) by destination country with other trading partners and the abolition of Multi-fibre Arrangement (MFA). Thus, the new arrangement for duty-free market access should not exclude any product Bangladesh and Nepal is enjoying comparative advantages for.

2.2 Revealed Comparative Advantage

The previous section showed that Bangladesh and Nepal are facing high product and market concentration in their exports. Thus, for any preferential regime to be beneficial and valued should include products in which these countries have strong comparative advantages. Exclusion of any products of comparative advantage from the preferential regime would substantially reduce the benefits of such preferential scheme. This section attempts to identify the products of comparative advantage for Bangladesh and Nepal.

The concept of RCA goes back to the work of Bela Balassa (Balassa 1965, 1977 and 1986), which pertains to the relative performance of individual countries in particular commodities. On the assumption that the commodity pattern of trade reflects inter-country differences in relative costs, as well as in non-price factors, this 'reveals' the comparative advantage of the trading partner. Therefore, any structural changes, improved world demand and trade specialisation, are reflected in the movements of the value of RCA. Though a large number of alternative RCA indices have been proposed in the literature, many of them are not consistent, producing very different ranking of RCA, with the same sample of data (Balance, Forstner and Murray 1987). Therefore, it is important to use RCA indices that have a sound theoretical background. Vollrath (1991) investigated the theoretical underpinning of 10 RCA indices and recommended the following ones:

$$RCA_{ij} = X_{ij} / X_j / X_{iw} / X_w$$

The numerator represents the percentage share of a given sector in national exports – X_{ij} are exports of sector i from country j . The denominator represents the percentage share of a given sector in world exports.

The RCA index, thus, contains a comparison of national export structure (the numerator) with the world export structure (the denominator). Where RCA is above one, the country is said to be specialised in that sector and reveals comparative advantage in that product; and *vice versa* where RCA is below one. When the RCA equals one for a given sector in a given country, the percentage share of that sector is identical with the world average.

The advantage of using comparative advantage index is that it considers the intrinsic advantage of a particular export commodity and is consistent with the change in relative factor endowment and productivity (Batra and Khan 2005). However, the source of export success is not equivalent to the prevalence of comparative advantage. Exports can result due to comparative advantages, as well as distortions in export markets, such as open subsidies or other incentives, e.g. undervalued exchange rate (Siggel 2003),

along with transaction and transport costs. Observed trade flows would be quite different, if they were 'free trade'.

The calculated values of RCA for Bangladesh and Nepal are presented in Tables 8 and 9, respectively, for the years 1990, 2000 and 2003, at SITC 3-digit level. Both the tables present products with RCA values greater than 0.5 in any year of the observation. The RCA values for Bangladesh show that there has not been any structural shift in the composition of the products of comparative advantages in a significant way. In 2003, the value of RCA index is greater than 1 only for 21 products at SITC 3-digit level, indicating that Bangladesh has comparative advantages in very limited products categories, namely, fish, tea, raw jute, fertiliser, leather products, pottery, textiles and garments. However, the value of RCA shows that the intensity of comparative advantages has been moving from fish and jute products to textile and garments in the recent past.

Table 4.8: Revealed Comparative Index of Bangladesh 1990, 2000 and 2003

Product Code at SITC 3 digit	Description	1990	2000	2003
034	Fish, fresh (live or dead), chilled or frozen	1.1862	1.0514	1.2109
035	Fish, dried, salted or in brine; smoked fish	7.1094	5.0107	2.0872
036	Crustaceans and molluscs, fresh, chilled, frozen etc.	28.0443	21.3299	20.2454
054	Vegetables fresh, chilled, frozen/preserved	1.0725	0.0186	0.5872
074	Tea and mate	116.7565	6.7054	6.2422
121	Tobacco, un-manufactured; tobacco refuse	0.7209	0.3629	0.6846
264	Jute & other textile bast fibres, nes, raw/processed	334.9688	35.6832	28.0941
265	Vegetable textile fibres and waste of such fibres	0.0634	0.0193	0.8413
291	Crude animal materials, n.e.s.	1.0650	0.1922	0.2571
334	Petroleum products, refined	0.5157	0.0923	0.1949
522	Inorganic chemical elements, oxides & halogen salts	0.0004	0.7902	0.2621
562	Fertilisers, manufactured	2.2777	3.5127	4.9108
585	Other artificial resins and plastic materials	0.0000	0.7945	0.1926
611	Leather	41.3414	8.4776	11.4553
634	Veneers, plywood, improved or reconstituted wood	0.0000	0.6004	0.2279

651	Textile yarn	3.7632	2.2189	3.0946
652	Cotton fabrics, woven	0.8415	1.9916	1.4450
654	Textile fabrics, woven other than cotton/man-made fibre	40.0055	8.8437	7.3831
657	Special textile fabrics and related products	1.7360	2.6478	1.2891
658	Made-up articles, wholly/ chiefly of textile materials	28.4082	10.2601	14.8672
659	Floor coverings, etc.	0.6274	0.2443	0.1131
666	Pottery	0.8781	2.4156	1.3888
723	Civil engineering & contractors plant and parts	0.2226	1.3459	0.0941
736	Machine tools for working metal or metal parts	0.5481	0.0405	0.1929
785	Motorcycles, motor scooters, invalid carriages	0.0003	0.6327	0.2521
842	Outer garments, men's, of textile fabrics	22.9359	40.2318	37.1490
843	Outer garments, women's, of textile fabrics	11.3416	20.2877	17.1814
844	Under garments of textile fabrics	57.7550	73.4859	81.3675
845	Outer garments and other articles, knitted	3.6725	13.0633	16.7817
846	Under garments, knitted or crocheted	6.1049	23.0901	27.4119
847	Clothing accessories of textile fabrics	0.8753	1.3898	3.0822
848	Article of apparel & clothing accessories	0.0007	3.2928	1.2648
851	Footwear	0.0572	0.9677	1.1244
884	Optical goods, n.e.s.	0.0000	1.0314	0.6809
892	Printed matter	0.0318	0.0066	0.5486
941	Animals, live, n.e.s., including zoo-animals	0.8950	0.0000	0.4018
<i>Source: Author's calculation based on WITS and UNCTAD. Handbook of Statistics. (Various issues).</i>				

Table 4.9: Revealed Comparative Index of Nepal 1990, 2000 and 2003

Product Code at SITC 3 digit	Product Descriptions	1990	2000	2003
001	Live animals chiefly for food	17.9805	1.2922	0.0000
023	Butter	30.7353	1.7869	2.2380
042	Rice	0.0000	0.8650	1.0400
045	Cereals un-milled (no wheat, rice, barley or maize)	2.5077	0.3525	0.4709
046	Meal and flour of wheat and flour of meslin	0.7370	3.3675	4.4987
048	Cereal preparation and preparations of flour of fruits or veg.	1.1113	3.5580	3.4535
054	Vegetables fresh, chilled, frozen/ prepared roots, tubers	14.2391	5.8076	5.8189
058	Fruit, preserved, and fruit preparations	0.0007	1.7984	1.8019
061	Sugar and honey	0.1563	5.6339	5.6448
062	Sugar confectionery and other sugar preparations	0.7043	1.4488	1.4516
074	Tea and mate	2.8899	16.6690	20.8768
075	Spices	177.1305	41.4135	55.3252
081	Feed stuff for animals (not included un-milled cereals)	6.5390	4.9891	4.8599
091	Margarine and shortening	0.0000	11.5367	15.4122
098	Edible products and preparations n.e.s.	0.0307	3.4704	2.9338
122	Tobacco manufactured	1.2692	0.0023	0.0025
211	Hides and skins (except fur skins), raw	0.1706	2.3372	2.6344
222	Oil seeds and oleaginous fruit, whole or broken	3.0055	.0151	0.0145
223	Oils seeds and oleaginous fruit, whole or broken	25.2951	2.8739	3.8394
264	Jute & other textile fibres, nes, raw/processed	243.3313	0.0259	0.0347
265	Vegetable textile fibres and waste of such fibres	0.0419	1.0045	1.3419
269	Old clothing and other old textile articles; rags	0.0000	0.5727	0.7651
273	Stone, sand and gravel	0.0616	18.2332	18.2686
278	Other crude minerals	2.1929	0.1337	0.1462
282	Waste and scrap metal of iron . or steel	0.1056	0.1892	0.7583
292	Crude vegetable materials, n.e.s.	1.3709	2.4709	2.2853
411	Animal oils and fats	0.5615	0.0000	0.0000
424	Other fixed vegetable oils, fluid			

	or solid, crude	6.2251	9.0062	6.6173
431	Animal & vegetable oils and fats, processed & waxes	12.5435	156.2396	111.8164
522	Inorganic chemical elements, oxides & halogen salts	0.0000	0.5862	0.6578
532	Dyeing & tanning extracts; synthetic tanning materials	25.2670	8.4340	11.2672
541	Medicinal and pharmaceutical products	1.3439	0.1637	0.1229
553	perfumery, cosmetics and toilet preparations	0.7516	11.4473	9.9735
554	Soap, cleansing and polishing preparations	0.0006	3.4527	3.0443
611	Leather	37.4527	3.9035	3.7607
621	Materials of rubber (e.g., pastes, plates, sheets, etc.)	0.0000	0.8530	0.7326
634	Veneers, plywood, improved or reconstituted wood	0.1580	2.4157	2.5305
641	Paper and paperboard	0.0037	0.8135	0.8630
642	Paper and paperboard, cut to size or shape	0.0296	1.5753	1.4731
651	Textile yarn	0.1363	10.2865	10.5086
653	Fabrics, woven of man-made fibres	0.2757	2.7180	2.9090
654	Textile fabrics, woven, other than cotton/man-made fibre	2.2716	4.8948	5.6588
655	Knitted or crocheted fabrics	0.0007	2.4366	2.1483
656	Tulle, lace, embroidery, ribbons, & other small wares	0.0649	0.8582	0.9673
657	Special textile fabrics and related products	0.0828	1.2889	1.3721
658	Made-up articles, wholly/ chiefly of textile materials	1.4159	5.8294	5.2755
659	Floor coverings, etc.	311.5960	42.0361	45.1261
674	Universals plates and sheets, of iron or steel	0.0000	5.1727	5.0020
677	Iron/steel wire, whether /not coated, but not insulated	0.0000	1.7072	1.7105
678	Tubes, pipes and fittings of iron or steel	0.0000	1.4342	1.5147
682	Copper	0.0000	4.4422	5.0443
686	Zinc	0.0000	5.3577	6.1350
687	Tin	0.0000	5.4586	7.2923
693	Wire products and fencing grills	0.0014	8.7822	8.7993
696	Cutlery	0.2401	0.9947	0.8859
697	Household equipment of base metal, n.e.s.	1.8364	5.6752	4.6524

831	Travel goods, handbags, briefcases, purses, sheaths	0.5433	1.0603	0.8499
842	Outer garments, men's, of textile fabrics	44.8315	10.5414	11.1487
843	Outer garments, women's of textile fabrics	21.1484	15.3502	14.7959
844	Under garments of textile fabrics	26.8675	29.2676	39.6742
845	Outer garments and other articles, knitted	0.8880	4.0934	3.6011
846	Under garments, knitted or crocheted	0.0014	7.0919	6.8425
847	Clothing accessories of textile fabrics	0.2693	19.9782	20.0170
848	Art of apparel & clothing accessories, no textile	0.0122	2.5042	2.2999
851	Footwear	0.0227	0.5849	0.5336
893	Articles of materials described in division 58	0.0415	2.4328	2.6661
896	Works of art, collectors pieces & antiques	14.2822	4.4754	4.1638
897	jewellery, goldsmiths and other art. of precious m.	2.0837	1.7588	1.5860
899	Other miscellaneous manufactured articles	0.7714	1.1001	0.9018
971	Gold, non-monetary	22.8940	0.0000	0.0000
<i>Source: Author's calculation based on WITS and UNCTAD. Handbook of Statistics. (Various issues).</i>				

The calculated values of the RCA for Nepal show that the structure of comparative advantage of Nepal is more diversified than that of Bangladesh. The value of the RCA index has increased from 24 to 53 during the period 1990 to 2000 and remained stable during 2000 and 2003. In 2003, the RCA value is the highest for animal and vegetable oils, followed by spices, carpets, garments, tea and mate. Other products with RCA value greater than 1 includes vegetable, fruits, food preparations, margarine, leather, hides and skins, stone and sands, perfumery, cosmetics and toilet preparations, among others. The inter-temporal analysis of RCA value shows that the comparative advantages of Nepal in jute and jute products, live animals, spices, cereals and leather products have been declining over the period, whereas they have increased for textiles and garments and fruits and fruit preparations.

The above analysis shows that both Bangladesh and Nepal have not been successful in diversifying their export products and export markets, despite trade policy reforms. Exports of few products in selected markets have been the deep-seated characteristics of these countries. But, the importance of developed country's market is quite stark in Bangladesh than in Nepal. In terms of the exportable products to developed countries, 0.5 percent of the tariff lines, at HS 6 digit level, cover more than 80 percent of the export value for both the countries, in most of the countries. The calculated values of RCA

show that both Bangladesh and Nepal have comparative advantages in limited product categories. It means that preferential market access scheme should be crafted in such a manner that it does not bar preferential market access in products of their comparative advantages. The next section discusses the existing generalised system of preference under which Nepal and Bangladesh are getting preferential market access.

3. Existing Non-reciprocal Preference Scheme: Generalised System of Preference (GSP)

Resolution 21(ii) at UNCTAD II, in 1968, called for the establishment of a ‘generalised, non-reciprocal, non-discriminatory system of preferences in favour of the developing countries, including special measures in favour of the least advanced among the developing countries’. It further stated that such preferences had three objectives: to increase the export earnings of developing countries; to promote their industrialisation; and to accelerate their rates of economic growth. Under the GSP schemes of preference-giving countries, selected products originating in developing countries are granted reduced, or zero, tariff rates over the most-favoured-nation (MFN) rates. The LDCs receive S&DT for a wider coverage of products and deeper tariff cuts.

Tariff discrimination violates the MFN obligations of GATT Article I and, thus, the legal way out for such preferential tariff schemes had been GATT waiver. Initially, GATT approved a waiver for 10 years in 1971, in order to authorise the GSP scheme. Before the expiry of the waiver, it adopted a decision on ‘Differential and More Favourable Treatment, Reciprocity and Fuller Participation of Developing Countries’, on November 28, 1979 (26S/203), known as Enabling Clause, which created a permanent waiver to the MFN clause to allow developed countries to grant preferential tariff treatment to LDCs. The UNCTAD reports that there are currently 13 national GSP schemes notified to the UNCTAD secretariat by Australia, Belarus, Bulgaria, Canada, Estonia, EU, Japan, New Zealand, Norway, the Russian Federation, Switzerland, Turkey and US.

From a theoretical and practical point of view, the question of value and utility of trade preferences has traditionally been the subject of debate. Since preferential trading arrangements have discriminatory properties and their trade and global welfare effects have always been considered “second best”, or sub-optimal. But, if preference is accorded to a small country or a group of countries that collectively are small which do not affect the world price, such preference receiving country experiences expansion in output, growth in exports and ‘terms of trade’ benefits. All the growth in trade due to GSP reflects ‘trade creation’ the other countries that export to preference-granting country suffer no harm in this case.

However, if preference is granted to a large country or a group of countries that collectively is large, the export growth in the preference-receiving country reflects both ‘trade creation’ and ‘trade diversion’ and results in ‘terms of trade’ loss to exporting countries that do not qualify for preferential treatment (Grossman and Sykes 2005). By improving market access, it stimulates diversification towards a broader range of exports and fosters export-driven economic development. On the other hand, it has been argued that preference may encourage an inefficient allocation of resources, by fostering

specialisation in sectors where the preference-receiving country does not have a comparative advantage. Similarly, the RoO may also require that inputs are sourced from higher cost suppliers. In the long run, preferences may create disincentive for trade liberalisation (Low et al. 2005). Despite the debate at the theoretical level, the empirical studies show that trade preferences do serve to promote trade volume and export earnings in the preference-receiving countries.

The GSP system was born out of the theory of ‘export pessimism’, and LDCs concentrating on primary products may not be able to expand their exports, as global economy expands. Thus, the theory behind GSP was that it would reduce the reliance of developing countries on exports of primary products and promote industrialisation. Accordingly, it was understood that manufactured goods would be the main beneficiaries of preferences and that agricultural products would be treated less favourably. Beyond these features built into the conception of the system, political factors, such as ideological inclination of the recipient country made way to it. Moreover, in order to be politically viable, it has substantial limitations as to product coverage and beneficiaries, and should be accompanied by safeguards to address politically unacceptable increases in imports. No mechanism existed for co-ordinating the evolution of national schemes on such matters and, thus, each preference-giving country developed its own GSP scheme, with different contents and implementing mechanisms (Grossman and Sykes 2005). Over the period, it has become a condition-attached preference system developed as an instrument to reward, with greater preferences, countries that adhere to various policy prescriptions of preference-giving countries or punish, by withdrawing preference, to those who disagree. The following section reviews the GSP schemes applicable to LDCs of South Asia.

3.1 GSP in Developed Countries

3.1.1 GSP in US

The GSP of the US was first enacted in the Trade Act of 1974 and made effective in 1976. The US GSP provides preferential duty-free entry to numerous products imported into us from over 100 designated beneficiary countries and territories. It was authorised through 2006 and will then expire unless renewed by an act of the Congress. For an import to qualify for duty-free treatment under the GSP, it must meet the following three requirements: (a) it must be from a designated beneficiary country; (b) it must be eligible for GSP treatment; and (c) it must meet the GSP RoO.

Regarding the designation of beneficiary countries, all the developed countries are ineligible. It also denies beneficiary status to eight other categories of nations: (a) ‘communist’ countries (with exceptions); (b) countries that are parties to an ‘arrangement’ which withholds ‘supplies of vital commodity resources from international trade’ (aimed at Organisation of the Petroleum Exporting Countries (OPEC)); (c) countries that injure the US commerce by according preferences to other developed countries; (d) countries that expropriate the property of US citizens, including intellectual property, without just compensation; (e) countries that fail to enforce binding arbitral awards in favour of US citizens; (f) countries that aid or abet terrorism or fail to take ‘steps to support the efforts of US to combat terrorism’; (g) countries that have not taken steps ‘to afford internationally recognised worker rights; and (h) countries that fail to fulfill their

‘commitments to eliminate the worst forms of child labour’. The law provides that the President can waive the last five exclusions in the ‘national economic interest’ (UNCTAD 2003, Grossman and Sykes 2005). It means the President has the discretion to confer beneficiary status on any eligible nation.

The US GSP distinguishes between two categories of countries. Among 127 recipient countries, 40 countries are considered least developed beneficiary countries and enjoy two advantages over other beneficiaries: a much wider range of products that are eligible for GSP treatment and they are not subject to the “competitive-need” limitations (UNCTAD 2003).

Products for preferential treatment are defined at the 8-digit level of the Harmonised Tariff Schedule of the United States (HTSUS). The products eligible for GSP treatment include most dutiable manufactures and semi-manufactures, as well as selected agricultural, fishery and primary industrial products. Certain articles are prohibited from receiving GSP treatment. These include most textiles, watches, footwear, handbags, luggage, flat goods, work gloves and other leather wearing apparel. In addition, any other article determined to be “import-sensitive” cannot be made eligible. In this regard, the GSP law specifically cites steel, glass and electronic articles. No quantity of an agricultural product subject to a tariff-rate quota that exceeds the in-quota quantity is eligible for duty-free treatment.

The Rules of Origin contain two requirements, one related to shipment and the other one to value addition. The shipment condition requires that an article must be shipped directly from the beneficiary country to US without passing through the territory of any other country, or, if shipped through the territory of another country, the merchandise must not have entered the commerce of that country en route to the US. On value-addition, it requires that the sum of the cost or value of materials produced in the beneficiary country plus the direct costs of processing must equal at least 35 percent of the value of finished goods. The same rule is also applicable for regional cumulation and import of raw material from GSP-eligible countries’ imported materials can be counted towards the value-added requirement only if they are “substantially transformed” into new and different constituent materials of which the eligible article is composed. Simply combining or packaging operations or mere dilution with water or mere dilution with another substance that does not materially alter the characteristics of the article is not eligible for preferences.

The granting of duty-free access to eligible products is subject to “competitive need limits”. When imports of a product from a single beneficiary exceed a certain monetary threshold (currently US\$115mn), or 50 percent of all US imports of the article in a calendar year, it is automatically removed from the list of eligible products, unless the President executes a ‘waiver’ (Grossman and Sykes 2005). However, all competitive limitations are automatically waived for the GSP beneficiaries, which are designated as LDCs.

3.1.2 GSP in EU

The scheme of GSP in EU has evolved over the period. The first European Community Generalised System of Preferences scheme spanned an initial phase of 10 years (1971-1981) and was, subsequently, renewed for a second decade (1981-1991). On January 01,

1995, after the conclusion of the Uruguay Round, the Community adopted the GSP Scheme for the 1995-2004 period. The EU's new GSP scheme for 2006-2008 came into force on January 01, 2006 and will be in place until December 31, 2008. The new regime has three schemes, i.e., the general regime, GSP plus and special arrangement for LDCs (EBA). Currently, 146 countries and 25 territories, including all the LDCs, benefit from GSP scheme of the EU (European Union quoted in Yu and Jensen. 2005).

General Arrangement

The new scheme has increased product coverage from 6900 to about 7200. The newly included 300 products are mostly agricultural and fishery products. All the products are classified under two categories: sensitive and non-sensitive. Non-sensitive products, which are about half of GSP product coverage, enter the EU free of duty. For sensitive products, except for textile and clothing products, the duty is reduced by 3.5 percentage points. For textile and clothing products, there will be 20-percent reduction in the MFN tariffs. Specific duties applicable to sensitive products will be reduced by 30 percent of the MFN rate and, where tariffs on sensitive products are composed of *ad valorem* and specific duty, the 3.5 percentage point reduction will apply to the *ad valorem* duty only and the full amount of the specific duty will still be due. When the *ad valorem* preferential rate reaches one percent or less or specific duty values of euro two, or less, it is automatically reduced to zero.

Special Incentive Arrangement (GSP Plus)

The GSP-plus arrangement is geared towards vulnerable countries and aimed at promoting compliance to, and respect for, core human rights and internationally agreed labour standards, as well as environmental standards and governance principles. In principle, the GSP-plus arrangement is double-conditioned: one is the 'test of vulnerability' and other is the willingness of the recipient countries to adopt sustainable development and good governance policies prescribed by the EU.

A country is deemed to be 'vulnerable' when it meets the triple criteria of low or middle income, export concentration and lack of competitiveness. Firstly, the country should not have been classified as a high-income country in the previous three consecutive years, according to the World Bank definition. Secondly, the five-largest sections of the GSP-covered imports to EU from the country must represent more than 75 percent in the value of the total GSP covered imports from the country. Thirdly, GSP covered imports from the country in question must represent less than one percent of the total EU imports from all beneficiary countries under the GSP.

Only vulnerable countries that ratify and implement international conventions in the areas of human rights, labour environment and good governance are eligible to receive GSP plus benefits. Firstly, the country should have ratified and effectively implemented 16 international conventions concerning core human and labour rights¹. Secondly, the country should have ratified and effectively implemented at least seven out of 11 conventions regarding the environment and governance principle and commit itself to ratifying and effectively implementing, by December 31, 2008, those conventions that it has not yet ratified or effectively implemented.²

The GSP-plus arrangement allows beneficiary countries to enjoy duty-free treatment when exporting 7200 GSP-covered products to the EU, regardless of whether the products are classified as sensitive or non-sensitive. Exception is made for those agricultural products that are subject to both *ad valorem* and specific duty; in this case the zero rate only applies to the *ad valorem* component. Thus, the total duty payable equals the specific duty. The special incentive does not apply to those sections of products for which tariff preferences have been withdrawn, on the basis of graduation.

Special Arrangement for LDCs - Everything But Arms (EBA)

As a part of the initiative to further improve market access for LDCs, the EU adopted Everything But Arms (EBA) scheme for LDCs in 2001, under the GSP. The major feature of EBA are: first, it offers the LDCs a higher degree of market access for virtually all products; second, the EBA equally grants all LDCs duty and quota-free access to the EU market; and, third, it has no time limit. The excluded product under the EBA is arms (product of HS Chapter 93). Initially, it had identified three products as sensitive products, which are subject to special treatment: banana, rice and sugar. However, reduction of tariffs on banana commenced on January 01, 2002 and zero duty started to apply from January 01, 2006. In the case of sugar, the progressive reduction began on July 01, 2006, and a zero tariff will apply as of July 01, 2009. Reduction of tariffs on rice started on September 01, 2006, so that tariffs will be entirely eliminated on September 01, 2009. In order to compensate the delays in market opening, the scheme has offered real market access through global tariff quota at zero duty for rice and sugar subject to a 15-percent increase each year and, eventually reaching 6,696 and 197, 325 tonnes, respectively, for rice and sugar in 2009.

The EU GSP scheme also includes two types of graduation mechanisms: (a) country graduation, and (b) product-specific graduation. As regards country graduation, two criteria have to be met, before a beneficiary country is excluded from the GSP treatment entirely. First, the country must have been classified by the World Bank as a high income country during three consecutive years. Second, the value of imports for the five-largest sections of its GSP-covered imports to EU must represent less than 75 percent of the total GSP-covered imports of the country to EU. As regards product-specific graduation, a country will be excluded from the preferential treatment in respect of products, if the average value of GSP-covered imports of the products at the section level from the country exceeds 15 percent of the value of EU's total GSP-covered imports of the same products, from all beneficiary countries over three consecutive years. However, textiles and clothing products are subject to more stringent rules. The lower threshold level of 12.5 percent, instead of 15 percent applies to textiles and clothing.

The EU GSP also provides the provisions for temporary withdrawal and safeguard clauses. EU may withdraw the preference, if the recipient country violates the convention, or does not incorporate the provision of the ratified convention, or if such legislation is not effectively implemented, export goods made by prison labour, indulge in unfair trading practices, including fraud or systematic failure, in complying with the Rules of Origin, or does not effectively control the export of the transit drugs, among others. As regards safeguard measures, it has different provisions for non-agriculture products and agriculture products, subject to the Common Agriculture Policy (CAP). In the case of non-agriculture products, a product must be imported 'on terms which cause, or

threaten to cause, serious difficulties to EU producers of like or directly competing products'. In the case of agriculture products, imports of products must 'cause, or threaten to cause, serious disturbance to community market, in particular, to one or more of the outermost regions, or these market's regulatory mechanism'. For clothing and apparel products, if the imports of particular products increase by 20 percent in quantity, or 12.5 percent in value terms, from a country, the GSP preference shall be removed under general arrangements or GSP-Plus regime. Those LDCs whose share of imports does not exceed eight percent are exempted from safeguard measures.

3.1.3 GSP in Japan

Japan originally established its GSP on August 01, 1971 and, since then, four decennial GSP schemes have been established: the first one from August 1971 to March 1981; the one second from April 1981 to March 1991; the third one from April 1991 to March 2001; and the fourth, and current, scheme from April 2001 to March 2011. The relevant legal authority for current GSP scheme is the Temporary Tariff Measures Law and the Implementing Regulations of this Law.

The Japanese GSP scheme includes: a general preferential regime; and a special preferential regime. Under the former, preferential tariffs are applied to imports of designated items from designated GSP beneficiaries. Under the latter, duty-free treatment is granted to imports of designated items from LDCs. However, for agriculture and specific manufactured products, there are special provisions.

Agricultural-sector GSP Scheme: In the agricultural and fishery sectors, GSP is, in principle, not granted given the weak competitiveness of domestic industries. Some GSP-covered items are, however, enumerated in a "Positive List". Safeguards, however, enable the government to suspend preferential treatment for items on the Positive List, under certain conditions.

Industrial-sector GSP Scheme: In the industrial-mining sector, GSP preferences are generally granted. However, some sensitive items are excluded through an Exceptions List. GSP-covered items include ceiling items and ceiling-free items. The former enjoy GSP treatment up to ceiling quantities or values. The latter qualify for GSP benefits without a ceiling. However, an increase in imports of the latter may trigger GSP-Suspension, under an Escape Clause.

Duty-free Scheme for LDCs: Imports of GSP-covered items from LDCs qualify for duty-free treatment. In addition, the current decennial GSP scheme introduced duty-free items exclusively for LDC.

The Coverage of the GSP

There are 155 beneficiaries of Japan's GSP, including 140 developing countries and 15 territories. Of these, 108 are GSP beneficiaries and 47 are LDCs. To obtain GSP treatment, a country must: (i) be a developing economy; and (ii) in the case of a territory, have its own tariff and trade system. To obtain LDC treatment, a country must be designated as an LDC by the UN.

In contrast with the wide country coverage of the GSP, the product coverage is narrow. Japan's Tariff Schedules consists of 9272 Items at the 9-digit level, including 2017 agricultural-fishery items (HS Chapters 1-24) and 7255 industrial-mining items (HS Chapters 25-97). Of the 2017 agricultural-fishery items, MFN duty-free and MFN dutiable items account for 379 and 1638, respectively. Of the 7255 industrial-mining items, 2823 are MFN duty-free and 4432 are MFN dutiable items. Of the 1638 MFN dutiable agricultural-fishery items, 1299 items, i.e. 80 percent are excluded from the GSP scheme. GSP-covered items in the Positive List total only 339, i.e. 20 percent. Primary examples include maize seed, frozen octopus, burdock, truffles, Matsutake mushroom and vegetable juices. The items in the Positive List are either duty-free or have tariffs lower than MFN duty rates. LDC-specific duty-free items in the agricultural-fishery sector account for 157 items, at HS 9-digit level, including black tea, edible *Brassica*, shallots, lettuce, carrots, turnips, cucumbers, beans and celery. However, GSP coverage in agriculture sector is diluted by the application of safeguard measures. If imports of a GSP-covered item increase due to preferential treatment and cause, or threaten to cause, injury to a domestic industry producing a like or directly competitive item, preferential treatment may be suspended and an MFN tariff applied.

In the industrial-mining sector, of the 4432 MFN dutiable items, at the HS 9-digit level, 3285 items, *or* 74 percent, are covered by GSP. The remaining, GSP-excluded, items consist of 113 items in the Exceptions List and 1034 LDC-specific duty-free items. The Exceptions List includes ultra-sensitive items such as salt, petroleum oil, fur skin, leather items, tropical tree plywood and footwear. LDC-specific duty-free items include most apparel, some leather items and footwear.

Of GSP-eligible industrial-mining items, sensitive goods are covered by a ceiling regime. Under this regime, GSP treatment is accorded to 1264 HS 9-digit tariff lines up to the ceiling quantities or values, but imports in excess of the ceiling are subject to MFN tariffs. In-ceiling GSP duty rates vary from item to item, i.e., (i) duty-free; (ii) 20 percent of MFN tariff; (iii) 40 percent of MFN tariff; (iv) 60 percent of MFN tariff; and (v) 80 percent of MFN tariff. Two kinds of ceiling regimes exist: a per-country ceiling and a per-item ceiling. Under the per-country ceiling, if imports of an item from one GSP beneficiary exceed 20 percent of the annual ceiling value, GSP treatment for the concerned item is suspended. Under the per-item ceiling, if imports of an item exceed the annual total ceiling value or quantity, GSP is suspended for the item from all GSP beneficiaries. The ceiling regime does not apply, in principle, to imports from LDCs. Of the GSP-covered items, the remaining non-ceiling items are ceiling-free and duty-free. These ceiling-free items account for 2021 items at HS 9-digit level. They are, however, potentially subject to safeguards. In the case of LDCs, 1034 LDC-specific duty-free items are covered by safeguards. Duty-free imports from LDCs may have MFN tariffs imposed under the Escape clause, if imports increase.

GSP-covered items from specific GSP beneficiaries may be excluded from GSP treatment, under the "country-specific competitiveness-focused GSP-exclusion", effective since fiscal year 2003. This mechanism does not apply to LDCs. Two yardsticks are used to determine a highly competitive item's impact on the domestic industry. One is whether import values of a concerned item from a GSP beneficiary to Japan exceed 50 percent of the total value of imports to Japan in two consecutive calendar years. The other one is

whether the import values of the item amount to one billion yen (US\$8.5mn) in two consecutive calendar years. The yardsticks are not absolute, however. GSP-exclusion is left to the discretion of the government. If, in the view of the government, there is no need for GSP-exclusion, in light of the amount of domestic output and other various impacts on a domestic industry, the concerned item may remain covered by the GSP scheme, despite meeting the yardsticks.

Rules of Origin

The GSP origin criteria consist of the “wholly produced goods” criterion and the “substantial transformation” criterion. For preferential treatment eligibility, Japanese materials are considered originating in a preference-receiving country. In the case of a finished product produced from Japanese or the preference-receiving country’s materials and any other countries’ materials, the country of origin is determined according to the substantial transformation criteria. Two different value-added tests are used for determination of substantial transformation: (a) 55 percent value-added test for products assembled of parts including those within the same tariff heading; (b) 60 percent value-added test for products assembled of different tariff heading parts; and (c) a mixed test of processing operations and value-added is used for a number of products. This test appears in three different forms: (i) a test requiring manufacture from different tariff heading materials and less than 40 percent import content (*i.e.* more than 60 percent value-added) for certain food preparations (1806, 2004, 2005, 2008, *etc.*); (ii) a test requiring manufacture from different tariff heading materials and less than 50 percent import content; and (iii) a test requiring manufacture from the same tariff heading materials and less than 50 percent import content for cut worked containers and glassware (ex. 7010, ex. 7013).

3.1.4 GSP in Canada

Currently, Canada provides non-reciprocal tariff preferences to developing countries, under the Generalised Preferential Tariff (GPT), the Least Developed Country Tariff (LDCT) and under the Caribbean-Canada Trade Agreement known as ‘CARIBCAN’. The evolution of Canada’s tariff preferences in favour of developing countries witnessed a number of special measures introduced for LDCs. In 1983, LDCs were granted a zero rate on GPT-covered products, with exception of clothing, footwear, certain labour-intensive industrial products as well as some agricultural products. It also extended product coverage for LDCs and the GPT tariffs were lowered to two-thirds of the corresponding MFN rates during the 1990s. In 2000, further 570 tariff lines were added to the duty-free list for LDCs, bringing the share of duty-free lines for LDCs to 90 percent. From January 01, 2003, all remaining tariff and quota restrictions on imports from LDCs (with the exception of supply-managed agricultural products and Myanmar) were removed. The initiative included textiles and clothing and a modification of the Rules of Origin (Lippodlt and Kowalski, 2005).

In order to be eligible for GPT rates and LDCT duty-free access, products from beneficiary countries must meet origin criteria and comply with the rule of direct consignment prescribed by Canada. The origin of the goods must be supported by the prescribed documentary evidences. Canada has been adopting more generous RoO for LDCs than for other developing countries. In 1980, Canada adopted RoO criteria that required a minimum of 40 percent of local value added in the LDC preference recipient country, compared to 60 percent required for other GPT countries. It further relaxed the RoO,

allowing up to half of 40 percent minimum value added originates from another developing countries in 2000 (UNCTAD 2001). The 2003 LDC initiative included a modification of the RoO for textiles and clothing (T&C) products. To be eligible under the new RoO, the cloth has to be cut and sewn or fabric woven from yarn produced in the eligible country. The new cumulation system allows inputs from all beneficiary countries provided that a minimum of 25 percent of value added originates from the exporting LDC country. For goods other than textiles and apparel, the existing pre-2003 RoO for the LDCT remained in force.

To be eligible for the LDCT or GPT, in addition to the RoO requirements, goods must satisfy the requirement of certification and direct shipment. Direct shipment requires, in essence, that goods are either shipped directly from an eligible country or trans-shipped through an intermediate country provided that the goods remained under customs transit control in the intermediate country and did not undergo additional processing, trade, consumption or storage exceeding 6 months in the intermediate country (UNCTAD, 2001).

3.1.5 GSP in Australia

Australia first extended unilateral trade preferences to developing countries in 1976, under the Australian System of Tariff Preferences. Australia's non-reciprocal preferential tariff schemes can be grouped into four categories: developing country preferences, special rates for specific countries, Forum Island Country (FIC) preferences and preferences applicable mainly to LDCs. Following a decision announced by Prime Minister John Howard, at an Asia-Pacific Economic Cooperation (APEC) summit meeting on October 25, 2002, the Australian Government amended the Customs Tariff to provide DFQF access to the Australian market for the LDCs.

The Australian Rules of Origin specify that products must either be wholly obtained in a beneficiary country or must be substantially transformed in the beneficiary country. Substantial transformation, essentially, requires that the last process of manufacture is performed in the country claiming origin and that a minimum level of value-added is attained (generally 50 percent of the total factory cost, in terms of materials, labour and overheads). The LDC preferential arrangement allow materials from all developing countries, FICs and Australia to count as local content, but the non-LDC developing country portion is limited to no more than 25 percent of the total factory cost of the goods (Lippoldt 2006).

3.2 Market Access Conditions in Quad Countries

All these non-reciprocal preferences, along with MFN duty-free market access, have resulted in lowered import tariffs for LDC exports. In agriculture sector, imports of substantially all products from the LDCs enter duty-free in Quad countries. In Canada, almost all imports from LDCs enter duty-free; 98.9 percent under MFN duty-free and 1.1 percent under preferential regimes. In terms of tariff lines, Canada provides duty-free access to 93 percent of tariff lines, but LDCs trade only with the products of about 14 percent tariff lines. In EU, all imports from LDCs have entered without any duty in 2003 and 97.1 percent tariff lines attach zero tariffs for LDCs. In Japan, more than 93 percent of LDC exports have entered MFN duty free and the remaining seven percent is divided roughly equally between duty free preferential access and MFN dutiable trade with no

Table 4.10: Duty-Free Market Access of LDCs, 2003											
Market	Category	Agriculture						Non-Agriculture			
		Imports		No. of national tariff lines			Imports		No. of national tariff lines		
		Value in Million US\$	%	Number	Percent	With trade %	Value in Million US\$	%	Number	Percent	With trade %
Canada	All tariff lines	35.6	100.0	1372	100.0	14.1	703.4	100.0	7125	100.0	10.0
	MFN duty-free access	35.2	98.9	551	40.2	9.4	366.1	52.0	3710	52.1	3.9
	Duty-free preference	0.4	1.1	724	52.8	4.7	337.3	48.0	3415	47.9	6.1
EU-15	All tariff lines	1560.5	100.0	2115	100.0	23.9	12143.8	100.0	8289	100.0	32.9
	MFN duty-free access	870.8	55.8	402	19.0	7.6	5115.7	42.1	1774	21.4	7.3
	Duty-free preference	565.3	36.2	1652	78.1	15.3	7017.9	57.8	6414	77.4	25.6
Japan	All tariff lines	175.9	100.0	1858	100.0	59.7	1387.0	100.0	7438	100.0	8.8
	MFN duty-free access	163.7	93.1	461	24.8	3.4	818.4	59.0	2888	38.8	3.4
	Duty-free preference	6.8	3.9	460	24.8	1.5	449.4	32.4	4141	55.7	4.7
US	All tariff lines	350.4	100.0	1808	100.0	10.1	9691.8	100.0	8688	100.0	27.8
	MFN duty-free access	285.6	81.5	384	21.2	4.4	413.4	4.3	2836	32.6	26.7
	Duty-free preference	64.6	18.4	1149	63.6	5.5	5006.6	51.7	4215	48.5	3.6
Source: Low et.al. 2005, 2006.											

preference. However, only about half of the tariff lines attach duty free for LDCs in the Japanese market. In US, out of 99.9 percent of the total imports from LDCs, which enter duty-free, 81.5 percent is MFN duty-free and 18.4 percent is preferential duty-free. In terms of tariff lines, US provides duty-free access to 21.2 percent under MFN and 63.6 per- cent under the preferential regime (Table 4.10).

The country-specific situation of duty-free market access in non-agriculture products resembles the agriculture products. In Canada, all the tariff lines applicable to LDCs have zero tariffs and all imports from LDCs carry zero tariffs. In the EU markets, 98.8 percent tariff lines attach zero tariff for LDCs and 99.9 percent of the exports of LDCs enter duty-free. Japan levies tariffs only in about nine percent of the imports from LDCs and zero tariff applies to 94.5 percent of tariff lines for LDCs. Compared to other Quad countries, the market access situation for LDCs is less favourable in the US market. The US provides duty-free access only to 81.1 percent tariff lines and imposes tariffs on 44 percent of the imports from LDCs.

The tariffs faced by LDCs in the selected developed countries are presented in Table 4.11 to 4.13.

Table 4.11: Tariff Faced by LDCs in Selected Developed Country Markets: All Products						
Export Markets	Duty averages		Number of peaks			
	Simple	Weighted	Dutiable		Inter-national	National
			Simple	Weighted		
Australia	1.7	1.4	10.3	6.8	202	559
Canada	1.6	0.5	12.9	14.0	341	544
Japan	0.9	0.9	10.2	7.5	103	412
New Zealand	0.0	0.0	.	.	.	.
Norway	0.1	0.1	3.5	3.8	12	183
US	1.9	1.2	10.5	11.0	187	733
EU	0.0	0.0	3.1	2.7	.	17
<i>Source: WTO 2006.</i>						

Table 4.12: Tariff Faced by LDCs in Selected Developed country Markets: Agriculture Products						
Export Markets	Duty average		Number of peaks			
	Simple	Weighted	Dutiable		Inter-national	National
			Simple	Weighted		
Australia	0.0	0.0	.	.	.	.
Canada	0.4	0.8	16.0	12.3	5	11
Japan	5.8	5.6	11.8	9.7	100	299
New Zealand	0.0	0.0	.	.	.	.
Norway	1.0	1.2	3.6	3.8	12	181
US	1.9	2.3	14.2	9.5	24	60
EU	0.0	0.0	7.7	7.7	.	1
<i>Source: WTO 2006.</i>						

Table 4.13: Tariff Faced by LDCs in Selected Developed Country Markets: Non-Agriculture Products						
Export Markets	Duty average				Number of peaks	
	Simple	Weighted	Dutiable		Inter- national	National
			Simple	Weighted		
Australia	2.0	1.4	10.3	6.8	202	559
Canada	1.8	0.5	12.8	14.2	336	533
Japan	0.2	0.3	6.2	4.7	3	113
New Zealand	0.0	0.0	.	.	.	.
Norway	0.0	0.0	0.6	0.6	.	2
US	1.9	1.1	10.1	11.1	163	673
EU	0.0	0.0	2.8	2.6	.	16
<i>Source: UNCTAD 2003.</i>						

Table 4.14 shows the coverage, the utilisation rate and the utility of the GSP schemes for LDCs in 2001. Less than two-thirds of the potential trade of LDCs was covered by the GSP scheme and, out of this only about two-thirds actually enters into Quad markets under tariff preferences. It means about 42 percent of the exports of LDCs got preferential market access. It is interesting to note that, despite 99.4 percent coverage of the EU GSP, its utilisation and utility is less than half of the potential trade. It means that mere

Table 4.14: Quad's GSP: Utilisation for LDCs, 2001 (in percentage)			
Country	Coverage*	Utilisation**	Utility***
Canada	12.1	70.2	8.5
EU	99.4	46.9	46.7
Japan	52.7	57.4	30.3
US	44.1	95.8	42.2
Quad Total	63.4	67.3	42.7
<i>Source: UNCTAD 2003.</i>			
<p>* Product coverage is defined as the ratio between imports that are covered by a preferential trade arrangement and dutiable imports from the beneficiary countries.</p> <p>** Utilisation rate is defined as the ratio between imports actually receiving preference and covered imports. If utilisation rates are low, there might be the stringency and/or complexity of Rules of Origin and ancillary requirements.</p> <p>*** Utility rate is defined as the ratio between imports actually receiving preference and all dutiable imports, whether they are covered by the GSP or not. A low level of this ratio means that a large part of dutiable imports pay the MFN tariffs.</p>			

providing GSP to LDCs is not sufficient to increase trade of LDCs, such preferences should be complemented by other supportive measures.

The preference utilisation situation for Bangladesh and Nepal is presented in Table 4.15, which shows that utility rates differ across exporters and markets. The potential coverage

Table 4.15: Quad's GSP: Utilisation for Bangladesh and Nepal 2001			
Preference-giving Countries		Bangladesh	Nepal
Canada	Potential cover rate	10.3	45.4
	Utilisation rate	74.2	77.4
	Utility rate	7.7	35.1
EU	Potential cover rate	100.0	100.0
	Utilisation rate	50.8	71.3
	Utility rate	50.8	71.3
Japan	Potential cover rate	64.5	99.7
	Utilisation rate	76.6	80.1
	Utility rate	49.4	79.9
US	Potential cover rate	1.9	4.7
	Utilisation rate	69.0	90.7
	Utility rate	1.3	4.2
Total Quad	Potential cover rate	57.3	44.9
	Utilisation rate	51.6	74.1
	Utility rate	29.5	33.3
<i>Source: WTO 2003.</i>			

is higher for Bangladesh, i.e. at 57.3 percent, but the utilisation rate is higher for Nepal. However, the total value of the preference schemes stands at about one-third for both the countries. The coverage is the highest in EU, at cent percent, but the utilisation rate is the highest in Canadian markets for both Bangladesh and Nepal. In the US market, the coverage is quite low, as a result of which utility rate is also high, despite higher rate of utilisation.

The analysis of existing non-reciprocal preference schemes of developed countries, its coverage and utilisation and utility rates shows that these schemes do not have the desired impacts on expanding exports of South Asian LDCs. It also indicates that the issue at hand is not only tariffs but also NTBs, like RoO, and administrative procedures have hampered market access in these countries. South Asian LDCs are also facing tariff peaks.

3.3 Non-reciprocal Preferential Market Access by Developing Countries

As noted in Section II, the importance of developing countries for export market is increasing for Nepal. Its share in total exports has increased from 15 percent in 1990 to 54 percent in 2004. But, the share of developing countries has decreased for Bangladesh. Therefore, preferential market access, in the form of DFQF market access in the developing countries, is crucial for Nepal and would play a significant role in export expansion. Some of the developing countries provide preferential market access to products originating from LDCs. However, the depth and the coverage of these preference schemes are often limited. Among the preferential schemes, the importance of non-reciprocal preferential market access schemes and the Global System of Trade Preferences (GSTP) has limited utility for Nepal and Bangladesh, but preferential market access granted on a bilateral basis by India bears a significant importance for Nepal. The bilateral trade

agreement between Nepal and India provides duty-free market access of Nepalese products in the Indian market, albeit with some conditions. China has also announced in September 2005 to grant duty-free treatment to certain products from 39 LDCs.

Since preferential access offered by developing countries to LDCs is limited in terms of its depth and coverage, the market access conditions facing LDC exports in these markets are determined primarily by MFN rates. The level of preferential margin enjoyed by LDCs is presented in Table 4.16, which contains the simple MFN average, the weighted MFN average, using trade from all partners, and the weighted MFN average, using actual imports from LDCs, respectively. It shows that the weighted MFN average values for all developing countries, except Singapore, are below the simple average. While taking the trade-weighted import tariffs, Brazil, China and Indonesia provide significant

Table 4.16: MFN Tariff Profile of Developing Country Markets, 2003				
Member	Simple Average	Trade-weighted average		Margin of preference for LDCs
		All partners	LDC partners only	
Brazil	14.6	11.2	2.0	9.2
China	15.9	14.2	6.5	7.7
Taipei, Chinese	7.8	3.7	6.3	-2.6
India	31.9	24.5	27.3	-2.8
Indonesia	6.9	4.3	0.6	3.7
Korea, Rep. of	12.4	8.9	5.1	3.8
Malaysia	7.3	4.2	2.0	2.2
Mexico	17.9	15.6	15.6	0.0
Singapore	0.0	0.0	0.0	0.0
South Africa	5.8	4.5	3.7	0.8
Source: WTO 2006.				

margin of preference to LDCs, the tariffs imposed on LDC imports is higher in Taipei and India. It indicates that LDCs are discriminated *vis-à-vis* other developed and developing countries, because of the preferential trading arrangements that exclude LDCs.

Table 4.17 presents the data for the latest available year on the status of duty-free imports into developing country markets. Overall, 72.2 percent of LDC exports enter developing country markets duty-free. The data also show that, based on 2003 data, 93.3 percent of China's imports from LDCs enter duty-free. Other markets, which allow a high percentage of duty-free LDC exports, include Chinese Taipei (96.5 percent), Malaysia (98.5 percent), Brazil (80.9 percent) and Indonesia (87 percent). Hong Kong, China and Singapore allow 100 percent duty-free, but that is because their average tariff is zero, in any case. Among the top 10 developing country destinations, India and the Republic of Korea only allow a small portion of LDC exports, 3.8 percent and 2.7 percent, respectively, entering their markets duty-free.

Table 4.17: Duty-Free Status for LDCs in Selected Developing Country Markets				
Name	Year	Dutiable	Duty-Free	Duty-free (percent)
		(in thousand US\$)	(in thousand US \$)	
China	2003	417,682	5,850,508	3
India	2001	1,273,956	49,962	3.8
Korea, Rep. of	2003	876,225	24,597	2.7
Chinese Taipei	2002	30,158	841,483	96.5
Singapore	2001	12	736,851	100.0
Malaysia	2001	6,517	437,371	98.5
Brazil	2001	55,789	236,931	80.9
Hong Kong, China	2003		275,920	100.0
Indonesia	2001	34,267	229,787	87.0
<i>Source: WTO 2006.</i>				

3.4 Non-Tariff Measures

The above section highlights the landscape of the market access for products originating from LDCs and argues that, despite favourable tariff conditions in most of the markets, the utilisation of preference by LDCs is low. This section briefly discusses the NTMs faced by LDC exports.

Broadly, non-tariff measures (NTMs) are understood as a measure not being tariff. It has been argued that such a definition does not serve the purpose of analysis, particularly the quantitative one (e.g., Baldwin 1970, Laird and Vossenar 1991, Lloyd 1996, Deardorff and Stern 1997). Based on the inventory of the measures notified by GATT Contracting parties, GATT has classified some 800 measures in five broad categories: (i) government participation in trade; (ii) customs and administrative entry procedures; (iii) standards involving imports and domestic goods; (iv) specific limitations on imports and exports (quantitative restrictions and the like); and (v) restraints on imports and exports by the price mechanism (WTO 2006a). Baldwin defines non-tariff measures as any measure that causes distortions in internationally traded goods. Lloyd, adopting the ‘principle of one price’, also defines NTBs in terms of distortions, but measures by the differences between the domestic and the world prices. Deardorff and Stern (1997) define in terms of the character and impact of the measures. Their definition includes any measures that reduce quantity of imports, or increase the price of imports, or change the slope of the import demand curve.

Most of the studies on NTMs report that that there has been a general decline in the use of quantitative instruments combined with an increased incidence of technical standards (UNCTAD 2005). But, the incidence of NTMs in developed countries rather than in some developing country regions and in terms of product category, has been a much higher in agricultural products relative to manufacturing products (Bacchetta and Bora (2001). Customs and administrative procedures and technical barriers to trade were the main NTMs faced by developing country exporters in developed country markets (OECD 2005).

Based on the notification, WTO (WTO 2006a) compiles NTMs adopted by the WTO members. Since the notified measures are not specific to LDCs, it does not assess the extent to which the measures affect the market access opportunities of LDCs. But, it gives an idea to identify the NTMs on products of export interest to LDCs. It indicates that SPS measures are the most frequently cited NTMs faced by LDC exports, in particular for their agricultural exports (e.g. fruits and vegetables), fish and fish products, wood and wood products, etc. The RoO associated with preference schemes represent the major NTMs of concern to a number of LDCs for their non-agricultural exports (mainly clothing). The other types of NTMs, which are of concern to LDCs are technical barriers to trade (TBT), customs and administrative measures and trade remedies (anti-dumping measures). Since 1995, out of nearly 6,200 SPS notifications, 26 notifications have explicitly identified one or more LDCs as being potentially affected by the proposed measure, or by including emergency measures.

As has been noted before, the RoO associated with some non-reciprocal preference schemes represent a major concern, mainly for non-agricultural exports from LDCs.

Although it is the prerogative of preference-granting countries to design their respective RoO criteria, its criteria have restrictive effects on the market access for LDCs. On the one hand, the magnitude of value addition is high and the Rules of Origin criteria vary with the preference-granting country and the scheme within the same country, on the other. For example, the EC's EBA and the Cotonou Agreement require various ranges of percentages (50-80 percent) of value addition on ex-works basis for some products (including profit and general expenses). In the case of the US' African Growth and Opportunity Act (AGOA), all non-textile products need a 35-percent value addition, on the basis of the direct costs of processing (excluding profit and general expenses). Canada's Market Access Initiative (MAI) for LDCs requires a 40-percent value addition on the basis of ex-factory price (including profit and general expenses).

As far as the Bangladesh and Nepal are concerned, the reported specific case of NTMs is limited, but, as pointed out above, there exist NTMs in the products of export interest of these countries and one can not undermine the potential use of NTMs. Table 4.18 presents the notification of NTMs directed to Bangladesh and Nepal. It is interesting to note that Bangladesh and Nepal face NTMs, mostly on non-agriculture products. Exportable products of Bangladesh, subject to NTMs, are jute yarn and jute products, toiletry products, pharmaceutical products, juices, jam jelly, pickles, spices and lead acid batteries. Similarly, Nepal faces anti-dumping measures on zinc oxide and acrylic fibres in Indian markets. In addition, Nepalese products also face para-tariffs and SPS measures in the Indian markets.

Table 4.18: NTMs Faced by Bangladesh and Nepal			
Country	Country applying measures	Products affected	Types of measures
Bangladesh	Not identified	Jute yarn/twine	TBT (packaging requirement, labelling requirement, etc.), SPS, customs and administrative procedures, import licensing requirement
	Not identified	Toiletry products	Consular formalities and documentation
	Not identified	Pharmaceutical finished formulations/ products	Registration and procedural problems
	Not identified	Juices, drinks, jam, jelly, pickles, spices, snacks Attestation fees and testing requirement	
	EU	Garments	Rules of Origin (EBA)
	Brazil	Sacks and bags of jute, knitted or crocheted	Anti-dumping measure
	India	Lead acid batteries	Anti-dumping measure
Nepal	India	Zinc oxide, acrylic fibres	Anti-dumping measure
Source: WTO 2006a.			

4. Impact on other Developing Countries

During the Hong Kong Ministerial conference, two South Asian countries, namely, Pakistan and Sri Lanka, had objected to the proposal of providing DFQF market access for all products originating in LDCs, arguing that they compete in international market with LDCs in the same products. The declaration states that, while taking steps to achieve compliance with the decisions, members would take into account the impact on other developing countries at similar levels of development. This section analyses how other South Asian countries, namely, Pakistan and Sri Lanka, might be affected by providing DFQF market access to Nepal and Bangladesh.

The magnitude of exports of Pakistan and Sri Lanka shows that exports account 30.3 percent and 64.7 percent of the total domestic output. It has increased substantially over the period. Pakistan's exports grew at an average of 11 percent during the period 2000- 04, compared to 0.8 percent during 1995-2000 and 6.1 percent during 1990-1995. However, the export growth of Sri Lanka is not remarkable compared to those of Pakistan's. Its average growth rates were 15.1 percent, 6.4 percent and 1.9 percent during 1990-1995, 1995-2000 and 2000-2004, respectively.

Table 4.19: Export Growth: Pakistan and Sri Lanka							
Country	Export Growth						Export/ GDP ratio
	1990-95	1995-00	2000-01	2001-02	2002-03	2003-04	2003
Pakistan	6.1	0.8	2.3	7.3	20.4	14.0	30.3
Sri Lanka	15.4	6.4	-11.3	-2.4	9.1	12.3	64.7

Source: UNCTAD Handbook of Statistics (various issues).

The direction of export trade shows that developed countries' markets still count as a critical export market for both Pakistan and Sri Lanka. The share of developed countries in the exports has been declining over the period and stands at 53 percent and 66 percent for Pakistan and Sri Lanka, respectively. However, the export to US has been increasing whereas the share of other developed countries has dropped.

The products with more than one percent share in the total exports for Pakistan and Sri Lanka are presented in Tables 4.19 and 4.20, respectively, which show that the export composition of Pakistan and Sri Lanka is not well diversified. Table 4.19 shows that the major exports of Pakistan include textiles, clothing, rice, leather and carpets, among others. However, unlike Bangladesh and Nepal, Pakistan is exporting fabrics rather than ready made garments, which constitute less than 15 percent of total exports. Sri Lanka's major exports constitute tea, precious and semi-precious stones and ready made garments, among others. Although ready made garment is one of the major exports of Sri Lanka, its dependency on it is not as high as that of Bangladesh and Nepal. Moreover, Sri Lanka's exports are mostly concentrating on inner garments, coats and jersey. The share of men's shirts and trouser, which are the major export items of Nepal is quite low.

Table 4.20: Direction of Exports: Pakistan and Sri Lanka								
Country	Year	Developed Countries					Devel oping Countries	Countries in Transition
		Europe	US and Canada	Japan	Others	Total		
Pakistan	1990	38.3	14.1	8.2	1.4	62.0	32.9	2.7
	2000	28.6	27.3	2.6	1.6	60.1	39.2	0.5
	2004	28.6	22.1	1.1	1.1	53.0	45.9	0.6
Sri Lanka	1990	27.8	27.4	5.4	1.8	62.4	30.5	3.1
	2000	29.0	41.5	4.2	2.2	76.8	17.9	2.0
	2004	29.8	32.2	2.9	1.7	66.7	22.1	3.3

Source: UNCTAD Handbook of Statistics (various issues).

The above discussion indicates that, despite the fact that developed countries' markets are important for Pakistan and Sri Lanka to expand their exports, but its importance has been declining over the period. With regard to export composition, textiles and ready made garments have a significant share in the total exports of these countries, but, if we go deep inside the export composition, at the tariff line level, we find low resemblance of exportable products with Bangladesh and Nepal. Given the existing tariff rates in developed countries in ready made garments, these countries may lose some of the

market share in some of the ready made garment products, if DFQF market access is provided to LDCs, including Bangladesh and Nepal. A study by Raihan et. al (2006), using GTAP database and the CGE model also concludes that the DFQF market access could have negative impacts on the export performance of other developing countries, but the losses appear to be very small, compared with the gains of the LDCs. However, one needs to assess the state of technology, productivity level and the linkages of the garment sector with the economy in South Asian countries in order to reach the concrete conclusions on the impact of DFQF proposal.

Table 4.21: Pakistan's Major Export, 2005			
Rank	HS Code	Product description	Share in percent
1	630231	Bed linen of cotton	6.36
2	100630	Semi-milled or wholly milled rice, whether or not polished or glazed	4.99
3	520512	Single cotton yarn measuring less than 714.29 decitex but not less than 232.56 decitex	4.31
4	630260	Toilet linen and kitchen linen of terry fabrics	3.55
5	610510	Mens or boys shirts of cotton	3.29
6	520819	Other woven fabric of cotton	2.93
7	620342	Trousers, bib and brace overalls, breaches and shorts of cotton	2.38
8	271019	Other fuel oil	2.30
9	420310	Leather articles of apparel	2.19
10	521051	Plain weave fabrics of cotton	1.88
11	570110	Carpet and other textile floor coverings of wool or fine animal hair	1.84
12	890510	Dredgers	1.81
13	521213	Dyed woven fabric of cotton	1.63
14	520522	Cotton yarn measuring less than 714.29 decitex but not less than 232.56 decitex	1.57
15	950662	Inflatable balls for sports	1.38
16	630210	Bed linen, knitted or crocheted	1.34
17	940490	Other mattresses	1.28
18	611490	Garments made up of other textile materials	1.28
19	610590	Men's or boy's shirts of other textile materials	1.27
20	901890	Other medical instruments and appliances	1.12
21	630710	Floor cloths, dishcloths, dusters and similar cleaning cloths	1.11
22	610910	Cotton Y-shirts, singlets and other vests	1.07
23	521021	Plain weave fabrics of cotton	0.99
24	540774	Printed woven fabrics of synthetic filament yarn	0.94
25	420329	Others gloves, mitten and mitts	0.79
Source: WITS.			

Table 4.22: Sri Lanka's Major Export, 2005			
Rank	HS Code	Product description	Share in percent
1	090240	Other black tea (fermented) and other partly fermented tea	8.204
2	090230	Black tea (fermented) and partly fermented tea, in immediate packings of a content not exceeding 3 kg	4.933
3	621210	Brassières	3.019
4	620342	Of cotton	2.578
5	610910	Of cotton	2.479
6	620462	Of cotton	2.395
7	620469	Of other textile materials	2.368
8	880330	Other parts of aeroplanes or helicopters	2.216
9	620520	Of cotton	2.165
10	401290	Other	1.858
11	710391	Rubies, sapphires and emeralds	1.732
12	740319	Other	1.344
13	611020	Of cotton	1.341
14	610510	Of cotton	1.334
15	710239	Other	1.329
16	620630	Of cotton	1.207
17	611610	Impregnated, coated or covered with plastics or rubber	1.194
18	620343	Of synthetic fibres	1.131
19	610990	Of other textile materials	1.103
20	620690	Of other textile materials	1.098
21	620333	Of synthetic fibres	1.080
22	401519	Other	1.020
23	620433	Of synthetic fibres	1.019
24	620463	Of synthetic fibres	0.990
25	620640	Of manmade fibres	0.972
Source: WITS.			

5. Summary and Conclusions

The Hong Kong Decision on DFQF market access for LDCs has both commercial and diplomatic values for Bangladesh and Nepal. Quad countries' markets (Canada, EU, Japan and US) constitute about four-fifths for Bangladesh and two-fifths for Nepal (WTO 2006) exports and about 20 percent of exports of LDCs face customs duties, along with tariff peaks, in a substantial number of products. It is natural to expect significant trade expansion of these countries after its implementation. On the diplomatic front, it honours the UN Millennium Declaration. An official indicator of the goal eight of the UN Millennium Development Goals (MDGs) is achieving DFQF market access for LDCs into developed country markets and, *prima facie*, it is a movement in the right direction to address the development needs of LDCs. But, the Declaration is loaded with conditions and loopholes and one is forced to suspect the intention of the preference-giving

countries. What kind of leverage would the developed countries have to exclude products under the veil of three percent exclusion? How would such exclusions change the landscape of real market access situations for LDCs? Why do the decisions talk about the export interests of other developing countries, rather than those of LDCs, in LDC-specific decisions? What are the modalities of progressivity in achieving DFQF market access? These are a few unanswered, but crucial, questions that determine the utility and value of the decision. The following section attempts to answer these questions.

In principle, DFQF initiatives might not bring the desired effects on South Asian LDCs, if their interest is not properly reflected in the design. In particular, in the light of the past experience with several preferential trade arrangements, like GSP, DFQF treatment should be bound, covering all products and incorporate the RoO requirements, matched with the industrial capacity of LDCs. Unless such conditions are met, the various initiatives currently undertaken would constitute no more than a modest improvement of the current market access that LDCs are already granted under the existing GSP schemes or other preferential arrangements.

The existing trade relation and the situation of the market access shows that South Asian countries are facing product and geographical concentrations. The product concentration at individual markets shows that 0.5 percent of the tariff lines, at HS 6-digit level, constitutes more than four-fifths of the exports of Bangladesh and Nepal in Australia, Germany, and UK. In Japan and US, the magnitude is about three-fourths for Bangladesh and more than four-fifths for Nepal. The landscape of the export markets, particularly for Nepal, has been changing. Therefore, preferential market access in developing countries bears significant importance.

Developed countries and selected developing countries grant reduced, or zero, tariff rates over the MFN rates on selected products originating in LDCs under the GSP. But, these schemes have their own definition of country eligibility, product coverage, RoO and safeguard mechanisms. As a result, the magnitude of the products entering duty free into developed countries is different and the utilisation of such scheme is quite low. The prime suspects for low utilisation of preference are the exclusion of the product of export interest of LDCs, such as T&C restrictive RoO, lack of security of the market access, cumbersome administrative procedures and the supply capabilities of LDCs.

Despite the fact that developed countries' markets are important for Pakistan and Sri Lanka to expand their exports, however, their importance has been declining over the period. These countries are competing on the same product categories in developed countries' markets. However, if we go deep inside the export composition at the tariff line level, the intensity of competition gets reduced.

Some of the caveats from the above discussion are discussed below.

First, the exports of Bangladesh and Nepal are highly concentrated in few tariff lines in bilateral markets and thus, the flexibility provided to developed countries to exclude three percent of tariff lines, under DFQF initiatives may exclude virtually all exportable products of LDCs.

Second, mere granting duty-free market access to the exports originating in the LDCs does not ensure that LDCs are effectively utilising the preferences. It should be supplemented by the measures that address structural problems of the LDCs, such as RoO exclusion from the preference scheme, including competitive tests and safeguard measures and administrative procedures.

Third, developing countries have been emerging as major markets for South Asian LDCs and, thus, preferential access in these markets would go a long way in export expansion of these countries.

Fourth, the export composition of South Asian LDCs and other developing countries resemble at the product categories, but at the more disaggregated level, such similarity tends to shrink.

In the light of the above caveats and the past experience with several preferential trade arrangements, one has reason to doubt the efficacy of the Hong Kong Decisions on the DFQT market access meaningful and effective market access for LDCs. If we go along with the existing escape routes and ambiguities, it would not constitute anything more than the current market access that LDCs are already granted and, at the worst, it may run the risk of rolling back existing preferences. Thus, it has been argued that the decision needs to be further corroborated with the following interpretations and explanations:

- a. If the full flexibility is provided to developed countries to designate/exclude the tariff lines from the proposed scheme of DFQF market access, there is every possibility that the scheme would cover the products that are enjoying duty-free market access under the existing non-reciprocal preferential schemes. Therefore, in order to have incremental value of the scheme, the flexibility provided to developed countries to exclude from DFQF market access should be interpreted as three percent of the existing non-zero tariff lines and should also be capped by the volume of imports (for example, not exceeding 10 percent of imports at tariff lines). The provision of Tariff Rate Quota (TRQ) could be worked out for the excluded products and a timeline should also be defined to integrate the excluded list of tariff lines into the scheme.
- b. As the landscape of market access has been changing over the period and developing countries are major markets for South Asian LDCs, therefore, developing country should also provide DFQF market access, but, taking into account the problems they might face in the initial stage, they should commit DFQF access for at least half of the tariff lines, comprising of half of the export value of South Asian LDCs.
- c. LDCs should be allowed to designate specific percentage of tariff lines, e.g., 0.5 percent in the case of developed countries and 0.1 percent in the case of developing countries, not to be included in the exclusion lists. Immunity should be provided to these products from the 'impact test' on other developing countries.
- d. The RoO for preferential market access should incorporate the stage of development for the LDCs and be harmonised for all preference-granting countries. The provisions of the Canadian GSP scheme could be a starting

- point. A product originating in any of the LDCs or any of the regional trading partners should be considered as a product originating in the exporting LDC.
- e. On the other area of the negotiation under the Doha Round, particularly in aid for trade and trade facilitation, special consideration should be given to the ways to improve supply capacity, as well as to reduce the administrative costs in the exports to preference-granting countries.

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- 1 International Covenant on Civil and Political Rights, International Covenant on Economic, Social and Cultural Rights, International Covenant on the Elimination of All Forms of Racial Discrimination, Convention on the Elimination of All forms of Discrimination against Women; Convention against Torture and other Cruel Inhuman or Degrading Treatment or Punishment; Convention on the Rights of the Child; Convention on the Prevention and Punishment of the Crime of Genocide; Convention Concerning Minimum Age for Admission to Employment; Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour; Convention Concerning Equal Remuneration for Men and Women Workers for Work of Equal Value; Convention Concerning Discrimination in Respect of Employment and Occupation; Convention Concerning the Application of the Principles of the Right to Organise and Bargain Collectively and International Convention on the Suppression and Punishment of the Crime of Apartheid.
- 2 The Montreal Protocol on Substances and Deplete the Ozone Layer; Basel Convention on the Control of Trans-boundary Movement of Hazardous Wastes and Their Disposal; Stockholm Convention on Persistent Organic Pollutants; Convention on International Trade in Endangered Species of Wild Fauna and Flora; Convention on Biological Diversity; Cartagena Protocol on Bio-safety; Kyoto Protocol to the United Nations Framework Convention on Climate Change; United Nations Single Convention on Narcotic Drugs; United Nations Convention on Psychotropic Substances; United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances; and United Nations Convention against Corruption.

Chapter 5

Preference Erosion and Aid for Trade *A South Asian Perspective*

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1. Introduction

Erosion of trade preferences is a central issue in the on-going efforts to negotiate further multilateral trade liberalisation in the Doha Round¹. Tariff reductions under agriculture and non-agricultural market access (NAMA) are expected to lead to lowering of most-favoured nation (MFN) tariffs². The reduction of MFN tariffs is expected to adversely affect countries, which are beneficiaries of preferential agreements. Reflecting this concern, the text of the Hong Kong Ministerial Declaration made explicit reference to preference erosion, recognising it as an issue that needs to be addressed in the Doha Round³.

The debate over the value of trade preferences has become a highly divisive issue among developing countries – between the beneficiaries and non-beneficiaries of preference schemes. Whilst some countries are increasingly concerned about the discrimination they face in the Quad markets⁴ as a result of better access granted to other (preferred) countries⁵, least developed countries (LDCs) and countries in the Africa, Caribbean and Pacific (ACP) group, who are beneficiaries of preferential treatment worry that general, MFN-based liberalisation of trade would erode the value of preferential access that they currently enjoy, thereby exposing them to greater competition from more cost efficient suppliers. In fact, the latter group has little to gain from additional market access at the global level, as they already enjoy duty and quota free access (DFQF) to a large number of products in most of the Quad countries.

For nearly 30 years, preferences schemes have been used as instruments by the industrialised countries to enhance market access, encourage export driven economic development or as a politically convenient form of aid to developing countries. Developing countries enjoy preferential access to these markets under a variety of non-reciprocal trade preference schemes, namely the Generalised System of Preference (GSP), which was established in 1968 under the auspices of United Nations Conference on Trade and Development (UNCTAD). In addition to national GSP schemes, EU grants special preferences to ACP members (the Cotonou Partnership Agreement – CPA, successor to the Lome IV Convention) and it has a separate programme for LDCs referred to as Everything But Arms (EBA) initiative. The US maintains several regional schemes such as the Caribbean Basin Initiative (CBI) for the Caribbean and the Africa Growth and Opportunity Act (AGOA) extended to Sub-Saharan African (SSA) countries. In terms of product coverage, EU's EBA is the most comprehensive, extending DFQF access to all products followed by AGOA, which potentially covers all but one percent of exports of African LDCs, and the GSP scheme. These schemes while being 'non-reciprocal' in terms of granting of tariff preferences are tied up with non-trade related issues such as labour standards, environment, and governance and as such are not strictly speaking non-reciprocal in nature. Market access preferences have had beneficial effects on investment, job creation and poverty reduction through trade, but they can also have perverse consequences, and suffer from a number of shortcomings and are often underutilised. Nevertheless, preferential schemes are perceived valuable enough for recipient countries to raise the issue of preference erosion as a cause of concern.

Preference erosion is not a new concern⁶. In fact, erosion of preferences has been going on for decades as a result of unilateral and multilateral reforms in preference granting countries and pursuit of regional trade agreements (RTAs), which have proliferated

recently. Every time there has been a multilateral effort to reduce MFN tariffs, beneficiary countries of trade preferences have expressed concern over the possible impact MFN reduction would have over the preferential margins granted. For example, Brazil proposed at the Tokyo Round that certain tariff lines which are given preferences should be exempted from MFN tariff cuts and the GSP scheme to be improved (Low, Piermatini and Richtering, 2005). It was not a particular problem before because the GSP programmes offered preferential access but not DFQF access. However subsequent programmes such as EBA and AGOA offered DFQF access to almost all products, which meant that any reduction in the MFN rates would lead to erosion of preferential margins (Braga, Hoekman, Martin, 2006). Countries now giving duty free and quota free access for all or essentially all LDCs include Canada, EU, New Zealand, Norway, and Switzerland Japan offer free access to about 63 percent of their imports. The US offers special access to some LDCs' exports to most African and Caribbean countries. For some countries with high concentration of exports in heavily protected commodities the gains from preferences are very large and thus face larger losses with erosion of preferences. Given the ongoing negotiations for the reduction of MFN tariffs under Doha Round, the benefits enjoyed under these various schemes (despite their limited use) are likely to be reduced.

So far, a number of proposals have been submitted to deal with the issue of preference erosion in the negotiations of agriculture and NAMA undertaken. The G-90 composed of the LDCs and ACP group has called for further strengthening of existing preference schemes, compensatory mechanisms including measures to promote exports, providing technical and financial assistance for improving infrastructure, productivity and diversification of exports. However, there is no consensus on possible solutions to the problem. Nevertheless, there is growing support for 'Aid for Trade' (A4T), as a means of supporting developing countries to improve their capacity to expand trade as well as address adjustment costs related to trade liberalisation.⁷ A4T gained much prominence at the Hong Kong Ministerial in 2005 and was placed in the Declaration as a possible means of addressing the problem of preference erosion.

The purpose of this study is four-fold. First, it identifies non-reciprocal preference programmes of the major developed countries and assesses their importance to countries in South Asia.⁸ Second, it attempts to identify countries in South Asia, which will be vulnerable to preference erosion as a result of trade liberalisation in the context of a successful Doha Round, including sectors/products that are most likely to be affected. There are several GSP schemes in the world but those of US and EU are the most important ones and therefore the study would be limited to these two schemes⁹. Third, it summarises the results of various simulation exercises in which the impact of partial/full erosion of preferences is estimated, highlighting the likely effects on South Asia. Fourth, it discusses possible options available, both trade and non-trade related measures, to address the adverse effects of preference erosion. The paper would focus on 'Aid for Trade' mechanism as a non-trade related measure in dealing with preference erosion as compensatory trade solutions to preference erosion are temporary in nature – i.e. unless trade liberalisation is permanently withheld, which is not a practical and efficient means of addressing the problem.

2. An Overview of Generalised System of Preferences

In 1968, the UNCTAD recommended the creation of a “Generalised System of Tariff Preferences” (GSP) under which industrialised countries would grant trade preferences to all the developing countries. The “enabling clause” passed in 1971 authorised developed countries to establish individual GSP schemes, which exempted them from the MFN principle of the WTO (formerly GATT). The overall objectives of the GSP scheme in favour of developing countries were: 1) to increase their export earnings; 2) to promote their industrialisation; and 3) to accelerate their rates of economic growth. The three basic guiding principles of GSP were:

- Generality - a common scheme to be applied by all preference giving countries to all developing countries
- Non-discrimination - all developing countries to be covered and treated equally under the scheme
- Non-reciprocity - beneficiaries do not have to make corresponding concessions in exchange for preferences granted¹⁰.

To this end industrialised countries have been offering developing countries preferential access to their markets through lower tariffs compared to the MFN tariffs. There are currently 13 national GSP schemes notified to the UNCTAD secretariat. The countries that grant GSP preferences include: Australia, Belarus, Bulgaria, Canada, Estonia, EU, Japan, New Zealand, Norway, the Russian Federation, Switzerland, Turkey and US. Table 5.1 presents a list of GSP grantor countries and beneficiaries in South Asia.

Table 5.1: GSP National Schemes and South Asia

Beneficiaries		Preference-Giving Countries													
		Australia	Bulgaria	Canada	Estonia		European Union		Japan	New Zealand	Norway	Russian Federation	Turkey	Switzerland	United States
						General	EBA	GSP+							
Bangladesh	LDC	x	x	x	x	x	x		x		x	x	x	x	x
Bhutan	LDC	x	x	x	x	x	x		x	x	x	x	x	x	x
India			x	x		x			x	x	x	x	x	x	x
Maldives	LDC	x	x	x	x	x	x		x	x	x	x	x	x	
Nepal	LDC		x	x	x	x	x		x	x	x	x	x	x	x
Pakistan			x	x		x			x	x	x	x	x	x	x
Sri Lanka			x	x				x	x	x	x	x	x	x	x

Source: UNCTAD website

2.1 EU-GSP Scheme

Through its GSP the EU extends preferential access to its markets to all developing countries - a total of 178 countries at present. The EU GSP scheme is the most generous of all developed country GSP schemes (EC, 2006). It was the first to implement a GSP

scheme, which was initially implemented for a period of 10 years from 1971 to 1981. A second 10-year term was implemented from 1981 to 1991, and extended until the conclusion of the Uruguay Round in 1994. During this period annual reviews of the scheme were conducted with changes being made to product and country coverage, quotas, ceilings and the depth of tariff cuts. The structure of the scheme was substantially altered in 1995 and third term reflected the results of the Uruguay Round. The scheme was made simpler and more predictable, with quantitative restrictions (QRs) being replaced by tariffs, the introduction of a graduation mechanism and “incentive clauses”, the validity of schemes being extended for three/four years within a 10-year period and all products being covered by a single regulation.

The most recent scheme, adopted in June 2005 through Council Regulation (EC) No. 980/2005, was implemented on January 01, 2006. It is designed to be more simple, stable and transparent. The objectives of the scheme are: to maximise the benefits to the most disadvantaged countries (small economies, land-locked countries, small island states and low income countries) and provide a clearer graduation mechanism. The new scheme is made fairer by focusing preferential access on countries that have a lower share of EU imports, while graduation takes place when a group of products in a given sector from a beneficiary country exceed 15 percent of total imports to the EU from GSP countries. In the case of textiles and clothing (T&C), the graduation threshold was set at 12.5 percent. As such, textile exports from India continue to be ineligible for GSP benefits as directed under the previous GSP regulations, while clothing exports are eligible for preferential access under the new revisions. Under the new scheme, about 80 percent of China’s exports will graduate from the scheme and this will be potentially advantageous for other developing countries with smaller production capacities, including those in South Asia.

The types of beneficiary access arrangements provided by the EU GSP scheme have been reduced from five¹¹ to three. At present they are as follows:

- Under the General Arrangement, duty free access is given to all non-sensitive products (about 3300 products) while for sensitive products (3900 products), there is a duty reduction of 3.5 percentage points from the MFN rate and 30 percent from the specific duties. For textile and textile articles, 20 percent tariff reduction from MFN rates is granted. All beneficiary countries including India and Pakistan¹² receive preferential access under the General Arrangement.
- The ‘Special Incentive’ Arrangement for Sustainable Development and Good Governance (or in short “GSP-plus”) provides additional benefits for countries that have implemented or in the process of implementing a number of international conventions on good governance and sustainable development. Sri Lanka is the only South Asian country enjoying the benefits of the GSP+ arrangement, which ensures duty free access to 7200 products to the EU market, instead of a tariff reduction under the General Arrangement¹³. In addition to Sri Lanka, the Commission has granted GSP+ status to 14 other countries.
- The special arrangement for LDCs, also known as the “Everything But Arms” (EBA) initiative, grants LDCs “DFQF” access to the EU’s market with the exception of rice, bananas and sugar, which were given longer implementation periods. Both Bangladesh and Nepal are EBA beneficiaries since 2001 and are eligible to DFQF access for 9800 products to the EU market.

Fundamental to any GSP scheme are its Rules of Origin (RoO) and the EC has its own RoO for countries receiving preferential market access. RoO ensures that preferences are not granted to a country ineligible for preferential access and that beneficiary countries are not used as intermediaries by non-eligible countries to gain access to the EU market. The three main conditions required under the Article 81 of the EC GSP RoO are that the exported products: 1) must originate in the beneficiary country; 2) must be transported directly to the EC from the beneficiary country; and 3) be accompanied by proof of their originating status.

In order to satisfy the first condition, the product must meet one of two criteria – the goods must be either ‘wholly obtained’ in the country or ‘sufficiently worked or processed’. The criteria required to satisfy the ‘sufficiently worked or processed’ clause may be met in one of three ways, or a combination of two of the three clauses: 1) the change of heading criterion; a) different heading under 4 digit HS level; 2) the value *ad valorem*) criterion; and 3) the specific process criterion.

The EC allows for ‘bi-lateral cumulation’ (also known as ‘donor country content’) and ‘regional cumulation’ which allow beneficiary country’s to use inputs from the EU, Norway, Switzerland or any of the designated regional groupings to meet the RoO criteria. ‘Bi-lateral cumulation’ is only valid with the required documentation while ‘regional cumulation’ is intended to promote regional cooperation. Regional cumulation is permitted among members of the Andean Group, Association of Southeast Asian Nations (ASEAN), Central American Common Market and South Asian Association for Regional Cooperation (SAARC).

The EC also allows derogation from the GSP rules to LDCs for a specified period of time under valid circumstances. Both Nepal and Bangladesh have been granted derogation for a limited period of time by the EU in the past, i.e. derogation to conversion requirements for accessing the EU-GSP and regional cumulation. Currently, EU is in the process of reforming its RoO,¹⁴ which governs the GSP eligibility. The objective is to simplify and relax these rules to provide better access to developing countries.

2.2 US-GSP scheme

The US GSP is designed to promote economic growth in the developing world by providing eligible beneficiary countries with preferential DFQF entry of eligible products. Under the authorisation of the Trade Act of 1974, the GSP programme was instituted on January 01, 1976. Since then it has been in operation initially for two 10-year periods and thereafter has been renewed every one or two years. The US scheme has consecutively been renewed without any amendments, with the most recent renewal in 2002 under the Trade Act of 2002 whereby President Bush signed legislation re-authorising the programme up to December 2006.

Under the US scheme, 139 countries are eligible for GSP benefits of which 98 are developing countries and 41 are LDCs.¹⁵ Approximately 4,600 articles are eligible for duty-free treatment from all GSP beneficiaries. In 1997, an additional 1,783 articles originating in LDCs became available for GSP benefits. This was seen as a significant improvement in the US scheme as it resulted in an increase in product coverage for LDCs from less than two percent in 1996 to over 60 percent in 1997¹⁶. Product coverage

of goods from beneficiary countries other than LDCs also expanded from 41.2 percent to 54.9 percent during this period.

Products eligible under the US GSP scheme include most dutiable manufactures, semi-manufactures and selected agricultural, fishery and primary industrial products. Notable products excluded from GSP scheme include most textiles, watches, footwear, handbags, luggage, flat goods, work gloves, other leather apparel and any article determined to be import sensitive such as steel, glass and electronic equipment¹⁷.

Eligibility for duty-free treatment under the scheme is based on the provision that the countries: 1) do not exceed the Competitive Needs Limit (CNL); 2) have not yet achieved graduate status with respect to the product; 3) imports meet the value-added requirements; 4) have fully completed the relevant documentation; and 5) imports comply with other custom requirements

The CNL provides a ceiling on GSP benefits for each eligible product and country. This is intended to prevent the extension of preferential treatment to countries that are already competitive in the production of that product. Developing countries will automatically lose its GSP eligibility on a product if the CNL is exceeded when the country's exports: 1) account for more than 50 percent of the total value of US imports for that product; or 2) exceed a certain dollar value which stood at US\$120mn in 2005. Under special circumstances the CNL can be waived. This limit is automatically waived in the case of LDCs eligible for GSP benefits.

Under the graduation mechanism of the US scheme, a country would lose its GSP benefits when it is determined as sufficiently developed or competitive, and therefore no longer requires GSP benefits as a whole or with respect to one or more products. The conditions considered for the graduation of a country are: the country's level of development; its competitiveness in the particular product; its practices relating to trade, investment and worker rights and the overall economic interests of the US such as the effect of continued GSP treatment on relevant US producers, workers and consumers.

For an article to be GSP eligible under the US scheme, the beneficiary country also has to comply with the RoO requirements. These requirements state that the product must have 35 percent of value-added local content, i.e. imported materials can also be counted towards the 35 percent value added requirement only if they are "substantially transformed" into new and different constituent materials which are then used to produce the eligible product. The product must also be directly shipped to the US from the beneficiary country. US Customs has the authority in determining whether a product meets the GSP RoO requirements.

For GSP member countries that are members of regional associations, the US GSP scheme allows special provisions such that the association will be considered as one country for the purpose of GSP RoO. Associations that are currently eligible to benefit from this special provisions are: the Andean Group, ASEAN except Brunei and Singapore, the Caribbean Community and Common Market (CARICOM); the Southern African Development Community (SADC); West African Economic and Monetary Union (WAEMU). South Asian Association for Regional Cooperation (SAARC) has not been

recognised for cumulation purpose under the US GSP scheme. Along with the GSP scheme, US also extends non-reciprocal preferential treatment under the AGOA, the Caribbean Basin Initiative (CBI), and the Andean Trade Preference Act (ATPA) for countries in Sub Saharan Africa, Caribbean and Latin America.

The US GSP scheme expired on December 31, 2006 but unlike other years, there is considerable debate regarding renewal of the scheme this time around largely due to the current impasse in the multilateral trade talks and concerns regarding the inclusion of certain advanced developing countries such as India and Brazil in the scheme (Jones, 2006). Currently, the office of the United States Trade Representative (USTR) is reviewing whether to limit, suspend or withdraw the eligibility of 13 major GSP beneficiaries¹⁸. It is also reviewing whether the current waivers to automatic CNL should be withdrawn. Several options appear available *vis-à-vis* the treatment of the GSP scheme. The US could allow the programme to expire after December 31, 2006, scrap GSP in favour of reciprocal bilateral and regional trade agreements, renew the GSP for LDCs only, renew the existing programme without major amendments or extend the programme in a modified form.

3. Importance of EU and US GSP Scheme to South Asia

The South Asian region is highly dependent on Quad markets which account for substantial share of their exports to the world though the dependence is much less in the case of India. Of the Quad countries, EU and US are the most important markets for exports from South Asia as seen in Table 2. In fact, EU and US together account for a substantial proportion of the export market of the region – as much as 84 percent in the case of Bangladesh though much less for the other countries. In the case of Bangladesh, India, and Pakistan, EU is the largest single export market of these countries while it is the second most important market after US in the case of Sri Lanka. For Nepal the single most important market is India (not shown in the table), followed by the EU.

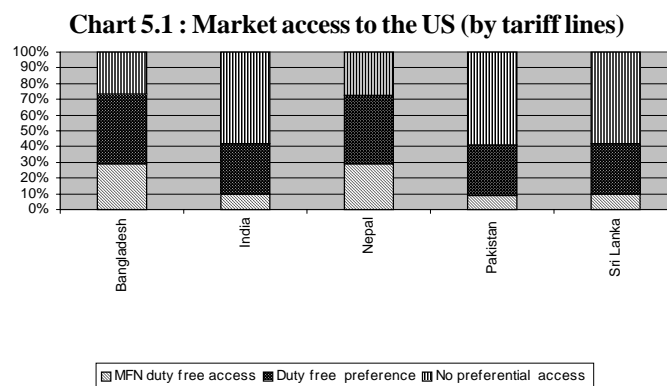
Table 5.2: South Asia's Exports to the World and Quad						
Country	Total exports	% to US	% to EU	% to Japan	% to Canada	% to Quad
Bangladesh	5,796,910	25.63	58.38	1.02	3.51	88.54
India	79,846,398	16.51	20.85	2.51	0.22	40.09
Nepal	658,942	23.70	19.19	1.15	1.72	45.75
Pakistan	13,379,015	23.34	29.33	1.20	1.33	55.19
Sri Lanka	5,485,135	34.03	31.59	2.82	1.31	69.76
<i>Source: TradeMap Database</i>						

As it can be seen from Tables 5.3 and 5.4, exports to US and EU from South Asia are highly concentrated in one or two sectors. Textile articles alone account for a substantial share of exports from the region to the US, as much as 80 percent or more of the total exports of Bangladesh, Pakistan and Sri Lanka. India's exports to US is more diversified but nonetheless two sectors, textiles and precious stones together account for 50 percent of total exports to US. A similar picture appears in the case of EU, with a concentration in one or two sectors accounting for a substantial proportion of exports from the region. As in US, textile articles are the single most important export sector to EU from South

Asia. Textile exports from Bangladesh, Nepal, and Pakistan account for over 70 percent of total exports to EU. In the case of India and Sri Lanka precious stones, chemicals, base metals, machinery and mechanical appliances, plastics contribute a modest share to total exports to the EU apart from textile articles.

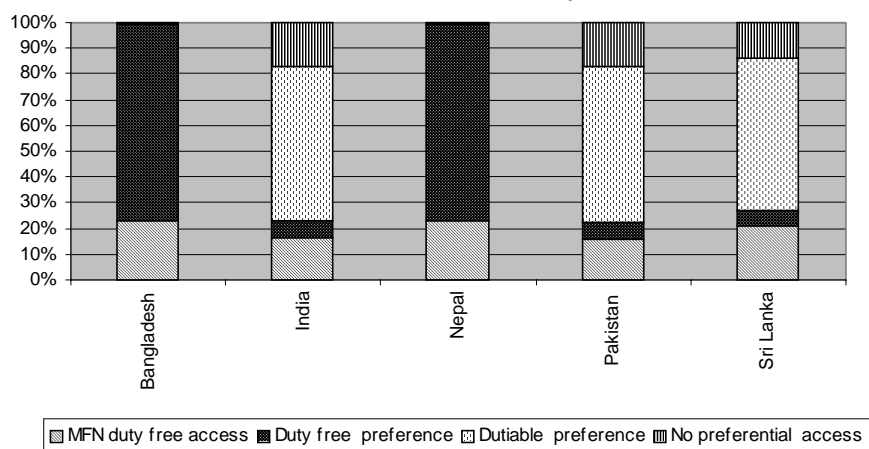
Table 5.3: Total Imports into the US (as percentage of total imports), 2004						
Section	Description	BG	IN	NP	PK	SL
I	Live animals & products	7.3	2.53	N/A	0.1	0.9
II	Vegetable products	0.02	3.69	0.13	1.05	1.3
III	Fats and oils	0	0.61	N/A	0	0
IV	Prepared foodstuffs, beverages etc.	0.23	0.93	N/A	0.42	0.1
V	Mineral products	0.01	1.87	N/A	0.01	0.08
VI	Chemical products	0.38	6.99	0.06	0.02	0.55
VII	Plastics & rubber	0.32	1.84	0.21	0.13	7.41
VIII	Hides and skins, leather, etc.	0.08	1.72	0.49	3.01	0.27
IX	Wood & articles of wood	0.02	0.28	0.13	0.03	0.21
X	Pulp of wood, paper, books, etc.	0	0.29	0.6	0.05	0.02
XI	Textile & textile articles	86.43	25.73	93.42	88.89	81.69
XII	Footwear, headgear, umbrellas etc.	4.74	0.86	0.42	0.12	0.98
XIII	Articles of stone, cement, etc.	0.15	2.23	0.02	0.39	0.77
XIV	Precious stones, etc	0	27.8	1.76	0.55	2.75
XV	Base metals & products	0.01	9.61	0.32	0.88	0.09
XVI	Machinery & electrical equipment	0.02	6.56	0.36	0.19	1.37
XVII	Transport equipment	0	2.12	N/A	0.06	0.05
XVIII	Optical & precision instruments	0.01	1.03	0.06	1.15	0.05
XIX	Arms and ammunition	0.24	0.02	0.01	0.19	0
XX	Miscellaneous manufacturing articles	0	2.4	0.25	2.68	0.9
XXI	Works of art etc	0.03	0.13	1.19	0.08	0.01
	Total	100	100	100	100	100
	US\$ ('000)	2461683	16301330	155277	3070428	2075071

Source: Compiled from data provided by UNCTAD



Source: Compiled from TradeMap Database

Chart 5.2 Market access to the EU (by tariff lines)



Source: Compiled from TradeMap Database

Section	Description	BG	IN	NP	PK	SL
I	Live animals & products	3.65	2.23	0.06	1.43	1.9
II	Vegetable products	0.28	4.66	0.43	2.51	6.31
III	Fats and oils	0	0.93	0	0	0.01
IV	Prepared foodstuffs, beverages etc.	0.33	0.91	5.05	3.43	2.79
V	Mineral products	0	4.27	0.01	0.18	0.2
VI	Chemical products	0.26	8.9	0.42	0.19	0.36
VII	Plastics & rubber	0.13	2.15	0.03	2.19	11.37
VII	Hides and skins, leather etc.	1.37	5.2	2.54	8.85	0.83
IX	Wood & articles of wood	0.05	0.34	0.32	0.02	0.5
X	Pulp of wood, paper, books, etc	0.02	0.47	3.22	0.06	0.76
XI	Textile & textile articles	91.42	28.04	80.49	71.47	52.33
XII	Footwear, headgear, umbrellas etc	1.45	4.41	1.23	1.2	1.21
XIII	Articles of stone, cement, etc.	0.4	1.82	0.24	0.19	1.12
XIV	Precious stones, etc	0	10.79	2.5	0.39	11.88
XV	Base metals & products	0.06	9.08	0.91	1.19	0.65
XVI	Machinery & electrical equipment	0.07	8.78	1.48	0.9	3.73
XVII	Transport equipment	0.41	3.8	0.01	0.15	1.15
XVIII	Optical & precision instruments	0.02	0.76	0.29	1.45	0.52
XIX	Arms and ammunition	N/A	0.02	0	0.01	N/A
XX	Miscellaneous manufacturing articles	0.07	2.45	0.5	4.17	2.37
XXI	Works of art, etc	0	0.01	0.29	0.01	0.01
Total	100	100	100	100	100	
	US\$ ('000)	5251502	19030157	118989	3989537	1694239

Source: Compiled from data provided by UNCTAD

Charts 5.1 and 5.2 show the types of market access granted to the five main South Asian countries by US and EU respectively. In the case of Bangladesh and Nepal, nearly 30 percent of the total tariff lines in US are MFN duty free while the figure is much lower at 10 percent for India, Pakistan and Sri Lanka. All five countries of the region also receive duty free access to the US market under the GSP scheme, with India, Pakistan and Sri Lanka each receiving roughly about 32 percent of the tariff lines as duty free. The number of lines allocated as duty free under the GSP scheme is about 41 percent of the total tariff lines in the case of Bangladesh and Nepal. Overall, Bangladesh and Nepal have duty free access to the US market for 70 percent of tariff lines under both MFN conditions and GSP scheme while only 40 percent of the tariff lines have duty free treatment in the case of India, Pakistan and Sri Lanka, with the remainder not receiving any preferential treatment and subjected to MFN tariff rates.

In the EU, a higher number of tariff lines are accorded duty free for both Bangladesh and Nepal under its EBA initiative due to their LDC status (over 70 percent of the tariff lines). Under the GSP scheme, India, Pakistan and Sri Lanka each receive about six percent of the total tariff lines as duty free while roughly about 60 percent of the tariff lines gain duty preferences (non-zero). A further 15-20 percent of the tariff lines receive MFN duty free treatment in the EU while equal number of tariff lines does not receive any preferential treatment. In total, 99 percent of the tariff lines in the EU are duty free in the case of Bangladesh and Nepal due to zero duties while the figure for India, Pakistan and Sri Lanka is about 20 percent.

Tables 5.5 and 5.6 show the distribution of concessions offered by the US and EU under the GSP schemes to the 5 South Asian countries. The number of tariff lines under the GSP EU scheme is higher than in the case of the US, both for LDCs and non-LDCs of the region. The LDCs get more concessions than the non-LDCs under both schemes. Sri Lanka qualifies for more tariff line concessions under the EU due to its eligibility for the GSP-plus scheme. While all of the preferences under the EU scheme are granted duty free access to LDCs, a large proportion of preferences extended to India and Pakistan are under preferential rates, including products of relevance to these countries (mineral products, textile articles, base metals, machinery and mechanical appliances in the case of India and for Pakistan, leather products and textile articles).

Table 5.5: Distribution of Products Offered Concessions by the US, 2004

Section	Description	BG	NP	IN	PK	SL
I	Live animals & products	186	186	42	42	42
II	Vegetable products	343	343	208	208	209
III	Fats and oils	48	48	20	20	20
IV	Prepared foodstuffs, beverages etc.	395	395	227	227	227
V	Mineral products	19	19	15	15	15
VI	Chemical products	1163	1163	756	756	756
VII	Plastics & rubber	281	281	252	252	252
VII	Hides and skins, leather, etc.	137	137	107	107	107
IX	Wood & articles of wood	69	69	60	60	60
X	Pulp of wood, paper, books, etc.	0	0	0	0	0
XI	Textile & textile articles	64	64	64	64	64

XII	Footwear, headgear, umbrellas etc.	27	27	27	27	27
XIII	Articles of stone, cement, etc.	168	168	121	121	121
XIV	Precious stones, etc	57	57	55	55	55
XV	Base metals & products	439	439	393	393	393
XVI	Machinery & electrical equipment	643	643	569	569	569
XVII	Transport equipment	117	117	77	77	77
XVIII	Optical & precision instruments	230	230	194	194	194
XIX	Arms and ammunition	12	12	10	10	10
XX	Miscellaneous manufacturing articles	137	137	124	124	124
XXI	Works of art, etc	0	0	0	0	0
Total		4535	4535	3321	3321	3322
<i>Source: Calculated from the Market Access Map Data Base</i>						

Table 5.6: Distribution of Products Offered Concessions by EU (at 2 HS Level) 2004									
Sec.	Description	BD	NP	IN		PK		SL	
		Duty Free	Duty Fee	Pref. rate	Duty free	Pref. rate	Duty free	Duty free	Pref. rate
I	Live animals & products	1124	1124	595	0	595	0	33	569
II	Vegetable products	798	798	366	2	366	2	602	28
III	Fats and oils	119	119	113	0	111	0	109	2
IV	Prepared foodstuffs, beverages etc	1165	1174	866	0	866	0	696	214
V	Mineral products	63	63	0	61	0	61	61	0
VI	Chemical products	1685	1685	1498	131	1498	131	1645	0
VII	Plastics & rubber	629	629	558	71	558	71	629	0
VII	Hides and skins, leather, etc.	126	126	91	22	91	22	113	0
IX	Wood & articles of wood	111	111	111	0	111	0	111	0
X	Pulp of wood, paper, books, etc.	0	0	0	0	0	0	0	0
XI	Textile & textile articles	1610	1610	1603	0	1603	0	1603	0
XII	Footwear, headgear, umbrellas etc.	145	145	123	22	123	22	145	0
XIII	Articles of stone, cement, etc.	279	279	229	50	229	50	279	0
XIV	Precious stones, etc	18	18	0	18	0	18	18	0
XV	Base metals & products	688	688	313	311	313	311	644	0
XVI	Machinery & electrical equipment	1526	1526	1526	0	1526	0	1526	0
XVII	Transport equipment	269	269	187	82	187	82	269	0
XVIII	Optical & precision instruments	308	308	202	106	202	106	308	0
XIX	Arms and ammunition	0	0	0	0	0	0	0	0
XX	Miscellaneous manufacturing articles	191	191	114	77	114	77	191	0
XXI	Works of art, etc	0	0	0	0	0	0	0	0
	Total	10854	10863	8495	953	8493	953	8982	813
<i>Source: Calculated from the Market Access Map Data Base</i>									

4. Vulnerability to Preference Erosion

The importance of preferences for beneficiary countries and their vulnerability to preference erosion will depend on their dependence on preferences and the value of the preferences they receive. Policy literature has tended to use descriptive indicators to assess the impact of preferences¹⁹. These indicators are discussed below:

- 1) Preference margins is given by the difference between the MFN tariff applied to a certain product and preferential tariff enjoyed by a country. The larger the preference margin, the greater the value of preference, and thus greater the vulnerability to preference erosion. However, even a small preference margin could be valuable to an export sector in a competitive market, which is fierce and is characterised by small profit margins (EU, 2003).
- 2) Product coverage is given by the ratio between the value of imports eligible for preferences and value of dutiable imports. This indicator gives an idea of the eligibility of products for preferences. A high coverage rate means that a larger part of the imports receive preferential treatment. However, a high coverage rate does not necessarily mean that the preferences extended are actually being used. Preferences are granted subject to meeting a number of requirements laid out by a scheme which beneficiary countries may not be able to comply. Utilisation rate depends on security of access under the scheme, coverage of products, RoO criteria, capacity to supply goods, understanding/awareness of preferences, and non-trade related conditions (see Box 5.1). Even when preferential schemes may appear to be providing a wide coverage of products, the actual utilisation of these preferences may be less than 100 percent. A clearer indication of the effectiveness of trade preferences is given by the utilisation rate.
- 3) Utilisation rate is given by the ratio between the value of imports receiving preferential treatment and value of imports eligible for preferences. This indicator gives an idea of how much of the preferences that are extended are actually used. The higher the utilisation rate, the more valuable trade preferences and larger the likely loss from preference erosion.
- 4) Utility rate is given by the ratio between the value of imports receiving preferences and the value of dutiable imports. This indicator gives an idea of how much of the goods are imported under preferential rates compared to MFN dutiable rates. A high utility rate means that a substantial share of imports enjoys the preferential rate while a low utility rate means that goods are mostly imported under MFN rate.

What can be said is that beneficiary countries, which record both low utility and utilisation rates are less vulnerable to preference erosion since most of their trade takes place outside the preferential scheme and under MFN conditions. On the other hand, beneficiaries with high utility and utilisation rates are more vulnerable to preference erosion as they export under the preferential scheme at preferential tariff rates.

Box 5.1: Factors Affecting the Utilisation of Unilateral Trade Preferences

- a) **Lack of security of access:** Over the years there have been several changes made to the GSP scheme by including and excluding products/countries through graduation or revision of the schemes. Under certain schemes, quantitative limits in preferential treatment have been applied limiting the predictability of obtaining preferences. These have brought about an element of uncertainty due to the unilateral and autonomous nature of the schemes. An exception to this is the EBA scheme of EU, which extends duty-quota free treatment for an unlimited period of time and is not be subjected to periodic renewals. Nonetheless, the scheme is still subjected to various limitations of the GSP scheme such as its unilateral character, provision on temporary withdrawal of preferences, strengthened safeguard measures and RoO.
- b) **Insufficient coverage:** Although comprehensive, product coverage under some schemes has been limited due to the exclusion of certain products of interests to beneficiary countries, which has reduced their usefulness. For example, T&C products in the case of US and Canada (up to 2003) and some agricultural/fishery products in the case of Japan are not covered under their respective GSP schemes.
- c) **Excessive stringent rules of origin:** It has been one of the main reasons for the low utilisation rate of preferences. RoO requirements usually do not reflect the manufacturing capacity and industrial development of beneficiary countries. Moreover, documentary evidence requirements exacerbate the cost and difficulties in meeting the RoO and undermine the utilisation of preferences. RoO requirements when associated with low preferential margins might discourage exporters from utilising preferences because the cost of compliance to qualify for preference could exceed the value of the preferential margin.
- d) **Lack of understanding/awareness of the preferences available and conditions:** One of the main reasons for low utilisation has been due to lack of knowledge of preferential advantages available under the preferential arrangements on the part of exporters. Often exporters and trade officials are also unaware of the conditions which are attached to these arrangements and the lack of knowledge could be costly in terms of unnecessary payment of MFN duties, rejected exports, origin verification, unnecessary testing, spoilage, legal fees and forgone opportunities.
- e) **Lack of capacity to supply:** This has been one of the main reasons for the limited export performance and utilisation of preferences.
- f) **Non-trade related conditionalities:** In the case of the GSP scheme of the US, certain non-trade related conditionalities linked to eligibility has existed since its inception. The EU too maintains similar conditionalities under the EBA and GSP-plus schemes.

Source: UNCTAD 2001

5. Preference Margins in the US and EU

On average, LDCs receive a higher margin of preference compared to non-LDC from Quad countries. This is true for LDC beneficiaries in South Asia in the case of the EU GSP scheme, with both Bangladesh and Nepal receiving a higher preference margin than their neighbours (Table 5.7). However, there is no significant difference between the preference margins granted to LDCs and to developing countries in the region by US. This may be because all GSP beneficiaries, regardless of their status (LDCs or non-LDCs) get duty free access to products under the US scheme. As LDCs, these countries get more product coverage under the US scheme compared to non-LDCs instead of higher preferential margin. Under EU scheme, LDCs receive duty free access to almost all products giving them a competitive edge over others, equivalent to the MFN tariff, while developing countries receive both duty free and preferential treatment and thus enjoy a modest margin of preference.

Under the current negotiations high tariffs are likely to be subjected to deeper cuts under agriculture and NAMA with the adoption of a non-linear method (Swiss Formula), and as such erosion of preferences is likely to be of concern to GSP beneficiaries including those in South Asia. It is likely to be of concern for sectors that currently enjoy large preference margins due to high MFN applied tariffs such as T&C, which are subjected to high tariffs/tariff peaks²⁰ (Charts 5.3 and 5.4). The data reveals that LDCs including Bangladesh and Nepal enjoy higher margins of preference compared to developing countries and the fear of loss from preference erosion seems justifiable.

Table 5.7: MFN and Preferential Tariffs for South Asian countries				
	EU		US	
Beneficiary Country	MFN Applied rate	Preferential Rate	MFN applied rate	Preferential rate
Bangladesh	11.2	0	15.4	0
India	8.2	8.4	13.5	0
Nepal	11.6	0	15.7	0
Pakistan	10.5	8.8	15.4	0
Sri Lanka	9.4	8.8	14.7	0
Notes: Country preferential rates may be higher than the MFN rates as preferential rates include products receiving only preferential treatment while the country MFN rates include products, which also enjoy MFN duty free treatment. Thus, the MFN rates may be biased down-wards. If the MFN duty free rates are taken into the calculation of preferential rates, the preferential rates would be lower than the figures stated above.				
Source: UNCTAD				

Chart 5.3 US Average MFN tariff rates by HS section

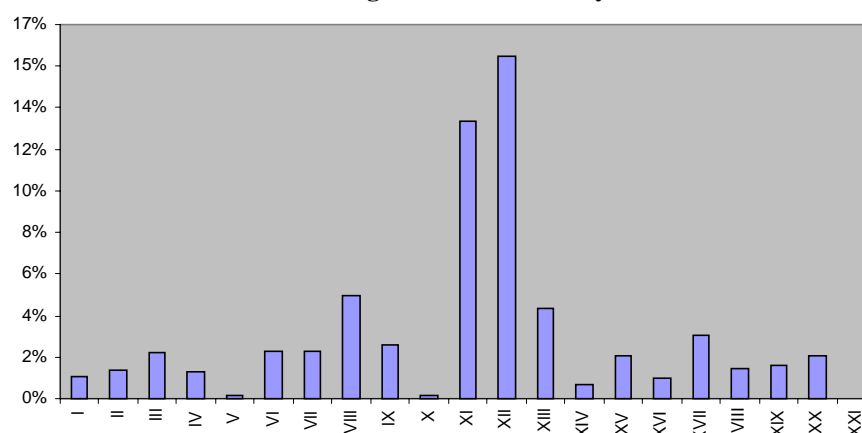
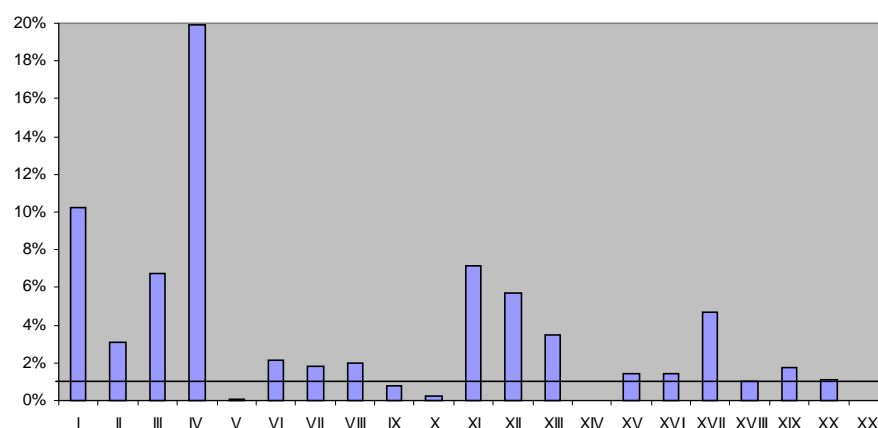


Chart 5.4 EU Average MFN tariff rates by HS section



Notes:

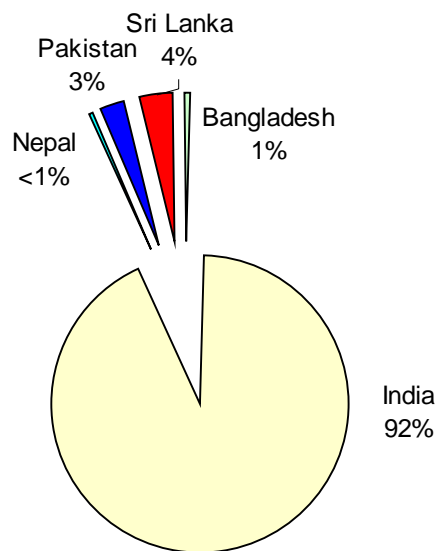
I Live animals and prod.	VII Plastic and rubber	XIII Articles of stones	XIV Arms and ammunition
II Vegetable products	VIII Hides and skins	XIV Precious stones, etc	XX Miscellaneous manuf.
III Fats and oils	IX Wood and articles	XV Base metals and prod.	XXI Works of art. Etc.
IV Prepared food etc	X Pulp, paper, etc	XVI Machinery	
V Mineral products	XI textiles and articles	XVII Transport equipment	
VI Chemical and prod.	XII Footwear, headgear	XVIII Precision instruments	

Source: Calculated from the Market Access Map Data Base

5.1 Coverage/utilisation/utility rates in the US

In 2004, US imported goods worth approximately US\$24bn from South Asia but only US\$3bn were spent on imports under the GSP scheme, with India's imports accounting for the largest share from the region, as shown by Chart 5.5.

Chart 5.5 Main beneficiaries of the US-GSP scheme



Source: Compiled from data provided by UNCTAD

Table 5.8: US GSP Imports and Utilisation for South Asia, 2004

Preference Beneficiary	Value of Imports (US\$000)			Receiving pref. Treatment	Potential Coverage Rate %	Utilization Rate %	Utility Rate %
	Total	Dutiable	Covered by the Scheme				
Bangladesh	2461683	2238659	22822	17541	1.02	76.86	0.78
India	16301330	8999437	3730780	3463655	41.46	92.84	38.49
Pakistan	3073729	2847415	115881	103660	4.07	89.45	3.64
Nepal	155277	117550	4989	3353	4.24	67.21	2.85
Sri Lanka	2075071	1843501	141780	126349	7.69	89.12	6.85
South Asia	24067090	16046562	4016252	3714558	25.03	92.49	23.15

Source: UNCTAD

As it can be seen from Table 5.8, coverage rate under the US scheme is very low with only 25 percent of total exports from South Asia receiving preferences. However, this value conceals the relative higher coverage rate of India (41 percent), which is a result of the diverse export base of the country. The figure for the rest of the countries in the region is below 10 percent or as low as one percent in the case of Bangladesh. This is due to the fact that under the US GSP scheme, important export sectors such as textiles & textile articles are excluded from preferential treatment due to their sensitive nature. Some of these sectors are the most important exports from South Asia to the US. Coverage rates have been fairly low in South Asia over the years, with some improvement in the coverage rate in the case of India²¹.

Despite the low coverage rate, utilisation rate is above 90 percent for the region as a whole indicating that the little preferences received are being well utilised. In the case of Bangladesh, utilisation rate is as high as 76 percent despite a low coverage rate. Similarly, other countries record high utilisation rates. With the exception of Nepal, utilisation of preferences in all other South Asian countries has shown an increase since 2001²². However, the utilisation rate might not be such a good indicator to measure the effectiveness of the US scheme due to the fact that sectors of interest to South Asia are excluded. A better measure in the case of US would be the utility rate.

Not surprisingly, the utility rate for South Asia is low as 23 percent due to the low coverage of products under the US GSP scheme. A low utility rate means that most of the products exported to US are not being exported under preferential rates. Thus, in the case of South Asia about 77 percent of the exports are dutiable – that is, they do not receive preferential treatment. Utility rates have been low and stable for all South Asian countries except India, which has a relatively higher rate compared to other countries in the region and has managed to export a larger share of exports under preferential treatment (duty free) since 2000²³. But India's utility rate is still low at below 40 percent.

5.1.1 Countries vulnerable to preference erosion in the US

Chart 5.6 shows the vulnerability of countries in South Asia to preference erosion in US, with countries in the top-right hand quadrant being highly vulnerable to preference erosion while countries in the bottom-left hand quadrant being the least vulnerable. As it can be seen from the chart, almost none of the South Asian countries are highly vulnerable to preference because they face low utilisation and utility rates in the US market. This is a result of low product coverage under the US GSP scheme. India may be relative more susceptible to preference erosion compared to other countries in the region but on the whole is not with less than 50 percent of the products imported from India to US receiving preferential treatment.

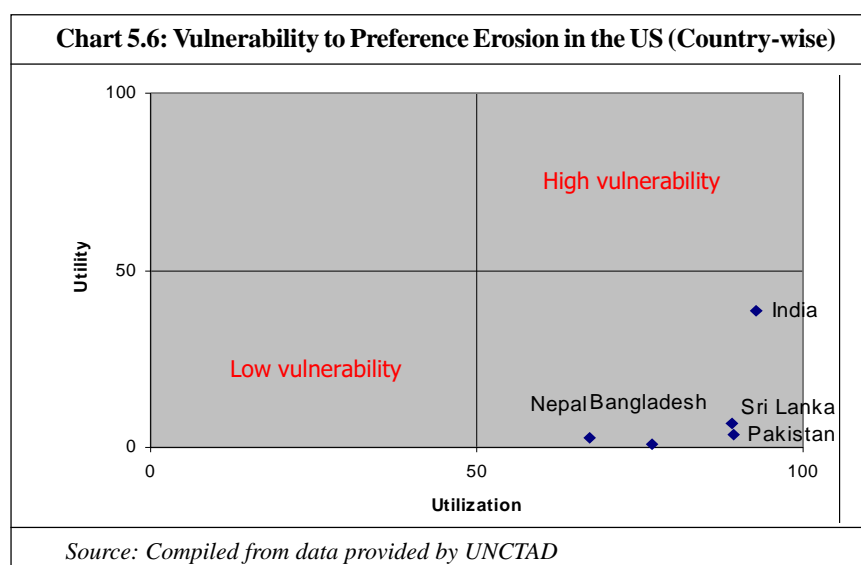


Table 5.9: US Coverage Rates (sector-wise, 2004)						
Section	Description	BG	IN	NP	PK	SL
I	Live animals & products	50	38.9	-	11	100
II	Vegetable products	100	57.8	100	17.8	91.8
III	Fats and oils	100	2.5	-	12.8	100
IV	Prepared foodstuffs, beverages, etc.	100	54.5	-	97.8	96.8
V	Mineral products	-	7.6	-	100	-
VI	Chemical products	100	0	100	100	100
VII	Plastics & rubber	100	87.1	100	69.6	99.9
VIII	Hides and skins, leather, etc.	44.1	16.3	3.8	4.9	12.8
IX	Wood & articles of wood	99.6	90.4	95.6	97.6	99.6
X	Pulp of wood, paper, books, etc.	-	-	-	-	-
XI	Textile & textile articles	0.1	2.8	0.7	1.2	0.5
XII	Footwear, headgear, umbrellas, etc.	0.1	1.1	0.5	23	11
XIII	Articles of stone, cement, etc.	100	95.6	100	99.7	72
XIV	Precious stones, etc	100	100	100	100	99.9
XV	Base metals & products	100	95.6	100	85.2	100
XVI	Machinery & electrical equipment	100	89.8	100	91.9	100
XVII	Transport equipment	100	99.8	-	98.7	100
XVIII	Optical & precision instruments	100	92.8	100	96.8	97.4
XIX	Arms and ammunition	97.6	93.5	-	100	
XXI	Works of art, etc	0	-	-	-	-
	Total Coverage	1.02	41.46	4.244	4.07	7.69
Source: Data compiled from UNCTAD						

5.1.2 Sectors vulnerable to preference erosion in the US

Although coverage rates are amongst the lowest in Bangladesh with only one percent of its exports potentially receiving preferences in the US market, coverage rates are quite high for some sectors, as it can be seen from Table 5.9. However, it is important to note that sectors receiving the highest coverage (100 percent) are not the most important export sectors of Bangladesh. These sectors account for about one percent of total exports from Bangladesh to the US in 2004. On the other hand, the coverage rates for Bangladesh's main exporting sectors, textiles and textile articles and footwear, are less than one percent while live animals & products records a higher but a low rate of 50 percent.

These sectors together accounted for 98 percent of total exports of Bangladesh to the US. While these exports record high utilisation rates, they have low utility rates due to their low coverage rates and as such are less vulnerable to preference erosion. Thus, they are not shown in Table 5.10, which illustrates sectors in South Asia that are highly vulnerable to preference erosion in the US. Sectors in Bangladesh, which are likely to be most affected by erosion of preference – that is, those with high utilisation and utility rates - only account for only one percent of Bangladesh's total exports to the US. Thus, erosion of preference due to tariff reduction by US is expected to be insignificant and unlikely to be a major issue for Bangladesh. Rather, reduction of tariffs by the US market under NAMA negotiations (particularly for clothing) is of importance to Bangladesh as

Table 5.10: Sectors Vulnerable to Preference Erosion* under US GSP scheme, 2004						
Section	Description	BG	IN	NP	PK	SL
I	Live animals & products					X
II	Vegetable products			X		X
III	Fats and oils	X				X
IV	Prepared foodstuffs, beverages, etc.	X			X	X
V	Mineral products				X	
VI	Chemical products	X		X	X	X
VII	Plastics & rubber		X			X
VIII	Hides and skins, leather, etc.					
IX	Wood & articles of wood	X	X	X	X	X
X	Pulp of wood, paper, books, etc.					
XI	Textile & textile articles					
XII	Footwear, headgear, umbrellas, etc.					
XIII	Articles of stone, cement, etc.	X	X	X	X	X
XIV	Precious stones, etc	X	X	X	X	X
XV	Base metals & products		X	X	X	X
XVI	Machinery & electrical equipment		X		X	X
XVII	Transport equipment	X	X		X	
XVIII	Optical & precision instruments				X	X
XIX	Arms and ammunition		X		X	
XX	Miscellaneous manufacturing articles	X	X	X		X
XXI	Works of art, etc					
Note: * Utilisation and utility rates over 60 percent X sectors vulnerable to preference erosion X sectors vulnerable to preference erosion and account for 5 percent or more of total exports Source: Compiled from Table A3 and A4.						

it would reduce the import duty levied on Bangladesh's clothing in the US market and enhance its competitiveness *vis-à-vis* Caribbean and Sub-Saharan countries which currently enjoy duty free access, thanks to US under AGOA and CBI.

India's main exports to US include precious stones, textile & textile articles, base metals, chemical product and machinery & electrical equipment which together accounted for 70 percent of India's total exports to the US in 2004. Exports of precious stones, base metals and machinery & electrical equipment record high coverage rates under the US GSP scheme – that is, over 90 percent. However, textile & textile articles, which account for 26 percent of total exports to the US, have a low coverage rate of only 2.8 percent. In comparison to its South Asian counterparts, India is the only country that does not receive any preferences for chemical products. This is as a result of the removal of GSP benefits by the US in 1992 for agricultural chemicals and pharmaceuticals on grounds of inadequate intellectual property rights (IPRs) protection²⁴.

As it can be seen from Table 5.10, precious stones, base metals and machinery and electrical equipment face a high degree of vulnerability as a result of tariff reductions by

the US as these sectors enjoy high utility rates of over 60 percent. These three export sectors account for 40 percent of India's total exports to the US in 2004. Despite high utilisation rates, the utility rate for textile and textile articles, India's second largest export sector to the US, is only 2 percent and as such not vulnerable to preference erosion and not shown in Table 5.10. Chemical products are exported to the US under the normal MFN tariff rates and therefore are unlikely to be adversely affected by tariff reductions. On the contrary, these two sectors stand to gain from tariff reductions by the US. In comparison to other South Asian countries, India uses the US GSP scheme more than the other countries in the region. This could be because India exports a diverse range of products compared to other countries in the region other than textile and textile articles.

Nepal exports fewer items to US in comparison to other South Asian countries. Its main exporting sector, textiles and textile articles alone accounts for 93 percent of its total exports but is barely covered by the US scheme – the sector has a coverage rate of 0.7 percent. Nepal receives 100 percent coverage for the export of precious stones, its second highest exporting item to US but it only accounts for two percent of the country's total export share. The export share of other sectors that receive 100 percent coverage rate accounts for the remaining five percent of total exports of Nepal to US.

Exports of base metals, chemicals and vegetable products are sectors, which are most likely to be vulnerable to tariff reductions as the utility rates are above 93 percent, with equally high utilisation rates. However, these exports only account for 0.5 percent of Nepal's exports to US. Textile & textile articles in comparison is unlikely to experience erosion in preferences as the main exporting sector does not enjoy preferential access to the US. Therefore, textile and textile articles do not appear in the Table 5.10 of vulnerable sectors to preference erosion.

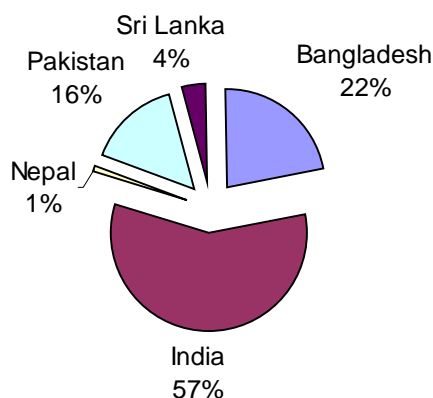
Pakistan's main exporting sectors consist of textiles and textile articles (which alone account for 89 percent of total exports to US), hides and skins and other miscellaneous manufacturing articles – record low coverage rates of between one to nine percent. Sectors, which receive more than 90 percent coverage, however account for only three percent of Pakistan's total exports to the US in 2004. Its main exporting sector hardly benefits from preferential treatment and as such is not presented in Table 5.10. Products, which are most vulnerable to preference erosion, are those sectors, which constitute only a small share of total exports from Pakistan (three percent).

In the case of Sri Lanka, textiles and textile articles, which account for 81 percent of total exports to the US, have a coverage rate of only 0.5 percent. On the other hand, plastics and rubber and precious stones have coverage rates of almost 100 percent but have an export share of seven and three percent, respectively. As it can be seen from Table 10, textiles and textile articles are least vulnerable to preference erosion due low utility/ utilisation rates. However, exports of plastics and rubber and precious stone are likely to face erosion in preferences as they record high utility/utilisation rates of over 90 percent. These two sectors together account for 10 percent of total exports from Sri Lanka to the US in 2004. Other sectors that have high utilisation and utility rates are also shown in the table but they account for about six percent of total exports of Sri Lanka.

5.2 Coverage, utilisation and utility rates of South Asia under EU GSP scheme

In 2004, EU market received imports from South Asia worth some US\$30bn of which US\$14bn of imports entered EU under preferential rates. The main beneficiaries in South Asia under the EU GSP scheme, in terms of imports receiving preferential treatment were: India, accounting for a sizable share of 57 percent followed by Bangladesh, Pakistan, Sri Lanka and Nepal, reflecting the relative import shares of these countries in the EU (Chart 5.7). Incidentally, India is the second largest beneficiary of GSP after China²⁵ while Bangladesh ranks eighth amongst the list of GSP beneficiaries.

Chart 5.7: Main beneficiaries of the EU-GSP scheme



Source: Compiled from data provided by UNCTAD

Table 5.11: EU GSP Imports and Utilisation for South Asia, 2004							
Preference Beneficiary	Value of Imports (US\$000)			Receiving pref. Treatment	Potential Coverage Rate %	Utilisation Rate %	Utility Rate %
	Total	Dutiable	Covered by the Scheme				
Bangladesh	5251502	5194794	5174295	3124727	99.6	60.4	60.2
India	19030157	13629831	9973295	8089568	73.2	81.1	59.4
Pakistan	3989537	3787447	2528310	2208095	66.8	87.3	58.3
Nepal	118989	111460	105203	88500	94.4	84.1	79.4
Sri Lanka	1694239	1312556	1281969	540124	97.7	42.1	41.2
South Asia	30084424	24036088	19063072	14051014	79.3	73.7	58.4

Source: UNCTAD

As it can be seen from Table 5.12, coverage offered under the EU GSP scheme is quite extensive for imports from South Asia, with almost 80 percent of dutiable imports to the EU eligible for preferential treatment in 2004. Under the GSP scheme, Bangladesh, Nepal and Sri Lanka report a higher coverage rate of 90 percent and above, largely due to their designation as LDCs in the case of Bangladesh and Nepal. Sri Lanka has a high coverage due to its eligibility under the Special Scheme for the Protection of Labour Rights. High but lower coverage rates are recorded in the case of both India and Pakistan. Coverage

rates have remained stable for all of the countries over time²⁶. Utilisation rate is also high for the region (over 70 percent) and the rate has improved over time²⁷ but there is considerable variation across the countries, with higher utilisation rates reported in India, Pakistan and Nepal (over 80 percent) but less than 50 percent in the case of Sri Lanka. The rate for Bangladesh is about 60 percent. Although the utilisation rate is high, utility rate is somewhat lower for the region – that is, about 60 percent. Here again there is considerable variation – 80 percent of Nepalese goods are imported under preferential duties to the EU while 60 percent of the Sri Lankan imports pay higher MFN duties. Overall the utility rate has increased for the region and as such more goods are imported at a preferential rate than before²⁸.

5.2.1 Countries vulnerable to preference erosion in the EU

Chart 8 shows the vulnerability of countries in the region to preference erosion in the EU. It shows that all the countries in the region are likely to experience preference erosion to some degree. Some are likely to be more affected than the others given their higher utilisation and utility levels such as Nepal, while Sri Lanka will not be affected as much, since it has not been able to effectively use the preferences extended by the EU and has been mostly exporting under MFN rates.

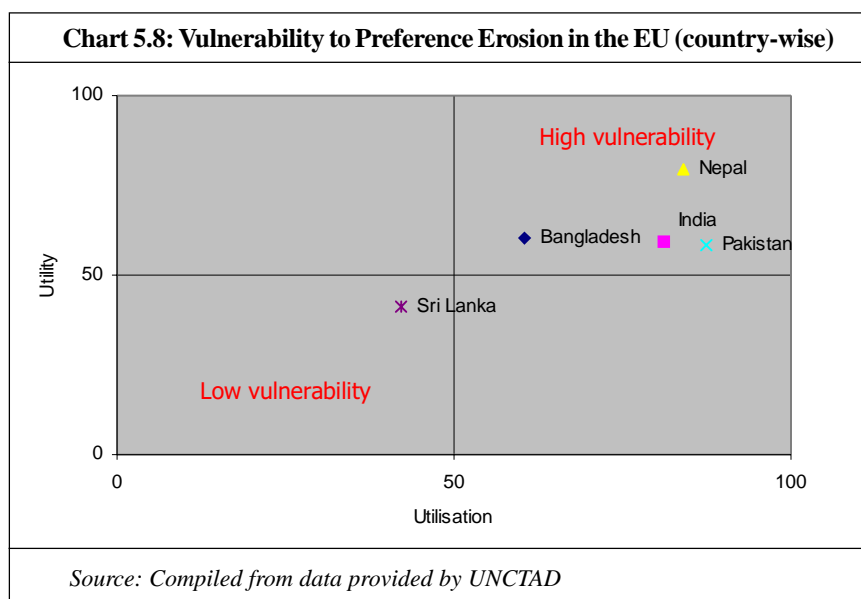


Table 5.12: EU Coverage Rates (sector-wise, 2004)						
Sect.	Description	BD	IN	NP	PK	SL
I	Live animals & products	100.0	94.7	100.0	100.0	18.9
II	Vegetable products	92.0	76.0	92.9	65.2	95.2
III	Fats and oils	100.0	97.8	100.0	100.0	100.0
IV	Prepared foodstuffs, beverages, etc.	67.2	85.5	1.8	36.5	99.0
V	Mineral products	100.0	63.9	100.0	0.3	100.0
VI	Chemical products	99.2	30.6	100.0	74.6	98.7
VII	Plastics & rubber	87.8	95.0	100.0	99.9	99.8
VIII	Hides and skins, leather, etc.	98.0	0.0	86.5	0.0	99.6
IX	Wood & articles of wood	100.0	99.5	100.0	100.0	100.0
X	Pulp of wood, paper, books, etc.					
XI	Textile & textile articles	99.8	72.1	100.0	71.8	99.5
XII	Footwear, headgear, umbrellas, etc.	100.0	99.9	100.0	100.0	99.6
XIII	Articles of stone, cement, etc.	100.0	99.9	100.0	99.2	100.0
XIV	Precious stones, etc	100.0	100.0	100.0	100.0	100.0
XV	Base metals & products	99.5	99.3	99.6	99.7	99.6
XVI	Machinery & electrical equipment	98.8	99.0	100.0	99.4	97.5
XVII	Transport equipment	99.6	99.9	100.0	98.6	99.8
XVIII	Optical & precision instruments	100.0	99.2	100.0	99.9	100.0
XIX	Arms and ammunition					
XX	Miscellaneous manufacturing articles	100.0	99.7	100.0	100.0	0.0
XXI	Works of art, etc	.		.	.	.
	Total	99.6	73.2	94.4	67.75	97.7
<i>Source: UNCTAD</i>						

Table 5.12: Sectors (HS Sections 1-21) Vulnerable to Preference Erosion* under EU GSP scheme						
Section	Description	BG	IN	NP	PK	SL
I	Live animals & products	X	X		X	
II	Vegetable products	X		X		X
III	Fats and oils	X	X	X	X	X
IV	Prepared foodstuffs, beverages, etc.		X			
V	Mineral products			X		
VI	Chemical products	X		X		X
VII	Plastics & rubber	X	X	X	X	X
VIII	Hides and skins, leather, etc.	X		X		X
IX	Wood & articles of wood	X	X	X		X
X	Pulp of wood, paper, books, etc.					
XI	Textile & textile articles		X	X	X	
XII	Footwear, headgear, umbrellas, etc.	X	X	X	X	X
XIII	Articles of stone, cement, etc.	X	X	X	X	X
XIV	Precious stones, etc		X	X	X	X
XV	Base metals & products		X	X	X	X

XVI	Machinery & electrical equipment		X	X		
XVII	Transport equipment	X	X		X	X
XVIII	Optical & precision instruments	X	X	X	X	X
XIX	Arms and ammunition					
XX	Miscellaneous manufacturing articles		X	X	X	X
XXI	Works of art, etc					
Note: * Utilisation and utility rates over 60 percent X sectors vulnerable to preference erosion X sectors vulnerable to preference erosion and account for five percent or more of total exports Source: Compiled from Tables A1 and A2						

5.2.2 Sectors vulnerable to preference erosion in the EU

At the sectoral level, the coverage of exports from Bangladesh is high - well above 90 percent, except in the case of prepared foodstuff, as it can be seen from Table 5.11. Textile and textile articles, which account for over 90 percent of total exports from Bangladesh to EU have a coverage rate of 99 percent. But this sector records low utilisation and utility rates of less than 60 percent and therefore does not appear in Table 5.12 which shows sectors vulnerable to preference erosion in the EU. This is due to the fact that Bangladesh is unable to meet the stipulated rules of origin criterion of the EU GSP scheme, which involves two processing stages (so-called 'double transformation'). This involves weaving/knitting of the fabric and the making up of the clothing to be undertaken in the eligible country²⁹. Currently, Bangladesh does not produce fabrics, at least in sufficient amounts required by the clothing industry and depends on imported fabrics. Nevertheless, this sector is likely to experience some degree of preference erosion with multilateral tariff reductions.³⁰ Other sectors, which are likely to be highly vulnerable to preference erosion, are listed in the Table 5.13 but they account for about only seven percent of total exports from Bangladesh.

In the case of India, overall coverage rate is above 70 percent, with most sectors having a rate of above 90 percent but with few sectors recording low coverage rates. These sectors include chemicals, some textiles and textile articles, hides and skins, which are not eligible for tariff preferences, as they have graduated from the scheme by surpassing the 15 percent market share criteria (12.5 percent in the case of textile and textile articles)³¹. Main export sectors to the EU include textile and textile articles, precious stones, base metals, machinery and mechanical appliances, which account for 65 percent of total exports to the EU. Other than chemicals, these sectors have high utilisation and utility rates, making them highly vulnerable to preference erosion. Precious stones, which are the main exports from India accounting for more than 10 percent of total exports to the EU have high utilisation and utility rates of over 80 percent making the sector highly vulnerable preference erosion. As it can be seen from the Table 5.13, several other sectors in India are also likely to be subjected to preference erosion to a great extent.

Like Bangladesh, Nepal has a high coverage rate and coverage is very high across sectors except in the case of prepared foodstuffs, which has a very low coverage rate of

less than two percent (due to the limited coverage of sugars and sugar confectionery which has not been liberalised under the EU scheme). Textiles and textile articles, which account for 80 percent of EU's imports from Nepal record a coverage rate of 100 percent as well as high utilisation and utility rates of over 80 percent³². These high rates in the case of Nepal may be explained by the EU granting derogation from the GSP rules of origin for a number of textile and clothing items since 1997.³³ Thus, textiles and textile articles are likely to be vulnerable to preference erosion in the EU. As it can be seen from the Table 5.13, other sectors too benefit from the EU GSP scheme except prepared foodstuffs – but this sector accounts for only five percent of the total imports. On the whole, a number of sectors in Nepal are highly vulnerable to preference erosion in EU.

The overall coverage rate of Pakistan's imports under the scheme is the lowest in the region largely due to hides and skins, and mineral products not being eligible for tariff concessions under the EU GSP. But sector wise coverage is quite high (beyond 90 percent) in most sectors. Textile and textile articles, which account for 71 percent of exports to the EU have high utilisation and utility rates under the EU GSP scheme, making the sector highly vulnerable to preference erosion. With the removal of duty free access for textile and textile articles exports from Pakistan to EU under the new GSP scheme in 2006, the sector would be less vulnerable to preference erosion than before. In fact tariff reductions would make these products more competitive *vis-à-vis* other competing countries which receive duty free access to the EU.

While Sri Lanka has a high coverage rate (almost 99 percent) and records a high coverage rate across sectors other than live animals and products, it has a very low utilisation and utility rate – in fact, the lowest in the region and as such the country is likely to be least affected by preference erosion compared to other countries in the region. This is largely due to textiles and textile articles, which account for half of exports to the EU, have a very high coverage rate, but record very low utilisation and utility rates. This sector is not vulnerable to preference erosion and such does not appear in the Table 5.13. Like Bangladesh, Sri Lanka has been unable to better utilise preferences extended to the sector due to lack of backward linkages in the country and has to rely on imported fabrics. This makes it impossible to meet the RoO criteria set to qualify for preferences under EU GSP scheme³⁴. More recent data from the EU Commission shows that there has not been a significant improvement in the utilisation rate of the sector following the GSP-plus scheme despite duty free treatment access to the EU, indicating that rules of origin remains a constraining factor. Nevertheless, other important sectors such as plastics and rubber; precious stones; and vegetable products, which together account for 30 percent of Sri Lanka's exports to the EU record higher utilisation and utility rates, making them vulnerable to preference erosion in the EU. Most other sectors are also likely to be adversely affected due to their high utilisation and utility rates but they only account for about eight percent of Sri Lanka's total exports to the EU.

5.3 Preference erosion in US and EU

Reduction in tariff rates by the US is unlikely to lead to a significant erosion of preferences for South Asia. This is due to low coverage rates of products of export interest to South Asia under the US GSP scheme, in particular for textiles and textile articles which account for more than 80 percent of almost all of the South Asian countries' total exports. Nevertheless, there are sectors, which are vulnerable to preference erosion but they do

not account for a significant share of these countries' exports other than in the case of India (precious stones, base metals, machinery and electrical equipment) and Sri Lanka (plastics and rubber, and precious stones). On the whole, the losses from preference erosion in the US for South Asia are likely to be very small. In fact, tariff reductions by US on the whole are most likely to result in gains for South Asia in the form of lower tariffs for its major exports items thus leading to greater competitiveness, especially in the case export of textile and textile articles. For example, tariff reductions under NAMA will have positive implications for South Asian countries in US and increase their competitive edge *vis-à-vis* Caribbean and SSA countries which currently enjoy duty free for textiles and textile articles to the US market under CBI and AGOA

Compared to the US, the EU scheme is more generous in providing market access to countries in the region, with a higher coverage rate recorded in the EU (75 percent) versus a low coverage rate under the US scheme (25 percent). This is also reflected in the utility rates of the two schemes, with more imports into the EU enjoying preferential rates (duty free or otherwise) compared to the US. Though the US scheme records a higher utilisation rate than that of the EU, it has a low coverage rate, which means that countries are making the most out of the limited preferences they receive. The region is likely to be more exposed to preference erosion in EU than in US, tariff reductions by EU is expected to have diverse implications for the South Asian countries with Nepal likely to suffer the most and Sri Lanka, the least due to variations in the utilisation and utility rates in sectors of export importance to these countries. In the case of Sri Lanka, only a few sectors of export importance (vegetable products, plastics and rubber, and precious stones) are susceptible to erosion of preference and they account for about one-third of the total exports. Bangladesh is likely to experience some degree of preference erosion though its main export sector, textiles and textile articles are unable to fully utilise the preferences it currently receives due to stringent rules of origin under the EU GSP scheme. In the case of India, Nepal and Pakistan, the textile and textile articles sector is vulnerable to preference erosion in the EU despite some of these exports from both India and Pakistan do not qualify for GSP treatment anymore, having graduated from the scheme. In addition, precious stones, which are India's largest export sector to the EU together with major export sectors, base metals and machinery and electrical equipment are likely to experience preference erosion.

MFN reduction will also have negative implications for preference margins currently enjoyed by countries in the region that are beneficiaries of various bilateral and regional trading arrangements other than the GSP schemes. Whether South Asian countries would lose from MFN tariff reductions depend on the extent to which arrangements provide product coverage and whether these preferences are utilised. If these preferential arrangements are not utilised by beneficiary countries, which could be due to a variety of reasons, then losses from preference erosion are not likely to be great. It is quite possible that the beneficiary country could gain better market access from MFN tariff reductions, if a particular sector of importance to the country is not benefiting under these trade arrangements such as in the case of textiles and textile articles which is excluded under the US GSP scheme. So far, the discussion has been on identifying countries and sectors in South Asia that are vulnerable to preference erosion in US and EU. The next section would look at the estimated losses from preference erosion, which has been drawn from existing empirical studies on the issue.

5.4. Empirical evidence of the estimated loss due to preference erosion

Numerous studies have analysed the effects of preference erosion. Most use either general equilibrium (CGE) models or work in partial equilibrium. So called CGE models estimate the welfare and production effects of trade liberalisation. Such models contain a network of linkages between industries and countries and take into account the effects of a change in one part of the economic system on other parts. Losses in a country's export sector may thus be compensated by gains in other sectors of the domestic economy or in other countries/regions. Partial equilibrium studies are easier to undertake but they ignore such linkages. While CGE studies show the overall impact of trade liberalisation, partial equilibrium studies focus on the negative effects of preference erosion.

Subramanian (2003) using a partial equilibrium framework examined the overall impact on the exports of LDCs of preference erosion caused by a 40 percent reduction in the preference margin in the Quad countries (Canada, EU, Japan and US). The study concludes that the potential loss at the aggregate level is very small, amounting to less than two percent of exports and this loss is likely to be spread over time with MFN reductions phased-out. Only two countries are estimated to face losses exceeding 10 percent of exports (Malawi and Mauritania). In the case of Bangladesh, this amounted to an export revenue loss of 4.4 percent, while the figures for the Maldives and Nepal were 3.7 and 2.5 percent, respectively. Only a few countries will face losses that are significant, especially if their exports consist of products, which enjoy deep preferences. But even then the magnitudes will be small in value terms and in relation to their exports. The total value of lost export revenue would be around US\$530mn, with Bangladesh accounting for about two-fifths alone of the losses (US\$222.4mn). Nepal was estimated to lose US\$17.8mn and Maldives US\$2.8mn.

This study was complemented by Alexandraki and Lankes (2004) who extended the analysis to middle income countries and covered three products i.e. sugar, bananas and textiles. Their study suggests that the impact of preferences is yet again small (0.5-1.2 percent reduction of total exports of the middle income countries) In the case of India, Pakistan and Sri Lanka, the estimated loss was about 0.6 percent of total exports. They argued that losses could be significant for small island economies due to their high dependence on a narrow set of products (for which protection and preference margins are the highest) and high export dependence on the Quad markets. As such the problem is also commodity specific (sugar, bananas and to a lesser extent apparel exports). Policy implication of this is that support could be targeted by products and countries that depend on them.

It is important to note that these figures tend to overestimate the value of preferences due to the underlying assumptions made i.e. complete utilisation of preferences (whereas in reality they tend to be underutilised as discussed in the preceding sections), constant world prices, full appropriation of preference rents by exporters, disregard of gains from multilateral liberalisation, export supply elasticity of one and constant. Thus, the losses could be even less if these are taken into account³⁵.

More recently, Low, Piermartini and Richter of the WTO (2005) estimated the degree of preference erosion affecting all developing countries as a result of a MFN tariff cut on

non-agricultural products in the Quad countries and found that the risks of preference loss are lower, if preference margins were adjusted to take into account of competition from other preference receivers. Developing countries would enjoy a net gain of US\$ 2bn, in terms of the value of adjusted preference margins if the Quad plus Australia were to reduce the MFN tariffs on non-agricultural products using a “Swiss Formula” with a coefficient of 10. However, there are significant losers and gainers under this scenario. In the case of India, Pakistan, and Sri Lanka, they are estimated to gain US\$94.8mn, US\$3.3mn and 5US\$6.7mn, respectively. LDCs would suffer a net loss of US\$170mn under the same liberalisation scenario, but in this case only two LDCs – Nepal and the Maldives gain (US\$3.8mn and US\$1.6mn, respectively). The major losers from preference erosion include Bangladesh (US\$61.6mn) amongst others. A significant part of the preference erosion in the most affected countries comes from clothing. Other sectors of some interests to some of the affected countries include textiles, fish and fish products, leather and leather products, electrical machinery and wood and wood products.

Applying a very similar methodology to estimate preference erosion in agriculture, Low, Piermartini and Richtering (2006) found that contrary to expectations developing countries as a group benefits from a MFN cut by US\$266.6mn, of which the LDCs account for US\$10.4mn. Underlying these numbers are total losses amounting to US\$208.8mn (US\$3.8mn for LDCs) and total gains of US\$475.4mn (US\$10.4mn for LDCs). Unlike in NAMA, the risk of preference erosion in agriculture is far more concentrated in terms of particular products and countries. India and Nepal gain by about US\$2mn, while Bangladesh, Pakistan and Sri Lanka experience some losses amounting to US\$0.1mn, US\$2.7mn, and US\$0.1mn respectively. Much of the impact occurs in the EU market and the most affected products include bananas, sugar and beverages and spirits.

Rahman and Shadat (2005) examined the effect of tariff reductions under NAMA on Bangladesh’s exports to EU and US. In EU, they found that Bangladesh will suffer from preference erosion – the magnitude depending on the formula and coefficients applied. On the other hand, Bangladesh is expected to gain in the US market as a result of tariff reduction under NAMA as preferential treatment received by Bangladesh in the US market is minimal.

In addition to partial equilibrium analysis, the issue has been examined using computable general equilibrium (CGE) techniques. In general, CGE analysis tends to provide lower estimates of the preference erosion effect than partial equilibrium analysis. For example, Francois, Hoekman and Manchin (2005) estimate that EU liberalisation would lead to an income loss of US\$460mn for African LDCs; the figure drops to US\$110mn when the experiment is extended to include OECD wide liberalisation. According to their estimates, full preference erosion would lead to a loss for African and Asian LDCs amounting to US\$110.5mn and US\$87.4mn, respectively while other low income countries would gain ten times as much (US\$2050.5mn).

It is not strictly possible to compare across the different studies due to different underlying assumptions and methodologies used focusing on different countries/regions. Nevertheless, the overall picture emerging from these studies indicate that vast majority of developing countries have much more to gain from multilateral liberalisation than they lose from preference erosion. Moreover, preference erosion is likely to affect only a limited number of countries and the losses are likely to be fairly small in the aggregate.

Nevertheless, a small number of countries will be adversely affected. These tend to be small and/or poor countries often heavily dependent on a market, which has been heavily distorted. In the case of South Asia, almost all empirical studies indicate that Bangladesh stands to lose most from preference erosion while the estimates of loss for other countries are mixed – either the losses are small or some countries stand to gain from preference erosion!

6. Measures to Deal with Preference Erosion

In designing measures to deal with preference erosion, it is important to understand the nature of the problem. What can be said is that preference erosion is likely to be a permanent feature – that is, not reversible. Shocks from preference erosion can also be anticipated before hand. They are also likely to be spread out over time due to the phased nature of tariff reductions (Subramanian 2003). As it is clear from the empirical analysis on preference erosion, the problem is heavily concentrated in few products and preference beneficiaries. This implies that assistance to help countries face erosion of preference could be closely targeted (Alexandraki and Lankes 2004).

While the problem of preference erosion has been officially recognised in agricultural and NAMA negotiations at the WTO, there is no consensus on possible solutions to the problem (WTO 2006a, 2006b). So far, the progress on this issue has been slow at the multilateral level, with several proposals submitted by members that are most likely to be affected by preference erosion. Generally speaking, two broad approaches can be identified from the proposals that have been suggested to address the loss of preference erosion. One is to be dealt within the WTO, or a ‘trade solution’; and the other outside the WTO, an ‘aid solution’ (Braga, Hoekman, Martin, 2006). Each solution has its advantages and disadvantages. The debate on how best to deal with the problem of preference erosion will be an important aspect of the trade negotiations in the Doha Round. Though countries remain divided on how best to deal with the situation, there is an overall interest in finding a satisfactory solution to the problem, not only to ensure equitable trade but also to avoid blocking by potential losers from preference erosion, as the WTO operates by consensus. Although the Doha negotiations have been suspended since July 2006 due to other difficulties, the question on how to deal with preference erosion could well stand in the way of a successful completion of the Round at some time in the future.

6.1 Trade solutions

The short-term objective of such measures is partly to compensate for immediate losses stemming from preference erosion, while the *long-term* objective would be to prepare these countries to survive without depending on preferences. However, a drawback of trade measures is that they ensure preferences are maintained, which encourages beneficiaries to further specialise in activities in which they may never be competitive without the preferences and this would discourage industrial diversification, thereby increasing adjustment costs when preferences are eroded. At the same time, it must be appreciated that providing temporary access has the advantage of helping vulnerable sectors get a foothold in the markets before MFN liberalisation is complete.

Potential trade based solutions include:

- Measures to increase preference utilisation
- Measures to extend product coverage of preferential schemes
- Measures to extend preferences in other markets
- Measures to protect existing preferences

The following section would examine each of these measures in turn.

6.1.1 Increase utilisation of preferences

Utilisation rates for South Asia under the US GSP scheme have been high on average compared to the low rates recorded under EU scheme. South Asia as a whole has a utilisation rate of over 90 percent under the US scheme compared to lower rate of 74 percent under the EU scheme, with both Bangladesh and Sri Lanka recording very low rates of 60 and 42 percent, respectively. Thus, utilisation of preferences seems to be more of a problem in the case of the EU scheme than the US scheme.

There are number of factors which affect the utilisation of preferences. These include:

- lack of security of access due to unilateral and autonomous nature of the schemes;
- insufficient product coverage due to exclusion of certain products of interests to beneficiary countries;
- lack of understanding/awareness of the preferences available and conditions attached;
- lack of capacity to supply;
- non-trade related conditionalities such as those relating to labour, environment, good governance; and
- Restrictive and high RoO.

Most studies identify RoO as one of the main reasons for the low utilisation rates. RoO is used in preferential trade agreements in order to ensure that there is minimum level of domestic value addition in the product exported and to promote backward linkages in the economy. They also help ensure that the products exported under preference schemes are not merely transshipped from non-eligible countries through eligible countries with little or no value addition done. While RoO is meant to promote domestic valuation, strict rules can impose significant costs on exporters and reduce the usefulness of schemes and sometimes render them useless. In fact, studies have shown that there is an inverse relationship between the restrictiveness of RoO in preference schemes and utilisation rates of preferences. According to a study by Anson and Bacchetta on the T&C sector in LDCs, based on qualitative information on RoO they found that higher utilisation rates were recorded in cases of lower local content requirement, less complex rules and more liberal cumulation regime – both in terms of country coverage and type of cumulation.

Restrictive RoO is a binding constraint on the utilisation of the EU GSP scheme in the case of South Asia, especially in the case of Bangladesh and Sri Lanka and the major export sector in these countries – textile and textile articles. The sector in both countries is unable to meet the RoO criteria stipulated under the EU GSP scheme, which involves two processing stages to be undertaken in the country (what is called double transformation) due to lack of backward linkages in these countries. This problem is well documented³⁶.

Both EU and US have recognised the difficulties faced by firms particularly from LDCs and have provided time limited derogation from the general rule. In fact, EU is in the process of reforming its RoO criteria with the objective to simplify and relax these rules to provide better access to developing countries with a movement towards a single criterion based on value addition like in the case of the US GSP scheme. The advantage of relaxing RoO to deal with preference erosion is that it ensures greater market access while tariffs are in place and provides a foothold in the markets prior to tariff reduction. A successful example of the impact of reforms of an existing preferential arrangement on utilisation rates is Canada (Low, Piermartini and Richtering, 2005).

On January 01, 2003 Canada added 903 tariff lines to the list of duty free items for the LDCs and introduced new rules of origin requirements. The reforms had a significant impact on the utilisation rates of Bangladesh and its textile and clothing sector. In 2002, Bangladesh's utilisation rates of Canadian preferences were very low, with the highest utilisation rate of 45.1 percent and with an utilisation rate of zero for 17 tariff headings (out of 40 tariff headings). Following the reforms, only six out of 40 sectors had an utilisation rate of below 40 percent. Bangladesh also had significantly diversified its exports across the 40 headings. More generally, the reforms had a favourable effect on textile and clothing exports from all LDCs and increased the number of countries exporting to the Canada.

Other means of improving the utilisation of preferences include increasing the predictability of preferential trade arrangements. The current autonomous character and limited duration of unilateral preferences create uncertainties that are exacerbated by built-in eligibility reviews of both product and beneficiary countries, which undermine the capacity of beneficiaries to better utilise the GSP scheme. This is especially true in the case of the US GSP scheme, which is revised every two years. EU's EBA initiative for LDCs has improved the duration of preferences by granting them for an indefinite period.

A closely linked issue is the lack of harmonisation of requirements in various preferential schemes, which impose an unnecessary administrative burden and high transaction costs on exporters who have to deal with different sets of rules and conditions depending on the export market, which could lead to lower utilisation of preferences³⁷.

6.1.2 Extend product coverage and scope of non-reciprocal preferences

Negative consequences of preference erosion could be partially addressed through efforts to provide DFQF market access to products of interests to LDCs. There are number of 'sensitive' products of interest to LDCs such as garments and agricultural products that still attract relatively high tariffs and currently are partially or wholly not covered by preference schemes. Thus, an obvious trade solution to preference erosion would be to extend preferential treatment to such products.

Most LDCs are now granted preferential market access to almost all developed countries. Countries now giving DFQF access to all or essentially all LDC exports include Canada, EU, New Zealand, Norway and Switzerland (Page, 2005). Japan offers free access to about 63 percent of their exports. EU grants DFQF market access to LDCs under the EBA initiative since 2001. Sri Lanka, which is a non-LDC, also has DFQF market access to the EU since 2005 under the GSP-plus initiative.

Providing duty free access for all products from the LDCs essentially means duty free access to US and Japan – one of the few developed countries that is yet to allow such preferential access to major products of export interest to LDCs. The US already extends duty free access to its market to LDCs in Africa and the Caribbean under the AGOA and CBI though similar treatment is yet to be extended to Asian LDCs.

As it can be seen from Chart 5.1, there is still great scope to extend duty free treatment in the US where about 27 percent of the tariff lines in the case of Bangladesh and Nepal do not receive any preferential treatment under the US GSP scheme³⁸. The prospects of extending of product coverage by US (and Japan) under the GSP scheme to include these tariff lines is highly unlikely given that these sectors are considered sensitive, as demonstrated the reluctance of US and Japan to give DFQF market access to LDCs at the Hong Kong Ministerial. In fact, a Bill known as the *Tariff Relief Assistance for Developing Economies Act of 2005* (or Trade Act of 2005) was proposed in February 2005 under which benefits would be extended to 14 Asian LDCs and Sri Lanka under the AGOA. The proposal also includes extending duty-free access to textiles and clothing. But due to strong opposition from the US textile industry associations, the Bill was dropped.

In the case of the EU, the scope to extend duty free preferences in order to compensate for preference erosion is very limited as almost all imports (99 percent) from Bangladesh and Nepal already receive duty free treatment under the EBA initiative (see Chart 5.2)³⁹.

Besides extending the product coverage under existing preference schemes, there are possibilities of extending the scope of preferences beyond trade in good to services. Although there are various preference schemes, which cover goods, no substantial offers have been offered in the service sector so far. Negotiations in service sectors where LDCs have a comparative advantage have not made much progress. There is growing agreement that services and in particular the temporary movement of persons (Mode 4) might have far larger positive effects on developing countries than trade in goods. For example, it has been estimated that liberalisation of just three percent of the labour market in the OECD countries would lead to gains to a tune of US\$150bn to developing countries and LDCs.

6.1.3 Compensate preference erosion through preferences in other markets

Another solution to the preference erosion problem is to obtain preferential access to other markets. A rough indicator of the possible scope for South Asia to seek trade solutions to preference erosion in markets other than the Quad is given in Table 5.2. As it can be seen in the case of Bangladesh, this option is not promising with over 80 percent of exports directed to the Quad countries and to a lesser degree in the case of Sri Lanka (70 percent). In case of India, Nepal and Pakistan a substantial of portion of their exports goes to countries other than the Quad countries, so there seems to be a possibility of addressing the problem by entering into preferential agreements with other countries or strengthening existing ones. But in the case of Nepal, most of its exports are destined to India with which it already has a FTA; so there appears to be limited scope to address preference erosion in this regard. In case of India and Pakistan, both have entered into preferential agreements with other countries, which are major export markets. The possibility of addressing the problem within the region remains doubtful even with South Asia moving to a FTA under SAFTA. Intra-regional trade in the region has

remained low (six percent of total trade of the region) over the years despite attempts to promote regional trade under SAPTA so it remains to be seen whether the movement of the region to a free trade area will provide market access to one another's exports.

6.1.4 Multilateral trade concessions designed to protect preference dependent countries

This can involve delaying the liberalisation of sensitive sectors while targeting liberalisation on sectors that developing countries have a comparative advantage. The idea of delaying liberalisation is to give vulnerable sectors more time to adjust to preference erosion. One extreme trade solution to the problem of preference erosion is to abandon MFN liberalisation. While this would take care of the concerns about losses, it would seriously undermine the goal of the Doha Round to apply deepest cuts to the highest tariffs and those of particular interest to developing country exports. This is hardly a realistic option as countries, which are non-beneficiary of non-preferential agreements are unlikely to support such a move. Moreover, it would entail a substantial welfare loss from a global perspective⁴⁰. But considering the negotiating positions that have been taken by the ACP and LDC groups and others, one cannot entirely dismiss this option (Low, Piermartini, Richter, 2006). In both Agricultural and NAAM Negotiating Groups, there have been proposals submitted for a longer implementation period for products vulnerable to preference erosion, an idea to which many countries seem at least open to consideration. In the case of Bangladesh and Nepal, an indicative list of products vulnerable to preference erosion in EU and US is given in the annex for which this option could be applied.

However, some countries are opposed to any trade measures to respond to the preference problem, as this would be at the expense of their own access to major markets. There has also been some discussion of whether special consideration should be given to countries, which are not beneficiaries of preferences but may be most affected as a result of a trade solution, such as a longer implementation period for tariff reduction on the key products. A proposal was presented by Sri Lanka suggesting immediate access to preferential regimes for such affected countries. Support for this proposal was mixed but some countries have signalled their possible support for special consideration for these countries through shorter implementation periods.

A pragmatic solution to the problem would address the issue of preference erosion while adhering to the overall purpose of trade round i.e. to liberalise trade by bringing down trade barriers. This option is provided by Aid for Trade (A4T). A4T is considered as a better approach to deal with preference erosion than any of the trade measures as it benefits countries that are vulnerable to preference erosion but does not distort trade, which is detrimental to non-beneficiary countries. In fact, there seems to be general support for targeted A4T to address the underlying challenges faced by preference receiving countries - the diversification of exports and mitigation of adjustment/restructuring costs (WTO, 2006b).

6.2 Non-trade Solution - Aid for trade (A4T)

If the latest trade round is to succeed in meeting the development dimension of the Doha Round, it will have to consider not only trade measures that are currently under discussion but also to provide assistance so that developing countries could address preference erosion as well as take advantage of new opportunities offered with increased market access. Their capacity to produce goods and transport them to markets must be

improved, inadequate infrastructure must be improved and weak institutional and human capacities must be addressed before they can fully make use of new trade opportunities. A4T is a term, which covers all these activity.

A4T is not a new concept. Currently, there are number of initiatives that aim to help countries better make use of trade opportunities and deal with adjustment costs related to participation in the multilateral trading system. But it was in 2005 that A4T became part of the international discourse (ILEAP and JEICP, 2006). International policy marking events throughout the year gave high priority to the integration of developing countries into the global trading system to promote economic growth and reduce poverty⁴¹. Further it became obvious that support for supply-side improvements was a necessary to achieve this.

Since the Uruguay Round concluded in 1994, WTO members have increasingly accepted the need for trade-related technical assistance (TRTA) to help developing countries with the implementation of WTO commitments and their associated costs (Institute for Agriculture and Trade Policy, 2006). However, various measures that were initiated have had limited success to date.⁴² The 2001 WTO Doha Ministerial Declaration recognised TRTA and capacity building as a “core element of the development dimension of the multilateral trading system” and set out numerous commitments in that area.

But A4T was officially put on the WTO agenda only at the 6th Ministerial Conference in Hong Kong in December 2005. A4T initiative is enshrined in paragraph 57 of the WTO Hong Kong Declaration which states that ‘...Aid for Trade should aim to help developing countries, particularly LDCs to build supply capacity and trade-related infrastructure that they need to assist them to implement and benefit from WTO agreements and more broadly to expand their trade...’.⁴³ There was also a general consensus that A4T should complement rather than act as a substitute to ongoing Doha Round of trade talks.

Following the Ministerial Conference a Task Force on A4T was established to recommend how to operationalise A4T and the first set of recommendations was submitted on July 27, 2006.⁴⁴ At the same time, the WTO Director-General was asked to consult on the question of the adequacy of financing for aid for trade.

In showing their support for A4T, EU, Japan and US all announced huge increases in resources for A4T prior to, and at Hong Kong. At Hong Kong Ministerial, Japan announced US\$10bn over three years. The EU pledged to increase its annual spending on A4T two billion Euros (US\$2.6bn) by 2010 up from current level of 300 million Euros (US\$404mn). The US announced a doubling of annual A4T to US\$2.7bn by 2010 from US\$1.3bn in 2005 pending a successful conclusion of a new trade round. Subsequently, in St. Petersburg, G-8 leaders said they expect that spending on A4T to increase to US\$4bn.

AFT has recently been advanced due to a number of reasons. First, developing and LDCs have not been able to take full advantage of benefits from multilateral trade liberalisation because of supply side constraints. A4T is seen as a necessary complement to market access by removing ‘behind the border’ barriers to trade. Second, A4T is seen as an instrument to ‘buy’ progress in the current multilateral trade negotiations and ensure that the Round results in Pareto improvements for all developing countries. A4T is seen as a necessary condition for progress in the WTO’s bargaining process, which

is characterised by both single undertaking and consensus. A4T is to be directed to countries that would be net losers from the Doha Round and would have an incentive to block its progress. Third, A4T addresses the concerns of developing countries, which are likely to experience preference erosion, increases in food prices, suffer from tariff revenue shortfalls, and other costs associated with trade liberalisation. Fourth, A4T is seen as a mechanism of redistribution of gains from the Doha Round, which is likely to be imbalanced.

6.2.1 What is A4T?

There are various definitions as to what constitutes A4T – some are narrower than others. The Task Force in its report covered six broad categories in its definition of A4T:

- 1) **Trade policy and regulations:** It covers support to help countries effectively participate in multilateral trade negotiations, analysis and implementation of multilateral trade agreements, mainstreaming trade policy and technical standards, trade facilitation, support to regional trade arrangements and human resources in trade.
- 2) **Trade development:** It covers business development and activities aimed at improving the business climate, access to trade finance and trade promotion in the productive sectors (agriculture, forestry, fishing, industry, mining, tourism, services), including at institutional and enterprise level.
- 3) **Infrastructure:** It covers trade related infrastructure such as transport, communications, and energy.
- 4) **Building productive capacity:** It aims at improving the capacity of a country to produce goods and services
- 5) **Trade related adjustment:** It envisages assistance to meet adjustment costs from trade policy reform, including balance of payment problems resulting from lost tariff revenues, erosion of preferences, etc
- 6) Other trade related needs

Categories 1-2 follow the definitions in the Joint WTO/OECD Database and cover traditional forms of aid i.e. TRTA and capacity building while categories 3-6 broaden the A4T agenda. The Task Force states that existing projects and programmes should be considered as A4T if these activities have been identified as trade related development priorities in the recipient country's national development strategy.

The objectives of the A4T as spelled out by the Task Force report are:

- To enable developing countries, particularly LDCs to use trade more effectively to promote growth, development and poverty reduction and to achieve their development objectives, including the MDGs;
- To help developing countries, particularly LDCs, to build supply-side capacity and trade-related infrastructure in order to facilitate their access to markets and to export more;
- To help facilitate, implement, and adjust to trade reform and liberalisation;
- To assist regional integration;
- To assist smooth integration into the world trading system; and
- To assist in implementation of trade agreements.

In its report, the Task Force states that A4T should be guided by the Paris Declaration on Aid Effectiveness⁴⁵. The main recommendations of the A4T Task Force Report are

summarised in Box 2. They represent a comprehensive attempt to address weaknesses and gaps in the assistance, including the recipient ('demand') side of A4T, the donor response, and the 'bridge' between 'demand' and 'response' (IMF and World Bank, 2006).

6.2.2 Trends in A4T to South Asia

This section uses the WTO/OECD Trade Capacity Building Database (TCBDB) to provide an overview of commitments towards TRTA and capacity building as well as infrastructure made by bilateral donors and multilateral agencies between 2001 and 2004 to South Asia. The database provides data on trade-related aid under the three categories (WTO/OECD, 2005): 1) Trade policy and regulations; 2) Trade development; and 3) Infrastructure, as defined above.

Since 2001, donors have significantly scaled up its efforts in TRTA and capacity building to developing countries to help them participate more effectively in international trade and integrate into the world trading system. Volume of trade related commitments for the first two categories rose by 50 percent between 2001 and 2004 to reach US\$3bn. Despite the substantial increase, only a fraction of total aid goes into trade related assistance. In 2004, about 4.4 percent of total worldwide aid budget was devoted to trade-capacity building, with infrastructure accounting for a 25 percent share (WTO/OECD, 2005). These figures do not take into account of recent announcements of contributions from EU, US and Japan.

Trade Policy and Regulation: Assistance for trade policy and regulations amounted to USD811mn in 2004 falling from US\$934mn recorded in 2003 but the figure was still much higher than 2000/01 levels (Chart 5.9). The drop was largely due to programme cycles of some of the main donors, namely of the EU which accounts for 40 percent of total commitments to trade policy and regulations. In 2004, aid to trade policy and regulations increased to America, but decreased to Africa and Asia (including South Asia) and for global programmes such as the Integrated Framework, etc. South Asia accounted for less than three percent of total assistance for trade policy and regulations, which amounted to about US\$22mn in 2004. South Asia's share in this category has fallen over time from 3.67 percent recorded in 2000 to 2.74 percent in 2004. In terms of composition of assistance to trade policy and regulation to South Asia, the largest category, accounting for half of assistance was for trade mainstreaming, followed by assistance to technical standards (20 percent) and trade facilitation (14 percent), as shown in Chart 5.10. The largest recipients in region of this category of assistance were India and Bangladesh for the period 2001-04 (Chart 5.11).

Trade Development: Assistance for trade development activities increased slightly in 2004 to reach US\$2.2bn, consolidating the rise recorded in 2003 (Chart 5.9). An analysis of assistance in 2004 shows a slight increase for Africa and Europe and a decrease for America and global programmes. Assistance to Asia was stable in 2004 but declined in the case of South Asia to US\$39mn. South Asia now accounts for less than two percent of assistance to trade development activities, down from three percent recorded in 2000. About 45 percent of assistance for trade development in the region went towards trade finance, while trade promotion was the second largest category accounting for 24 percent (Chart 10). About 16 percent of the assistance was for business support. Largest recipients of trade development assistance within South Asia were India, Pakistan, and Bangladesh during 2001-2004 (Chart 11).

Box 5.2: Main Recommendations of the Aid for Trade Task Force

The Report of the Task Force establishes that A4T should be guided by the Paris Declaration of Aid Effectiveness, applicable to all parties involved (donors, agencies and beneficiaries). The specific recommendations from the Task Force include:

Strengthening the demand side

- Implement the recommendation for an enhanced Integrated Framework
- Explore the necessity of establishing a similar but separately funded, in-country process for non-LDCs “International Development Assistance (IDA) – only” countries, if such a mechanism do not already exist or can be improved upon
- Urging agencies, donors and governments in other developing countries to work together to establish similar process if they do not already exist. These processes should be modelled to the specific circumstances and needs of the country concerned, building on what already exists where possible and appropriate
- Urging donors and agencies, together with regional banks and organisation, to step up their efforts to identify regional, sub-regional and cross-border needs, including those related to regional integration.

Strengthening donor response

Donors and agencies should:

- Integrate trade and growth issues more effectively in their aid programming
- Further strengthen their trade expertise both in the field and in capitals
- Use needs assessment process (where available) and their results as a basis for their programming
- Move towards a programme/sector/budget approach, if country owned, if mainstreamed in national development strategies and if robust system of financial accountability is in place

Strengthening the bridge between Needs and Donor Response

Country level

- Recipient countries should mainstream trade into national strategies such as PRSPs, formulate trade strategies, and propose priority trade projects for donor financing
- The division of responsibility for funding and implementing A4T projects and programmes should be addressed through country based processes such as PRSPs or Consultative Groups, if necessary complemented with a partner conference focusing specifically on trade related support.

Regional level

- Explore the merits of establishing a Regional A4T Committee, comprising sub-regional and regional organisations and financial institutions, to oversee the implementation of the sub-regional and regional dimensions of A4T to report on needs, responses and impacts and to oversee monitoring and evaluation

Global level

- Strengthen the collection and analysis of data on trade policies and their impact, the facilitation of knowledge sharing and the development of guidelines. Funding for such activities needs to be secured.

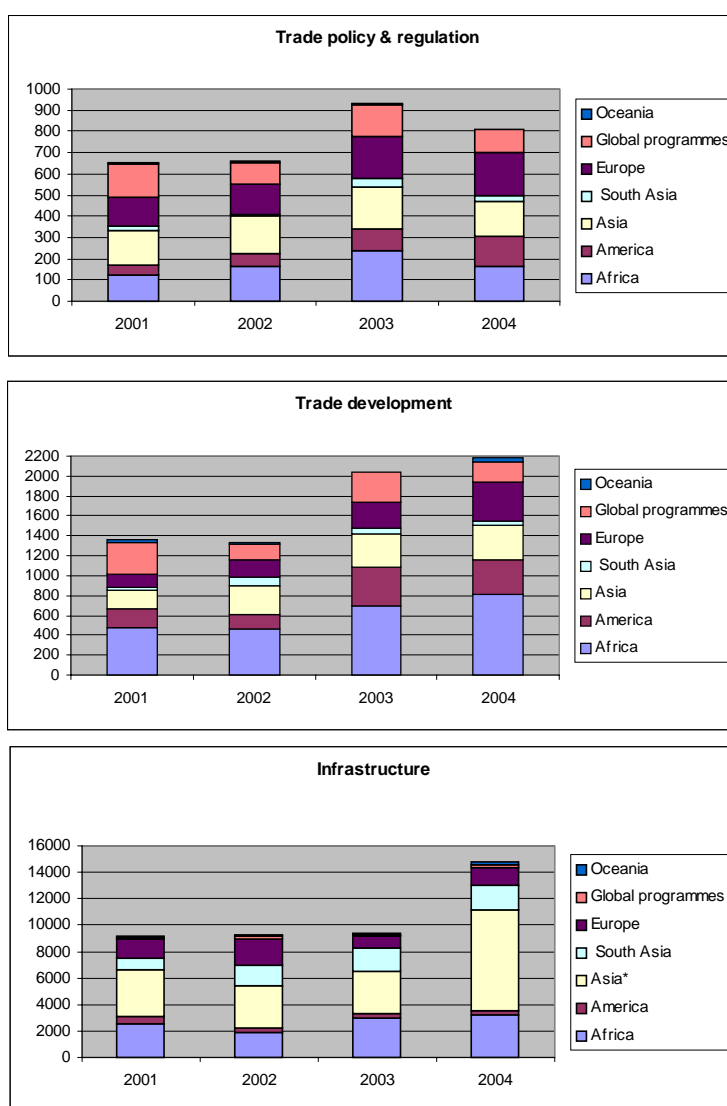
Strengthening Monitoring and Evaluation

- A global periodic review of A4T should be convened by a monitoring body in the WTO, based on reports from several different sources, to be published if feasible on the WTO web page.
- Donors should report funds dedicated for A4T, how they intend to meet their announced A4T, the A4T categories covered and their progress in mainstreaming trade into their aid programming.

Source: IMF and World Bank, 2006

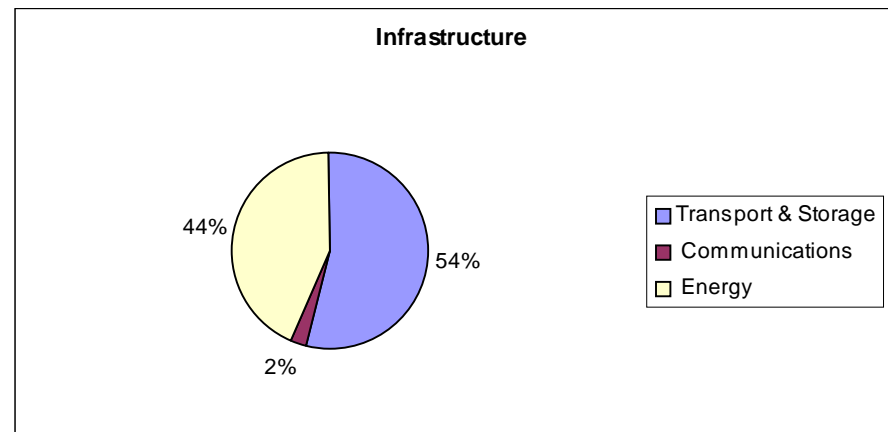
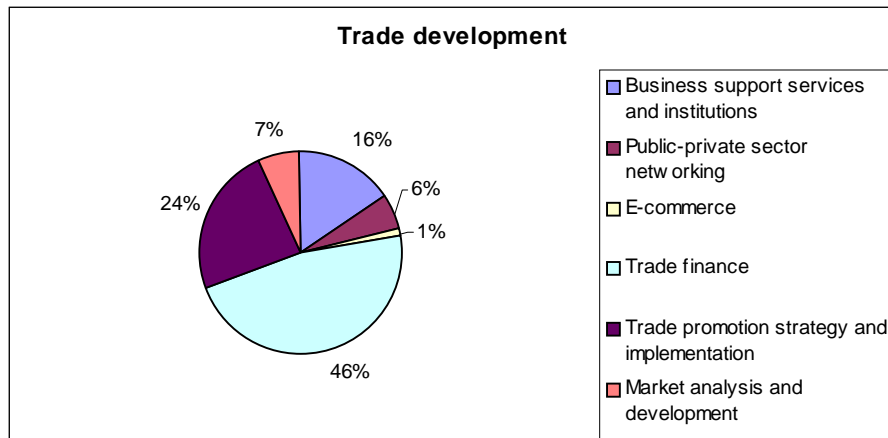
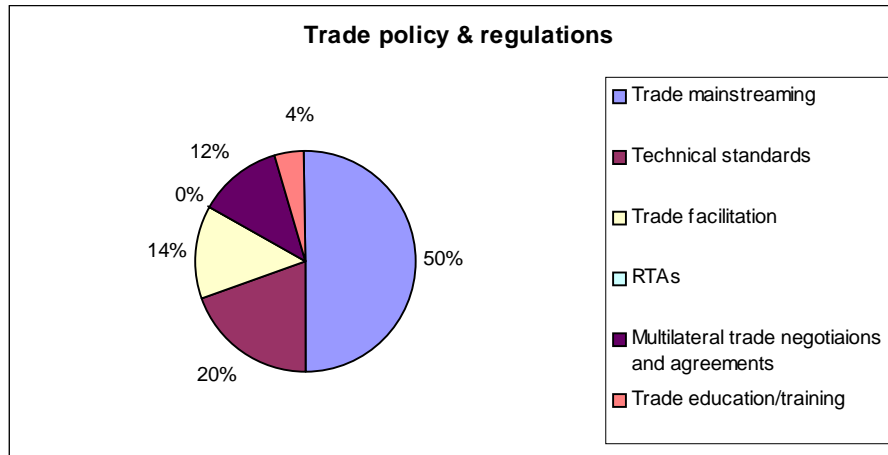
Infrastructure: Assistance for infrastructure increased substantially in 2004 to US\$14bn, and Asia remained by far the largest recipient region due to the number of populous countries in the region. All regions including South Asia recorded an increase in 2004, South Asia accounted for about 12 percent of total commitments to infrastructure, which amounted to US\$1.8bn in 2004 (Chart 5.9). South Asia's share in this category has increased from 9.52 percent in 2000. About 54 percent of assistance to infrastructure to the region went into transport and storage while 44 percent was accounted by energy (Chart 5.10). The share for communication was relatively small. India, Bangladesh and Sri Lanka were the largest recipients of assistance for infrastructure in the region (Chart 5.11).

Chart 5.9: Distribution of TRRA/CB and infrastructure by region and category, USD mn



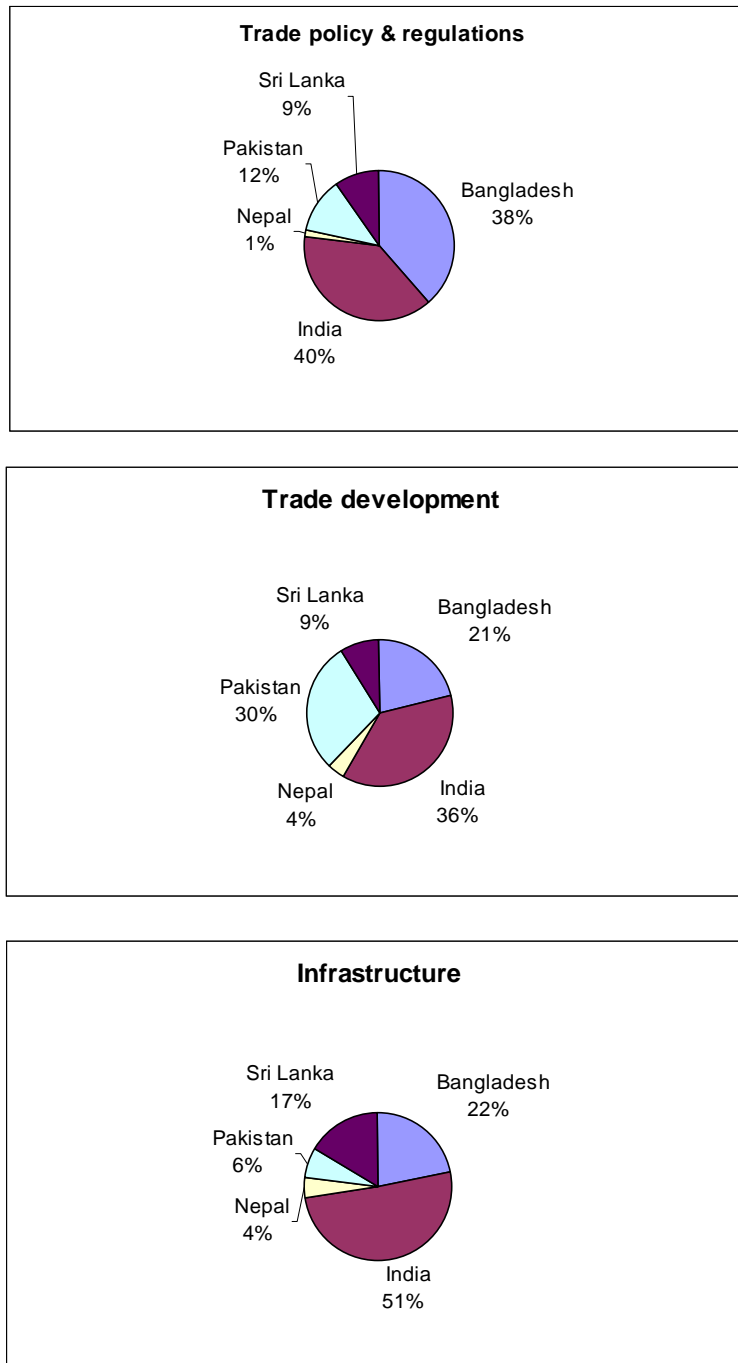
Source: WTO/OECD Trade Capacity Building Database (TCBDB)

Chart 5.10
Assistance to trade policy and regulations, trade development,
and infrastructure from 2001 to 2004, USD mn



Source: WTO/OECD Trade Capacity Building Database (TCBDB)

Chart 5.11
Distribution of TRRA/CB and infrastructure in South Asia
by category from 2001 to 2004, USD mn



Source: WTO/OECD Trade Capacity Building Database (TCBDB)

Overall, assistance to South Asia for the categories, trade policy and regulation and trade development has fallen while assistance for infrastructure has increased overtime. If the region is expected to participate effectively, it is necessary that there should be more aid available for these two categories to build their capacity to trade but also more funds should be made available to meet adjustment costs arising from trade liberalisation.

6.2.3 Mechanisms for A4T

A4T is currently being delivered through a variety of mechanisms. Some of which include:

Source: WTO/OECD Trade Capacity Building Database (TCBDB)

- Bilateral donor programmes
- Multilateral/multi donor funded programmes
- Individual international organisation and agency programmes
- Regional organisations and regional financial institutions

In terms of the existing mechanisms, the Integrated Framework (IF) and the Trade Integration Mechanisms (TIM) figure prominently in discussions regarding mechanisms to deliver A4T, with TIM to address adjustment costs including those arising from preference erosion. There seem to be an emerging consensus that A4T should be delivered using existing development institutions and mechanisms. In fact, the Task Force report recommends that A4T should build on existing trade related mechanisms such as the IF though it stops short of recommending which specific mechanism should lead the way. It also suggests that IF-like processes should be established for non-LDCs so that their needs can be identified and targeted by A4T.

The IF emerged from the 1996 WTO Singapore Ministerial Conference, as part of the Action Plan for LDCs to boost their participation in the world trading system. Currently, six multilateral institutions are participating in this framework - the World Bank, the International Monetary Fund (IMF), the World Trade Organisation (WTO), the International Trade Centre (ITC), the United Nations Conference on Trade and Development (UNCTAD) and the United Nations Development Programme (UNDP) – together with 12 bilateral donors (including Canada, EU, Japan and US). The objectives of the IF are: 1) to mainstream trade into poverty reduction strategies of LDCs; and 2) to assist in the coordinated delivery of TRTA in response to needs identified by LDCs. More than 40 LDCs have applied for assistance under the IF – each at different stages of the IF process. Overall the funding has been modest and as of May 31, 2005 the IF Trust Fund had total pledges amounting to US\$ 30.1mn. However, the IF has had limited success to date and its shortcomings are well documented (IMF & World Bank, 2005). IF suffers from a number of shortcomings which include: weak in-country capacity and ownership; lack of systematic follow up at the country level leading to implementation delays; insufficient and uncertain financing; and variable donor response to priorities identified. These needs have to be addressed before IF can play an effective role in relation to A4T.

In light of the above problems, the IF Task Force which was set up at the WTO in October 2005 recommended: increased, additional and predictable funding on a multi-year basis; strengthening the IF in-country process through mainstreaming trade into national development plans and poverty reduction strategies, more effective follow up and implementation of programmes identified, and greater and effective coordination amongst the stakeholders; improve the decision making and management of the IF to

ensure effective and timely delivery of increased financial resources and programmes (WTOd, 2006). An important point to bear in mind is that A4T will require a lot of money (especially to improve infrastructure), but donors are unlikely to give up control over these budgets to a multilateral fund. Though there has been an increasing movement towards pooling of resources, it is relatively small compared to overall aid budgets. In 2004, multilateral TRTA/CB funds such as the IF attracted only US\$34mn or two percent of total TRTA/CB spending, suggesting that there is tendency amongst donors to design and manage their own A4T programmes. It is likely that donors will continue to be involved in delivering A4T alongside existing multilateral mechanisms such as the IF.

Another existing initiative that has been proposed to deal specifically with adjustment costs is the IMF's Trade Integration Mechanism (TIM), which was established in 2004 to assist developing countries facing balance of payment problems due to multilateral trade liberalisation such as loss of trade preferences, elimination of textile quotas, etc. TIM is not a special facility providing new resources under special terms, but a policy designed to increase the predictability of resources that are available under existing IMF lending facilities (IMF 2005). TIM funds are disbursed only in the form of loans, with repayment conditions such as time and rate of interest depending on the arrangement a country comes up with IMF- a concessional rate is extended to low-income countries while middle-income countries pay market rates.

Moreover, it requires applicants to undertake additional structural adjustment. So far three countries have made use of this mechanism – Bangladesh, Dominican Republic and Madagascar. Bangladesh obtained assistance equivalent to US\$78.03mn under the arrangement to help cope with balance of payments problems stemming from the elimination of Multi-Fibre Arrangement (MFA). TIM has been criticised on grounds of increasing debt burden of countries and difficulties in utilising the facility. And borrowing to finance adjustment is not considered feasible when there is a permanent change in the country's external environment, as in the case of preference erosion. It is doubtful whether TIM would be a useful mechanism to deal with the preference erosion given the past experience of a similar facility – the Compensatory Financing Facility (CFF), which was established in 1960s to assist economies facing hardships due to fluctuating world commodity prices but remained virtually unused due to countries being reluctant to get into debt and inflexibility of the facility (Brettonwoods Project, 2004).

There have also been suggestions to establish a new stand-alone, grant based compensation fund to address preference erosion. London-based ODI proposed the setting up of a new stand-alone fund ('preference erosion fund') within the WTO to deal with preference erosion. Its funding would be allocated to countries based on the estimated loss of preferences and would be financed through contributions from developed countries determined by a range of criteria while commitments would be legally irrevocable. The fund would provide recipient countries with non-repayable support to make investment in human/physical infrastructure and in productive capacity to allow alternative production. It is suggested that the fund would dispose of around US\$500mn per year for about 10 years. Similarly, the Commonwealth Secretariat has suggested a Special Fund for Diversification (SFD) to benefit preference dependent countries whereby funds would be allocated for private sector development including start up capital for small and medium scale enterprises, restructuring or rehabilitating

non-traditional sectors, infrastructure investments, technical assistance and social safety networks. The fund is to be administered within the World Bank and a proportion of the financing would be in the form of a grant based on existing World Bank eligibility criteria.

While the creation of a new fund would have the benefit of directly channelling funds for affected countries, thereby creating obligations on the part of donors, its operational effectiveness would be questionable. Development of institutional experience and in-country presence to manage and implement programmes are likely to be slow and costly. There is also a concern that if A4T is thought as a compensation for preference erosion, and assistance will be focused on countries, which are most likely to suffer from preference erosion rather than those countries that need assistance the most⁴⁶. This suggests that funding for adjustment costs should be provided as a part of a broader A4T effort. Moreover, there is unwillingness among the major donors and international financial institutions such as the World Bank and the IMF to create a multilateral fund to address adjustment issues but rather a desire to work and improve existing arrangements in place.

A number of bilateral donors and multilateral agencies have recently reviewed their TRTA and capacity building programmes. According to a report released by the OECD (2006), most donors reported that direct effects of these assistance programmes on export (growth) volumes have been rather difficult to substantiate. In cases where such an assessment was possible, the impact varies considerably. A number of 'trade development' programmes have been assessed to improve the enabling environment for trade or has contributed to export diversification. Half of the reviewed evaluations noted that trade related assistance has increased the recipient countries' understanding of the importance of trade for growth and poverty reduction, raised awareness and knowledge regarding trade policy matters and strengthened national dialogue on these issues.

Nonetheless, evaluations of existing TRTA programmes have highlighted a number of serious weaknesses including: unsystematic or incomplete needs assessments, weak project management and project governance structures, fragmented trade-related assistance with insufficient links to broader development assistance programmes, weak linkages to poverty reduction, insufficient donor coordination, inadequate internal communications and donor expertise on trade-related matters. Evaluations also found the need for a favourable domestic business environment and political will to use trade as an engine for development which determined the effectiveness of trade related assistance, amongst other factors such as adequate governance, market access and international competitiveness. The Report recommends applying aid effectiveness principles of the 2005 Paris Declaration to further improve the effectiveness and the impact of trade-related assistance, which is also reflected in the A4T Task Force Report.

Despite the range of existing programmes, many developing countries, including LDCs have not received the assistance required. Existing programmes fail to address some of the urgent challenges facing developing countries. Hence, A4T should learn from the failures of existing initiatives and it should be implemented to expand the scope of TRTA and address the concerns of developing countries including the need to overcome supply side constraints, strengthen trade-related infrastructure and deal with adjustment costs. However, there is skepticism surrounding A4T due questions relating to additionality, adequacy, predictability, coherence, ownership, coherence and conditionality of aid promised (see box 5.3).

Box 5.3: Skepticism Surrounding A4T

Additionality: A4T should supplement current aid for development but not rename or divert resources from existing aid commitments. It is not clear the status of the pledges made so far. Although WTO members have asked the WTO Director General to consult with members, the World Bank, the IMF, relevant international organisations and regional development banks to find appropriate mechanisms to secure additional financial resources for A4T, what additional resources means is unclear – whether it is additional to what has already been pledged or additional because more pledges have been made since 2005 for A4T. OECD says prospects of additional money are unlikely given that OECD members have already made their official development assistance commitments until 2010.

Adequacy: Related to the question of additionality, is that of adequacy i.e. whether there will be enough money to meet the full agenda of A4T. The money pledged to date for A4T is insufficient to cover the proposed agenda. The current pledges stand somewhere around US\$8.6bn a year but the estimated costs according OECD calculations (excluding adjustment costs) stood at US\$22.8bn a year. Given that A4T spending has so far focused only on technical assistance and capacity building, there might not be enough funds to deal with other items in the agenda of A4T i.e. adjustment costs.

Predictability: There is no guarantee that the pledges would be delivered. A4T represents at most ‘best endeavour’ promises to provide assistance and such promises made in the past have not materialised i.e. compensation for preference erosion, higher food import costs and implementation costs was promised in previous rounds but the delivery on these promises fell short of what was expected due to a lack of enforceable mechanism. Although the WTO has enforcement mechanisms that apply to its agreements, enforcement has not extended to promises of assistance, which are part of these agreements. For A4T to be credible there is a need for monitoring capacity to ensure that the funds are delivered as promised. Moreover, WTO may not be the best forum to operationalise A4T given it lacks necessary expertise to assess aid delivery and its effectiveness.

Ownership: Best practices in aid delivery show that donors must respond to recipient country’s development needs. However, the past record on country ownership of trade related assistance has been mixed. In fact, current priorities of donors in trade related assistance do not reflect the needs of developing countries. There is a clear mismatch between priorities between donors and the recipient countries and this is not likely to change in the future despite the recommendation from the A4T that there should be stronger country ownership, better donor responses to needs of recipient countries and a stronger link between recipient country demands and donor responses. To date, donors have limited their support to traditional trade related assistance rather than tackle the broader and more pressing constraints faced by developing countries, particularly strengthening productive capacities, building trade related infrastructure as well as financing adjustment costs. So far no donor has proposed paying for adjustment costs. All donors maintain a preference for the

traditional trade related assistance despite both the mandate of A4T and stated positions on A4T from recipient countries. The LDCs, the African Group and ACP countries want to increase their productive capacities, build infrastructure and finance adjustment costs. Unless there are binding obligations on the part of donor countries, neither the positions of recipient countries nor the recommendations of the taskforce are likely to effect any change in the *status quo* in aid delivery.

Coherence: Related to the question of country ownership is the need for coherence. Not only must aid for trade be linked with broader development programme, but also its effectiveness is dependent on the ability of donors to coordinate their efforts within a broad national development strategy.

Conditionality: The expansion of A4T should not be linked or made conditional upon developing countries' positions in multilateral negotiations. Nevertheless, developed countries have consistently used their aid budgets to pressure developing countries to move close to developed countries trade negotiation positions. A4T increases the risk of such pressure arising.

7. Way Forward

In the Doha Round, the negotiations seek to reduce/eliminate MFN tariffs and non-tariff barriers (NTBs), with deeper cuts on tariff peaks and comprehensive product coverage without priori exclusions. However, these goals would reduce the value of preferences that developing countries currently enjoy, especially in sectors where the MFN tariffs are high. Currently, South Asian countries are beneficiaries of the EU and the US GSP schemes, which provide non-reciprocal preferential access to South Asia's important export markets – both the EU and the US. Under both schemes, LDCs receive generous market access than non-LDCs from the region – duty free access under the EBA arrangement in the case of the EU and more product coverage under US GSP scheme. Understandably LDCs including Bangladesh and Nepal are concerned that tariff reductions under agriculture and NAMA negotiations would lead to the erosion of preferences that they currently enjoy.

Although South Asian countries have market access to US under the GSP scheme, their main export to US, e.g. textile and textile articles are not covered under the scheme. Due to low product coverage, South Asia is not highly vulnerable to preference erosion in US except for few sectors but these do not account for a significant share of exports to the US. Countries and sectors in South Asia are more vulnerable to preference erosion in EU, as the EU scheme provides wider coverage of products and more goods are exported under the scheme at preferential rates. Nonetheless, vulnerability to preference erosion in EU would vary for the South Asian region, with Nepal being highly vulnerable while Sri Lanka being the least vulnerable within the region. Even in the case of Sri Lanka, few sectors of importance are likely to be vulnerable to preference erosion in EU.

While the empirical evidence indicates that in the aggregate the costs are likely to be modest, for some countries the costs could be significant. What can be said is that there will be losses to all countries that are currently beneficiaries of preferences, which may be small for some and would be offset by benefits of liberalisation in a successful Doha

Round. But this might not be true for all countries. For example, all empirical studies show that Bangladesh stand to lose from preference erosion

While the problem of preference erosion has been officially recognised, there is no consensus on possible solutions to the problem, which include trade and non-trade measures. A way forward to address preference erosion would be to adopt a combination of trade and aid based measures. Trade measures attempts to address preference erosion in the *short-term* by providing a foothold in the preference granting countries' market before MFN liberalisation is complete. A number of trade measures have been suggested, some of which include measures to increase the utilisation of schemes, extend product coverage of schemes, access other markets and protect the preferences currently benefiting the beneficiary countries.

On-going discussions on the losses from preference erosion should lead to efforts on the part of preference-giving countries to improve the utilisation of the schemes by way of relaxing RoO extending coverage of existing preferences to products of export interest to developing countries such as in textile and textile articles while preference dependent countries should try to negotiate preferences in other emerging markets and ensure that preferences extended to them are maintained as much as possible through a longer implementation period for tariff reductions of sectors vulnerable to preference erosion. The EU has already proposed a relaxation of rules, which is likely to help beneficiaries make better use of the scheme, for example textile and textile articles in the case of Bangladesh and Sri Lanka, which are the main exports to the EU. The RoO does not seem to be a constraint in the case of the US scheme. The possibility of extending product coverage to LDCs is limited with most of the products enjoying DFQF access to the EU while textile and textile articles, which is the main the export of South Asia denied preferential access under the US GSP scheme and is likely to remain excluded from the scheme.

The prospects of obtaining preferential access in other markets for South Asia is limited as most of the exports are directed to EU and US and/or already enjoy preferential access in other markets. In agricultural and NAMA negotiations, there have been discussions on a longer implementation period for products, which will be vulnerable for preference erosion – a proposal to which some countries are open but there is no consensus on this issue so far. Such a measure would provide vulnerable countries more time to adjust to adverse effects of preference erosion. However, none of the trade solutions offer a lasting solution to the problem. It is in the nature of multilateral trade liberalisation that as MFN tariffs are reduced, preferential access will be reduced. This is an on-going and continuous phenomenon. Despite the current impasse with multilateral trade negotiations, preferences will erode as countries around the world continue to undertake unilateral policy changes, sign new trade agreements or deepen existing ones. Thus, measures need to be taken to improve the competitiveness of exports by addressing supply-side capacity constraints of developing countries.

For nearly 30 years, market access preferences have been granted to promote economic growth through export growth and diversification through non-reciprocal schemes like the GSP. However, many of the beneficiary countries have not managed to diversify and expand exports even with preferences they receive because they simply lack the

necessary domestic supply capacity to capitalise on the preferential market access. A4T is a reflection of the emerging consensus on the need to provide assistance to address domestic supply side constraints as well as adjustment costs such as preference erosion in order for countries to benefit from current efforts at trade liberalisation under the Doha Round.

In the long-term, building supply side capacities and thereby improving competitiveness of export sectors remains the only lasting solution to the challenge of preference erosion. However, the success of various capacity building and trade related assistance to date has been mixed in this regard. For A4T to be effective and serve its purpose, it is necessary to learn from existing initiatives and address these shortcomings. It is also important that the current expansion of A4T should be additional, adequate, predictable, recipient driven, coherent and free from conditions.

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APPENDICES

Table A1: EU Utilisation Rates (sector-wise, 2004)

Section	Description	BG	IN	NP	PL	SL
I	Live animals & products	64.8	84.2		82.5	89.6
II	Vegetable products	99.5	49	97.5	36.2	83.5
III	Fats and oils	85.7	95.3	100	80	85.9
IV	Prepared foodstuffs, beverages, etc.	54.9	84.3	98.1	88	25.7
V	Mineral products		62.2	100	100	
VI	Chemical products	90.9	80.3	85	66.4	85.8
VII	Plastics & rubber	78.3	83.7	72.7	94	77.9
VIII	Hides and skins, leather, etc.	90.6		87.9		89.3
IX	Wood & articles of wood	82.4	83	88.9	41.7	87.1
X	Pulp of wood, paper, books, etc.					
XI	Textile & textile articles	59	85.4	84.4	89.5	27.8
XII	Footwear, headgear, umbrellas etc.	81.3	89.2	88.7	92.4	75.6
XIII	Articles of stone, cement, etc.	96.9	72.4	89	84.5	81.6
XIV	Precious stones, etc	31.7	88.7	66.4	95.1	77.3
XV	Base metals & products	37	83.7	80.3	79.2	86.1
XVI	Machinery & electrical equipment	0.8	64.1	97.6	38.9	57.5
XVII	Transport equipment	97.6	81.9		64.8	82.3
XVIII	Optical & precision instruments	82.8	60.8	81.1	62.1	78.3
XIX	Arms and ammunition					
XX	Miscellaneous manufacturing articles	55.9	82.7	78.1	80.3	85.5
XXI	Works of art, etc					
	Total	60.4	81.1	84.1	87.3	42.1
<i>Source: Data compiled from UNCTAD</i>						

Table A2: EU Utility Rates (sector-wise, 2004)						
Sect.	Description	BG	IN	NP	PL	SL
I	Live animals & products	64.8	79.7		82.5	17
II	Vegetable products	91.5	37.2	90.6	23.6	79.5
III	Fats and oils	85.7	93.3	100	80	85.9
IV	Prepared foodstuffs, beverages etc.	36.9	72.1	1.8	32.1	25.5
V	Mineral products		39.8	100	0.3	
VI	Chemical products	90.1	24.6	85	49.6	84.7
VII	Plastics & rubber	68.7	79.5	72.7	94	77.7
VIII	Hides and skins, leather, etc.	88.7		76		88.9
IX	Wood & articles of wood	82.4	82.6	88.9	41.7	87.1
X	Pulp of wood, paper, books, etc.					
XI	Textile & textile articles	58.8	61.5	84.4	64.3	27.6
XII	Footwear, headgear, umbrellas, etc.	81.3	89	88.7	92.3	75.2
XIII	Articles of stone, cement, etc.	96.9	72.3	89	83.8	81.6
XIV	Precious stones, etc	31.7	88.7	66.4	95.1	77.3
XV	Base metals & products	36.8	83.1	79.9	79	85.8
XVI	Machinery & electrical equipment	0.7	63.5	97.6	38.7	56
XVII	Transport equipment	97.2	81.9		63.9	82.1
XVIII	Optical & precision instruments	82.8	60.3	81.1	62	78.3
XIX	Arms and ammunition					
XX	Miscellaneous manufacturing articles	55.9	82.5	78.1	80.3	85.5
XXI	Works of art, etc	60.2	59.4	79.4	58.3	41.2
Source: Data compiled from UNCTAD						

Table A3: US Utilisation Rates (sector-wise, 2004)						
Sect.	Description	BD	IN	NP	PK	SL
I	Live animals & products	100	96.9		82.8	100
II	Vegetable products	36.5	94.4	93.5	97	91.4
III	Fats and oils	100	85.5		100	100
IV	Prepared foodstuffs, beverages, etc.	95.8	96.9		99.6	95.2
V	Mineral products	.	99.1		100	.
VI	Chemical products	71.2	.	93.8	79.6	99.3
VII	Plastics & rubber	48.8	93.9	21	72.8	90.1
VIII	Hides and skins, leather, etc.	86.2	89	96.4	91.7	97.3
IX	Wood & articles of wood	98	94.2	90.4	97.1	94
X	Pulp of wood, paper, books, etc.	.	.	.	.	.
XI	Textile & textile articles	97.7	86.2	77.6	78.2	75.9
XII	Footwear, headgear, umbrellas, etc.	93.8	93.3	33.3	89.7	88.8
XIII	Articles of stone, cement, etc.	93	96.7	90	97.7	96
XIV	Precious stones, etc	100	99.1	73.5	99.6	95.9
XV	Base metals & products	41	94.7	96.9	93.6	72.5
XVI	Machinery & electrical equipment	0	77.8	8.7	84.1	67.9
XVII	Transport equipment	86	89.1		94.8	41.8
XVIII	Optical & precision instruments	29.2	32.5	31.8	96.9	90.2
XIX	Arms and ammunition		85.8	.	90.4	
XX	Miscellaneous manufacturing articles	98.4	93.8	92.5	73.2	92.8
XXI	Works of art, etc	.	.	.	.	.
	Total	76.9	92.8	67.2	89.5	89.1
<i>Source: Data compiled from UNCTAD</i>						

Table A4: US Utility Rates (sector-wise, 2004)						
Sec.	Description	BD	IN	NP	PK	SL
I	Live animals & products	50	37.7		9.1	100
II	Vegetable products	36.5	54.6	93.5	17.3	83.9
III	Fats and oils	100	2.1		12.8	100
IV	Prepared foodstuffs, beverages, etc.	95.8	52.9		97.4	92.1
V	Mineral products	.	7.6		100	.
VI	Chemical products	71.2	0	93.8	79.6	99.3
VII	Plastics & rubber	48.8	81.7	21	50.7	90
VIII	Hides and skins, leather, etc.	38	14.5	96.4	4.5	12.5
IX	Wood & articles of wood	97.6	85.2	90.4	94.8	93.6
X	Pulp of wood, paper, books, etc.	.	.	.	.	.
XI	Textile & textile articles	0.1	2.4	77.6	1	0.4
XII	Footwear, headgear, umbrellas, etc.	0.1	1	33.3	20.6	9.8
XIII	Articles of stone, cement, etc.	93	92.4	90	97.4	69.1
XIV	Precious stones, etc	100	99.1	73.5	99.6	95.8
XV	Base metals & products	41	90.5	96.9	79.8	72.5
XVI	Machinery & electrical equipment	0	69.8	8.7	77.3	67.9
XVII	Transport equipment	86	88.9		93.6	41.8
XVIII	Optical & precision instruments	29.2	30.1	31.8	93.8	87.9
XIX	Arms and ammunition		80.3	.	90.4	
XX	Miscellaneous manufacturing articles	96	62.1	92.5	6.8	74.4
XXI	Works of art, etc	.	.	.	.	.
	Total	0.8	38.5	67.2	3.6	6.9
Source: Data compiled from UNCTAD						

Table A5: Products likely to be affected by preference erosion in the US						
HS chapter	Product Description	BG	IN	NP	PK	SL
03	Fish & crustacean, mollusc & other aquatic invertebrate		x			x
06	Live tree & other plant; bulb, root; cut flowers etc		x			
08	Edible fruit and nuts; peel of citrus fruit or melons.		x			
09	Coffee, tea, maté and spices.		x			x
12	Oil seed, oleag fruits; miscell grain, seed, fruit etc		x			
13	Lac; gums, resins & other vegetable saps & extracts.		x		x	
16	Prep of meat, fish or crustaceans, molluscs etc		x			
17	Prep of meat, fish or crustaceans, molluscs etc		x		x	
19	Preparation of cereal, flour, starch/milk; pastry cooks' prod		x			
21	Miscellaneous edible preparations.		x			
25	Salt; sulphur; earth & stone; plastering mat; lime & cem		x			
38	Miscellaneous chemical products.					x
39	Plastics and articles thereof.		x			x
40	Rubber and articles thereof.		x			x
41	Raw hides and skins (other than fur skins) and leather.		x			
44	Wood and articles of wood; wood charcoal		x			
68	Art of stone, plaster, cement, asbestos, mica/sim mat		x		x	
69	Ceramic products.			x		x
70	Glass and glassware.		x			
71	Natural/cultured pearls, precious stones & metals, coin etc		x		x	x
73	Articles of iron or steel.		x			
74	Copper and articles thereof.		x			
76	Aluminium and articles thereof.		x			
79	Zinc and articles thereof.		x			
82	Tool, implement, cutlery, spoon & fork, of base mtl etc		x		x	
83	Miscellaneous articles of base metal.		x			
84	Nuclear reactors, boilers, mchy & mech appliance; parts		x			
85	Electrical machinery equip parts thereof; sound recorder etc		x			
86	Railw/tramw locom, rolling-stock & parts thereof; etc		x			
87	Vehicles o/t railw/tramw roll-stock, pts & accessories		x			
90	Optical, photo, cine, meas, checking, precision, etc				x	
93	Arms and ammunition; parts and accessories thereof.				x	
95	Toys, games & sports requisites; parts & access thereof		x			
96	Miscellaneous manufactured articles.		x			x
<i>Source: Data compiled from UNCTAD</i>						

Table A6: Products likely to be affected by preference erosion in the EU						
HS chapt.	Description	BG	IN	NP	PK	SL
3	Fish & crustacean, mollusc & other aquatic invertebrate	x	x		x	
6	Live tree & other plant; bulb, root; cut flowers etc		x			x
7	Edible vegetables and certain roots and tubers.	x	x			
8	Edible fruit and nuts; peel of citrus fruit or melons.		x		x	
9	Coffee, tea, maté and spices.		x			
15	Animal/veg fats & oils & their cleavage products; etc		x			
18	Cocoa and cocoa preparations.		x			
19	Prep. of cereal, flour, starch/milk; pastry cooks' prod		x			
20	Prep of vegetable, fruit, nuts or other parts of plants		x			
21	Miscellaneous edible preparations.		x			x
22	Beverages, spirits and vinegar.				x	
24	Tobacco and manufactured tobacco substitutes		x			
25	Salt; sulphur; earth & stone; plastering mat; lime & cem		x			
28	Inorgn chem; compds of prec mtl, radioact elements etc		x			
33	Essential oils & resinoids; perf, cosmetic/toilet prep		x			
38	Miscellaneous chemical products.		x			
39	Plastics and articles thereof.		x		x	x
40	Rubber and articles thereof.		x			x
41	Raw hides and skins (other than furskins) and leather.	x				
42	Articles of leather; saddlery/harness; travel goods etc					x
46	Manufactures of straw, esparto/other plaiting mat; etc		x			
53	Other vegetable textile fibres; paper yarn & woven fab	x				
57	Carpets and other textile floor coverings.			x		
61	Art of apparel & clothing access knitted or crocheted.	x	x	x	x	
62	Art of apparel & clothing access, not knitted/crocheted		x	x	x	
63	Other made up textile articles; sets; worn clothing etc	x	x		x	x

64	Footwear, gaiters and the like; parts of such articles.	x	x	x	x
68	Art of stone, plaster, cement, asbestos, mica/sim mat		x		
69	Ceramic products.	x	x		x
70	Glass and glassware.		x		
71	Natural/cultured pearls, prec stones & metals, coin etc		x	x	
72	Iron and steel.		x		
73	Articles of iron or steel.		x		x
74	Copper and articles thereof.		x		
76	Aluminum and articles thereof.		x		
82	Tool, implement, cutlery, spoon & fork, of base mtl etc		x	x	
83	Miscellaneous articles of base metal.		x		
84	Nuclear reactors, boilers, mchy & mech appliance; parts		x		
87	Vehicles o/t railw/tramw roll-stock, pts & accessories	x	x		x
90	Optical, photo, cine, meas, checking, precision, etc				x
92	Musical instruments; parts and access of such articles		x		
94	Furniture; bedding, mattress, matt support, cushion etc		x	x	
95	Toys, games & sports requisites; parts & access thereof		x	x	x
96	Miscellaneous manufactured articles.		x		x
Notes: Products mentioned in the list have high utilisation/utility rates (above 60) and preferential import value of exceeding USD5 million a year					
Source: Compiled from data provided by the UNCTAD					

Endnotes

- 1 Preference erosion refers to a decline in the competitive advantage that exporters enjoy in foreign markets as a result of a loss in preferential trade treatment. This can occur when: 1) export partners eliminate preferences; 2) expand the number of preference beneficiaries; or 3) lower their most-favoured nation (MFN) tariff without lowering preferential tariffs proportionately (Alexandraki and Lankes, 2004).
- 2 Following multilateral trade negotiations, cuts are applied to bound import duties but not directly to applied tariffs. A Most favoured-nation (MFN) applied duty is reduced only if the bound rate, which has been cut is set lower than the applied duty. In turn, preferential rates which are applied rates set lower than the MFN rate would be cut but less than the MFN applied rates because they not affected until the bound rates come close below the preferential rates. This means preferential margins are reduced or eroded when tariffs are cut at the multilateral level (Bouet, Fontagne, Jean, 2005).
- 3 Article 20 of the 2005 Hong Kong Ministerial Declaration states: "... we recognise the challenges that may be faced by non-reciprocal preference beneficiary Members as a consequence of the MFN liberalisation that will result from these negotiations. We instruct the Negotiating Group to intensify work on the assessment of the scope of the problem with a view to finding possible solutions."
- 4 Quad includes US, EU, Japan and Canada
- 5 Graduation of some countries/products has reduced the value of preferences for some developing countries and as such these countries are devoting more attention to market access negotiations at the WTO than to the issue of preference erosion.
- 6 A more recent example of significant preference erosion was the ending of the MFA on January 01, 2005, which opened the textile and garment sector to greater competition as quantitative restrictions on exports were phased-out.
- 7 It is now widely accepted that tariffs are just part of the overall set of factors constraining the expansion of exports from developing countries. Supply-side constraints have been one of the main reasons which have restricted the ability of developing countries to benefit from trade liberalisation.
- 8 The study would limit itself to Bangladesh, India, Nepal, Pakistan and Sri Lanka.
- 9 The EU GSP is the most widely used of all developed country GSP schemes. The volume of imports to the EU from developing countries under the GSP scheme is greater than the combined volume of imports under the US, Canadian and Japanese GSP schemes. After the EU, the US scheme is the most widely used one.
- 10 However, these principles have not been observed from the beginning.
- 11 The General Scheme, Special Scheme for the protection of labour rights (only two beneficiaries Moldova and Sri Lanka), Special Scheme for the protection of the environment (no beneficiaries), Special Scheme to combat drug production and trafficking (all Central American countries belonging to the Andean Community and Pakistan), and the Special Scheme for LDCs – "Everything but Arms" (allows duty-free and quota-free access to all products but arms from the world's 50 poorest countries).
- 12 The special scheme to combat drug production and trafficking (of which Pakistan was a beneficiary) was removed with the most recent revision due to the lack of objective criteria in selecting beneficiary countries in a manner compatible with WTO rules. Pakistan, which was a beneficiary of this special scheme, did not qualify for the GSP+ scheme as its share was more than one percent of EU's total imports. Only a threshold of minimum two percent could have qualified Pakistan for the Scheme. Like India, textiles from Pakistan did not receive preferential treatment and was graduated from the scheme as it was considered to have achieved sufficient competitiveness in its exports (Fakhar, 2005).

- 13 The implementation date of the scheme was accelerated to April 2005 so that countries severely affected by the tsunami, such as Sri Lanka and Thailand, could reap benefits of the scheme sooner.
- 14 On March 2005, the European Commission adopted a Communication (COM, 2005) 100 final) which outlines the broad direction of future reforms of rules of origin. The Communication indicates a simplification of origin criteria and cumulation rules and formalities and controls.
- 15 Some developing countries and LDCs have been removed from GSP scheme in the past due to country practice petitions on concerns such as worker rights and intellectual property.
- 16 However, a closer examination of the extended list of products indicates that it mostly benefited one country and one product: Angola and petroleum.
- 17 Products are removed from the GSP scheme under three circumstances. Firstly, products may be removed in response to petitions submitted by interested parties; secondly, by designation of new products; and thirdly, by the re-designation of specific articles as GSP eligible and denying re-designation to certain developing countries.
- 18 These include: Argentina, Brazil, Croatia, India, Indonesia, Kazakhstan, Philippines, Romania, Russia, South Africa, Thailand, Turkey, and Venezuela.
- 19 These indicators at most provide a partial analysis of the value of preferences (Hoekman, Martin and Braga, 2006). To get a broader view one has to also take into account other factors such as costs related to documentary requirements and rules of origin, other limitations and constraints which are part of the preferential scheme, distribution of rents from the preferences, etc.
- 20 International tariff peaks are defined as those exceeding 15 percent of the applied rate.
- 21 The coverage rate for India in 2000 was 35 percent and this figured increased to 41 percent by 2004. .
- 22 Countries such as Pakistan, Sri Lanka and India have performed well. India showed a significant improvement in its utilisation rate, which increased from just 55 percent in 2000 to 93 percent in 2004 indicating that India has fully capitalised on the preferences extended. Nepal on the other hand experienced a decline in its utilisation rate over the same period, from 88 percent recorded in 2000 down 67 percent by 2004.
- 23 India had a utility rate of below 20 percent in 2000.
- 24 However, this has not hindered Indian export of chemical products to the US, which in 2004 was seven percent of the total exports to the US.
- 25 India is likely to become the largest recipient of the EU GSP scheme with the graduation of more than 80 percent of Chinese imports into the EU under the new scheme.
- 26 The overage rates for most of the South Asian countries remained stable between 2000 and 2004, except in the case of Pakistan, which experienced a significant rise in its rate from 54 percent in 2000 to 67 percent in 2004.
- 27 The utilisation rate for South Asia has improved from 63 percent in 2000 to 74 percent in 2004. All countries saw an increase in their utilisation rates during this period.
- 28 The utility rate for region also improved during 2000-04, reflecting the improvements in utilisation rate during this period. The utility rate in 2000 for South Asia was 49 percent in 2000, which increased to 58 percent by 2004.
- 29 Manufacturing process for knitwear tends to be more conducive to double transformation than for woven clothing, as reflected by the different utilisation rates. Articles of clothing, knitted/crocheted fabrics (HS61) records a higher utilisation rate of 81 percent while articles of clothing, not knitted/crocheted (HS62) has an utilisation rate at 24 percent. Many developing countries including Bangladesh and Sri Lanka manufacture clothing but very few also produce woven fabrics, which are very capital intensive. Only certain developing countries

(China, India, Pakistan) have competitive textile industries to provide such backward linkages (EU, 2006)

- 30 On the whole, erosion of preferences is likely to have a mixed effect on the textile and textile articles sector given the different utilisation rates within the sectors. See above footnote.
- 31 Textile and textile articles and hides and leather account for 7.9 and 5.2 percent of total exports, respectively.
- 32 Some of the important products within the sector include carpets and other textile floor coverings (HS 57), articles of apparel and clothing accessories, knitted/crocheted (HS 61) and articles of apparel and clothing accessories, not knitted/crocheted (HS 62)
- 33 The derogation allows Nepal to export these items after only one stage processing operation from materials originating from any of the acceptable regional groupings. Derogation was granted to the Nepal on the basis of the country's limited industrial capacity, which prevents goods exported by the country obtaining the originating status under normal conditions.
- 34 Sri Lanka is currently lobbying the EU to bring down the contents requirements in order to better utilise the preferences extend under the GSP-plus scheme. Sri Lanka wants the value addition criteria brought down to 35 per cent from the current rate of 50 per cent as the country lacks a domestic fabric base to meet the required criteria.
- 35 For example, including compliance costs in the case of high tariff categories like clothing reduce the size of the potential loss from erosion (in Bangladesh) or the potential losses turn into potential gains (in Madagascar).
- 36 ActionAid (2005), Weeraratne (2005), EC (2006)
- 37 However, further harmonization across schemes is unlikely to take place anytime in the future.
- 38 In the case of India, Pakistan and Sri Lanka about 60 percent of the tariff lines do not receive any preferential access in the US.
- 39 In the case of India, Pakistan and Sri Lanka, about 14-17 percent of the total tariff lines do not receive any preferential treatment from the EU.
- 40 A more efficient trade option is considered by Limao and Olarreaga. They show that shifting from trade preferences to a system of equivalent import subsidies in the OECD countries might encourage additional tariff liberalisation and reduce distortions created by preferential trade.
- 41 In February 2005, G-7 Ministers called on the World Bank and the IMF to develop proposals for additional assistance to countries to ease adjustment costs to trade liberalisation and to increase their capacity to take advantage of more open markets. Subsequently in July 2005 at the G-8 Summit at Gleneagles, there was an agreement to increase assistance to developing countries to building physical, human and institutional capacity to trade and it was closely associated with a successful conclusion of the Doha Round.
- 42 For example, the specific decision on net-food importing developing countries (NFIDCs) which was included as part of the Uruguay Round provided compensation for LDCs and NFIDCs should they be hurt by higher food prices or reduced food aid following implementation of the Agreement on Agriculture (AoA). But the implementation was slow and it represented a promise of assistance, which was not binding. Plus monitoring of the decision was fraught with difficulties.
- 43 There are some that argue that A4T should not be on the WTO agenda when its mission is to deal with trade rules and not the delivery of aid. Others argue that the WTO has a 'coherence mandate' and monitoring capacity and therefore is an excellent forum to deal with A4T (ILEAP and JEICP, 2006).

- 44 The Task Force consists of 13 members, representing key negotiating groups and Members with interest in A4T and they include: Barbados, Brazil, Canada, China, Colombia, the EU, Japan, India, Thailand, the US and coordinators of the ACP, African and the LDC groups. It is chaired by WTO Ambassador Mia Horn af Rantzien of Sweden
- 45 This include principles such as country ownership, mutual accountability, aligning aid to national development strategies, effective donor coordination, harmonisation of donor procedures, use of programme-based aid modalities, managing for result, transparency, and predictable and multi-year commitments.
- 46 For example, textile and textile articles sector in the case of Bangladesh and Sri Lanka has not been able to make use of the preferences extended under the EU GSP scheme due to supply side constraints such as lack of backwards linkages in the industry. While this sector may not be as vulnerable to preference erosion in the EU as India and Pakistan, there is a need for trade assistance for the sector in Bangladesh and Sri Lanka to address the supply constraints to exports.

Annexures

Annexure 1

**WORLD TRADE
ORGANIZATION**

WT/MIN(05)/DEC
22 December 2005

(05-6248)

MINISTERIAL CONFERENCE
Sixth Session
Hong Kong, 13 - 18 December 2005

Doha Work Programme

Ministerial Declaration

Adopted on 18 December 2005

1. We reaffirm the Declarations and Decisions we adopted at Doha, as well as the Decision adopted by the General Council on August 01, 2004, and our full commitment to give effect to them. We renew our resolve to complete the Doha Work Programme fully and to conclude the negotiations launched at Doha successfully in 2006.
2. We emphasize the central importance of the development dimension in every aspect of the Doha Work Programme and recommit ourselves to making it a meaningful reality, in terms both of the results of the negotiations on market access and rule-making and of the specific development-related issues set out below.
3. In pursuance of these objectives, we agree as follows:

<i>Agriculture negotiations</i>	<ol style="list-style-type: none">4. We reaffirm our commitment to the mandate on agriculture as set out in paragraph 13 of the Doha Ministerial Declaration and to the Framework adopted by the General Council on August 01, 2004. We take note of the report by the Chairman of the Special Session on his own responsibility (TN/AG/21, contained in Annex A). We welcome the progress made by the Special Session of the Committee on Agriculture since 2004 and recorded therein.5. On domestic support, there will be three bands for reductions in Final Bound Total AMS and in the overall cut in trade-distorting domestic support, with higher linear cuts in higher bands. In both cases, the Member with the highest level of permitted support will be in the top band, the two Members with the second and third highest levels of support will be in the middle band and all other Members,
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	<p>including all developing country Members, will be in the bottom band. In addition, developed country Members in the lower bands with high relative levels of Final Bound Total AMS will make an additional effort in AMS reduction. We also note that there has been some convergence concerning the reductions in Final Bound Total AMS, the overall cut in trade-distorting domestic support and in both product-specific and non product-specific <i>de minimis</i> limits. Disciplines will be developed to achieve effective cuts in trade-distorting domestic support consistent with the Framework. The overall reduction in trade-distorting domestic support will still need to be made even if the sum of the reductions in Final Bound Total AMS, <i>de minimis</i> and Blue Box payments would otherwise be less than that overall reduction. Developing country Members with no AMS commitments will be exempt from reductions in <i>de minimis</i> and the overall cut in trade-distorting domestic support. Green Box criteria will be reviewed in line with paragraph 16 of the Framework, <i>inter alia</i>, to ensure that programmes of developing country Members that cause not more than minimal trade-distortion are effectively covered.</p> <p>6. We agree to ensure the parallel elimination of all forms of export subsidies and disciplines on all export measures with equivalent effect to be completed by the end of 2013. This will be achieved in a progressive and parallel manner, to be specified in the modalities, so that a substantial part is realized by the end of the first half of the implementation period. We note emerging convergence on some elements of disciplines with respect to export credits, export credit guarantees or insurance programmes with repayment periods of 180 days and below. We agree that such programmes should be self-financing, reflecting market consistency, and that the period should be of a sufficiently short duration so as not to effectively circumvent real commercially-oriented discipline. As a means of ensuring that trade-distorting practices of STEs are eliminated, disciplines relating to exporting STEs will extend to the future use of monopoly powers so that such powers cannot be exercised in any way that would circumvent the direct disciplines on STEs</p>
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	<p>on export subsidies, government financing and the underwriting of losses. On food aid, we reconfirm our commitment to maintain an adequate level and to take into account the interests of food aid recipient countries. To this end, a “safe box” for bona fide food aid will be provided to ensure that there is no unintended impediment to dealing with emergency situations. Beyond that, we will ensure elimination of commercial displacement. To this end, we will agree effective disciplines on in-kind food aid, monetization and re-exports so that there can be no loop-hole for continuing export subsidization. The disciplines on export credits, export credit guarantees or insurance programmes, exporting state trading enterprises and food aid will be completed by 30 April 2006 as part of the modalities, including appropriate provision in favour of least-developed and net food-importing developing countries as provided for in paragraph 4 of the Marrakesh Decision. The date above for the elimination of all forms of export subsidies, together with the agreed progressivity and parallelism, will be confirmed only upon the completion of the modalities. Developing country Members will continue to benefit from the provisions of Article 9.4 of the Agreement on Agriculture for five years after the end-date for elimination of all forms of export subsidies.</p> <p>7. On market access, we note the progress made on <i>ad valorem</i> equivalents. We adopt four bands for structuring tariff cuts, recognizing that we need now to agree on the relevant thresholds – including those applicable for developing country Members. We recognize the need to agree on treatment of sensitive products, taking into account all the elements involved. We also note that there have been some recent movements on the designation and treatment of Special Products and elements of the Special Safeguard Mechanism. Developing country Members will have the flexibility to self-designate an appropriate number of tariff lines as Special Products guided by indicators based on the criteria of food security, livelihood security and rural development. Developing country Members will also have the right to have recourse to a Special Safeguard Mechanism based on import quantity</p>
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	<p>and price triggers, with precise arrangements to be further defined. Special Products and the Special Safeguard Mechanism shall be an integral part of the modalities and the outcome of negotiations in agriculture.</p> <p>8. On other elements of special and differential treatment, we note in particular the consensus that exists in the Framework on several issues in all three pillars of domestic support, export competition and market access and that some progress has been made on other special and differential treatment issues.</p> <p>9. We reaffirm that nothing we have agreed here compromises the agreement already reflected in the Framework on other issues including tropical products and products of particular importance to the diversification of production from the growing of illicit narcotic crops, long-standing preferences and preference erosion.</p> <p>10. However, we recognise that much remains to be done in order to establish modalities and to conclude the negotiations. Therefore, we agree to intensify work on all outstanding issues to fulfil the Doha objectives, in particular, we are resolved to establish modalities no later than April 30, 2006 and to submit comprehensive draft Schedules based on these modalities no later than July 31, 2006.</p>
<i>Cotton</i>	<p>11. We recall the mandate given by the Members in the Decision adopted by the General Council on August 01, 2004 to address cotton ambitiously, expeditiously and specifically, within the agriculture negotiations in relation to all trade-distorting policies affecting the sector in all three pillars of market access, domestic support and export competition, as specified in the Doha text and the July 2004 Framework text. We note the work already undertaken in the Sub-Committee on Cotton and the proposals made with regard to this matter. Without prejudice to Members' current WTO rights and obligations, including those flowing from actions taken by the Dispute Settlement Body, we reaffirm our commitment to ensure having an</p>

	<p>explicit decision on cotton within the agriculture negotiations and through the Sub-Committee on Cotton ambitiously, expeditiously and specifically as follows:</p> <ul style="list-style-type: none"> – All forms of export subsidies for cotton will be eliminated by developed countries in 2006. – On market access, developed countries will give duty and quota free access for cotton exports from least-developed countries (LDCs) from the commencement of the implementation period. – Members agree that the objective is that, as an outcome for the negotiations, trade distorting domestic subsidies for cotton production be reduced more ambitiously than under whatever general formula is agreed and that it should be implemented over a shorter period of time than generally applicable. We commit ourselves to give priority in the negotiations to reach such an outcome. <p>12. With regard to the development assistance aspects of cotton, we welcome the Consultative Framework process initiated by the Director-General to implement the decisions on these aspects pursuant to paragraph 1.b of the Decision adopted by the General Council on 1 August 2004. We take note of his Periodic Reports and the positive evolution of development assistance noted therein. We urge the Director-General to further intensify his consultative efforts with bilateral donors and with multilateral and regional institutions, with emphasis on improved coherence, coordination and enhanced implementation and to explore the possibility of establishing through such institutions a mechanism to deal with income declines in the cotton sector until the end of subsidies. Noting the importance of achieving enhanced efficiency and competitiveness in the cotton producing process, we urge the development community to further scale up its cotton-specific assistance and to support the efforts of the Director-General. In this context, we urge Members to promote and support South-South cooperation, including transfer of technology. We welcome the domestic reform efforts by African cotton producers aimed at enhancing productivity and efficiency, and encourage them to deepen this process. We reaffirm the complementarity of the trade policy and development assistance aspects</p>
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	<p>of cotton. We invite the Director-General to furnish a third Periodic Report to our next Session with updates, at appropriate intervals in the meantime, to the General Council, while keeping the Sub-Committee on Cotton fully informed of progress. Finally, as regards follow up and monitoring, we request the Director-General to set up an appropriate follow-up and monitoring mechanism.</p>
<i>NAMA negotiations</i>	<p>13. We reaffirm our commitment to the mandate for negotiations on market access for non-agricultural products as set out in paragraph 16 of the Doha Ministerial Declaration. We also reaffirm all the elements of the NAMA Framework adopted by the General Council on 1 August 2004. We take note of the report by the Chairman of the Negotiating Group on Market Access on his own responsibility (TN/MA/16, contained in Annex B). We welcome the progress made by the Negotiating Group on Market Access since 2004 and recorded therein.</p> <p>14. We adopt a Swiss Formula with coefficients at levels which shall <i>inter alia</i>:</p> <ul style="list-style-type: none"> - Reduce or as appropriate eliminate tariffs, including the reduction or elimination of tariff peaks, high tariffs and tariff escalation, in particular on products of export interest to developing countries; and - Take fully into account the special needs and interests of developing countries, including through less than full reciprocity in reduction commitments. We instruct the Negotiating Group to finalise its structure and details as soon as possible. <p>15. We reaffirm the importance of special and differential treatment and less than full reciprocity in reduction commitments, including paragraph 8 of the NAMA Framework, as integral parts of the modalities. We instruct the Negotiating Group to finalise its details as soon as possible.</p> <p>16. In furtherance of paragraph 7 of the NAMA Framework, we recognise that Members are pursuing sectoral initiatives. To this end, we instruct the Negotiating Group to review proposals with a view to identifying those which could garner sufficient participation to be realised. Participation should be on a non-mandatory basis.</p>

	<p>17. For the purpose of the second indent of paragraph 5 of the NAMA Framework, we adopt a non-linear mark-up approach to establish base rates for commencing tariff reductions. We instruct the Negotiating Group to finalise its details as soon as possible.</p> <p>18. We take note of the progress made to convert non <i>ad valorem</i> duties to <i>ad valorem</i> equivalents on the basis of an agreed methodology as contained in JOB(05)/166/Rev.1.</p> <p>19. We take note of the level of common understanding reached on the issue of product coverage and direct the Negotiating Group to resolve differences on the limited issues that remain as quickly as possible.</p> <p>20. As a supplement to paragraph 16 of the NAMA Framework, we recognise the challenges that may be faced by non-reciprocal preference beneficiary Members as a consequence of the MFN liberalisation that will result from these negotiations. We instruct the Negotiating Group to intensify work on the assessment of the scope of the problem with a view to finding possible solutions.</p> <p>21. We note the concerns raised by small, vulnerable economies, and instruct the Negotiating Group to establish ways to provide flexibilities for these Members without creating a sub-category of WTO Members.</p> <p>22. We note that the Negotiating Group has made progress in the identification, categorization and examination of notified NTBs. We also take note that Members are developing bilateral, vertical and horizontal approaches to the NTB negotiations, and that some of the NTBs are being addressed in other fora including other Negotiating Groups. We recognize the need for specific negotiating proposals and encourage participants to make such submissions as quickly as possible.</p> <p>23. However, we recognise that much remains to be done in order to establish modalities and to conclude the negotiations. Therefore, we agree to intensify work on all outstanding issues to fulfil the Doha</p>
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	<p>objectives, in particular, we are resolved to establish modalities no later than April 30, 2006 and to submit comprehensive draft Schedules based on these modalities no later than July 31, 2006.</p>
<i>Balance between Agriculture and NAMA</i>	<p>24. We recognise that it is important to advance the development objectives of this Round through enhanced market access for developing countries in both Agriculture and NAMA. To that end, we instruct our negotiators to ensure that there is a comparably high level of ambition in market access for Agriculture and NAMA. This ambition is to be achieved in a balanced and proportionate manner consistent with the principle of special and differential treatment.</p>
<i>Services negotiations</i>	<p>25. The negotiations on trade in services shall proceed to their conclusion with a view to promoting the economic growth of all trading partners and the development of developing and least-developed countries, and with due respect for the right of Members to regulate. In this regard, we recall and reaffirm the objectives and principles stipulated in the GATS, the Doha Ministerial Declaration, the Guidelines and Procedures for the Negotiations on Trade in Services adopted by the Special Session of the Council for Trade in Services on March 28, 2001 and the Modalities for the Special Treatment for Least-Developed Country Members in the Negotiations on Trade in Services adopted on September 03, 2003, as well as Annex C of the Decision adopted by the General Council on August 01, 2004.</p> <p>26. We urge all Members to participate actively in these negotiations towards achieving a progressively higher level of liberalisation of trade in services, with appropriate flexibility for individual developing countries as provided for in Article XIX of the GATS. Negotiations shall have regard to the size of economies of individual Members, both overall and in individual sectors. We recognise the particular economic situation of LDCs, including the difficulties they face, and acknowledge that they are not expected to undertake new commitments.</p> <p>27. We are determined to intensify the negotiations in accordance with the above principles and the</p>

	Objectives, Approaches and Timelines set out in Annex C to this document with a view to expanding the sectoral and modal coverage of commitments and improving their quality. In this regard, particular attention will be given to sectors and modes of supply of export interest to developing countries.
<i>Rules negotiations</i>	28. We recall the mandates in paragraphs 28 and 29 of the Doha Ministerial Declaration and reaffirm our commitment to the negotiations on rules, as we set forth in Annex D to this document.
<i>TRIPS negotiations</i>	29. We take note of the report of the Chairman of the Special Session of the Council for TRIPs setting out the progress in the negotiations on the establishment of a multilateral system of notification and registration of geographical indications for wines and spirits, as mandated in Article 23.4 of the TRIPs Agreement and paragraph 18 of the Doha Ministerial Declaration, contained in document TN/IP/14, and agree to intensify these negotiations in order to complete them within the overall time-frame for the conclusion of the negotiations that were foreseen in the Doha Ministerial Declaration.
<i>Environment negotiations</i>	<p>30. We reaffirm the mandate in paragraph 31 of the Doha Ministerial Declaration aimed at enhancing the mutual supportiveness of trade and environment and welcome the significant work undertaken in the Committee on Trade and Environment (CTE) in Special Session. We instruct Members to intensify the negotiations, without prejudging their outcome, on all parts of paragraph 31 to fulfil the mandate.</p> <p>31. We recognise the progress in the work under paragraph 31(i) based on Members' submissions on the relationship between existing WTO rules and specific trade obligations set out in multilateral environmental agreements (MEAs). We further recognize the work undertaken under paragraph 31(ii) towards developing effective procedures for regular information exchange between MEA Secretariats and the relevant WTO committees, and criteria for the granting of observer status.</p> <p>32. We recognise that recently more work has been carried out under paragraph 31(iii) through numerous</p>

	<p>submissions by Members and discussions in the CTE in Special Session, including technical discussions, which were also held in informal information exchange sessions without prejudice to Members' positions. We instruct Members to complete the work expeditiously under paragraph 31(iii).</p>
<i>Trade Facilitation negotiations</i>	<p>33. We recall and reaffirm the mandate and modalities for negotiations on Trade Facilitation contained in Annex D of the Decision adopted by the General Council on August 01, 2004. We note with appreciation the report of the Negotiating Group, attached in Annex E to this document, and the comments made by our delegations on that report as reflected in document TN/TF/M/11. We endorse the recommendations contained in paragraphs 3, 4, 5, 6 and 7 of the report.</p>
<i>DSU negotiations</i>	<p>34. We take note of the progress made in the Dispute Settlement Understanding negotiations as reflected in the report by the Chairman of the Special Session of the Dispute Settlement Body to the Trade Negotiations Committee (TNC) and direct the Special Session to continue to work towards a rapid conclusion of the negotiations.</p>
<i>S&D treatment</i>	<p>35. We reaffirm that provisions for special and differential (S&D) treatment are an integral part of the WTO Agreements. We renew our determination to fulfil the mandate contained in paragraph 44 of the Doha Ministerial Declaration and in the Decision adopted by the General Council on August 01, 2004, that all S&D treatment provisions be reviewed with a view to strengthening them and making them more precise, effective and operational.</p> <p>36. We take note of the work done on the Agreement-specific proposals, especially the five LDC proposals. We agree to adopt the decisions contained in Annex F to this document. However, we also recognise that substantial work still remains to be done. We commit ourselves to address the development interests and concerns of developing countries, especially the LDCs, in the multilateral trading system, and we recommit ourselves to complete the task we set ourselves at Doha. We</p>

	<p>accordingly instruct the Committee on Trade and Development in Special Session to expeditiously complete the review of all the outstanding Agreement-specific proposals and report to the General Council, with clear recommendations for a decision, by December 2006.</p> <p>37. We are concerned at the lack of progress on the Category II proposals that had been referred to other WTO bodies and negotiating groups. We instruct these bodies to expeditiously complete the consideration of these proposals and report periodically to the General Council, with the objective of ensuring that clear recommendations for a decision are made no later than December 2006. We also instruct the Special Session to continue to coordinate its efforts with these bodies, so as to ensure that this work is completed on time.</p> <p>38. We further instruct the Special Session, within the parameters of the Doha mandate, to resume work on all other outstanding issues, including on the cross-cutting issues, the monitoring mechanism, and the incorporation of S&D treatment into the architecture of WTO rules, and report on a regular basis to the General Council.</p>
<i>Implementation</i>	<p>39. We reiterate the instruction in the Decision adopted by the General Council on August 01, 2004 to the TNC, negotiating bodies and other WTO bodies concerned to redouble their efforts to find appropriate solutions as a priority to outstanding implementation-related issues. We take note of the work undertaken by the Director-General in his consultative process on all outstanding implementation issues under paragraph 12(b) of the Doha Ministerial Declaration, including on issues related to the extension of the protection of geographical indications provided for in Article 23 of the TRIPs Agreement to products other than wines and spirits and those related to the relationship between the TRIPs Agreement and the Convention on Biological Diversity. We request the Director-General, without prejudice to the positions of Members, to intensify his consultative process on all outstanding implementation issues under paragraph 12(b), if need be by appointing</p>

	<p>Chairpersons of concerned WTO bodies as his Friends and/or by holding dedicated consultations. The Director-General shall report to each regular meeting of the TNC and the General Council. The Council shall review progress and take any appropriate action no later than 31 July 2006.</p>
<i>TRIPS & Public Health</i>	<p>40. We reaffirm the importance we attach to the General Council Decision of August 30, 2003 on the Implementation of Paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health, and to an amendment to the TRIPS Agreement replacing its provisions. In this regard, we welcome the work that has taken place in the Council for TRIPS and the Decision of the General Council of 6 December 2005 on an Amendment of the TRIPS Agreement.</p>
<i>Small Economies</i>	<p>41. We reaffirm our commitment to the Work Programme on Small Economies and urge Members to adopt specific measures that would facilitate the fuller integration of small, vulnerable economies into the multilateral trading system, without creating a sub-category of WTO Members. We take note of the report of the Committee on Trade and Development in Dedicated Session on the Work Programme on Small Economies to the General Council and agree to the recommendations on future work. We instruct the Committee on Trade and Development, under the overall responsibility of the General Council, to continue the work in the Dedicated Session and to monitor progress of the small economies' proposals in the negotiating and other bodies, with the aim of providing responses to the trade-related issues of small economies as soon as possible but no later than December 31, 2006. We instruct the General Council to report on progress and action taken, together with any further recommendations as appropriate, to our next Session.</p>
<i>Trade, Debt & Finance</i>	<p>42. We take note of the report transmitted by the General Council on the work undertaken and progress made in the examination of the relationship between trade, debt and finance and on the consideration of any possible</p>

	<p>recommendations on steps that might be taken within the mandate and competence of the WTO as provided in paragraph 36 of the Doha Ministerial Declaration and agree that, building on the work carried out to date, this work shall continue on the basis of the Doha mandate. We instruct the General Council to report further to our next Session.</p>
<i>Trade & Transfer of Technology</i>	<p>43. We take note of the report transmitted by the General Council on the work undertaken and progress made in the examination of the relationship between trade and transfer of technology and on the consideration of any possible recommendations on steps that might be taken within the mandate of the WTO to increase flows of technology to developing countries. Recognizing the relevance of the relationship between trade and transfer of technology to the development dimension of the Doha Work Programme and building on the work carried out to date, we agree that this work shall continue on the basis of the mandate contained in paragraph 37 of the Doha Ministerial Declaration. We instruct the General Council to report further to our next Session.</p>
<i>Doha paragraph 19</i>	<p>44. We take note of the work undertaken by the Council for TRIPs pursuant to paragraph 19 of the Doha Ministerial Declaration and agree that this work shall continue on the basis of paragraph 19 of the Doha Ministerial Declaration and the progress made in the Council for TRIPs to date. The General Council shall report on its work in this regard to our next Session.</p>
<i>TRIPs non-violation and situation complaints</i>	<p>45. We take note of the work done by the Council for Trade-Related Aspects of Intellectual Property Rights pursuant to paragraph 11.1 of the Doha Decision on Implementation-Related Issues and Concerns and paragraph 1.h of the Decision adopted by the General Council on August 01, 2004, and direct it to continue its examination of the scope and modalities for complaints of the types provided for under subparagraphs 1(b) and 1(c) of Article XXIII of GATT 1994 and make recommendations to our next Session. It is agreed that, in the meantime, Members will not initiate such complaints under the TRIPs Agreement.</p>

<i>E-commerce</i>	<p>46. We take note of the reports from the General Council and subsidiary bodies on the Work Programme on Electronic Commerce, and that the examination of issues under the Work Programme is not yet complete. We agree to reinvigorate that work, including the development-related issues under the Work Programme and discussions on the trade treatment, <i>inter alia</i>, of electronically delivered software. We agree to maintain the current institutional arrangements for the Work Programme. We declare that Members will maintain their current practice of not imposing customs duties on electronic transmissions until our next Session.</p>
<i>LDCs</i>	<p>47. We reaffirm our commitment to effectively and meaningfully integrate LDCs into the multilateral trading system and shall continue to implement the WTO Work Programme for LDCs adopted in February 2002. We acknowledge the seriousness of the concerns and interests of the LDCs in the negotiations as expressed in the Livingstone Declaration, adopted by their Ministers in June 2005. We take note that issues of interest to LDCs are being addressed in all areas of negotiations and we welcome the progress made since the Doha Ministerial Declaration as reflected in the Decision adopted by the General Council on August 01, 2004. Building upon the commitment in the Doha Ministerial Declaration, developed-country Members, and developing-country Members declaring themselves in a position to do so, agree to implement duty-free and quota-free market access for products originating from LDCs as provided for in Annex F to this document. Furthermore, in accordance with our commitment in the Doha Ministerial Declaration, Members shall take additional measures to provide effective market access, both at the border and otherwise, including simplified and transparent rules of origin so as to facilitate exports from LDCs. In the services negotiations, Members shall implement the LDC modalities and give priority to the sectors and modes of supply of export interest to LDCs, particularly with regard to movement of service providers under Mode 4. We agree to facilitate and accelerate negotiations with acceding LDCs based on the accession guidelines adopted by the General</p>

	<p>Council in December 2002. We commit to continue giving our attention and priority to concluding the ongoing accession proceedings as rapidly as possible. We welcome the Decision by the TRIPs Council to extend the transition period under Article 66.1 of the TRIPs Agreement. We reaffirm our commitment to enhance effective trade-related technical assistance and capacity building to LDCs on a priority basis in helping to overcome their limited human and institutional trade-related capacity to enable LDCs to maximise the benefits resulting from the Doha Development Agenda (DDA).</p>
<i>Integrated Framework</i>	<p>48. We continue to attach high priority to the effective implementation of the Integrated Framework (IF) and reiterate our endorsement of the IF as a viable instrument for LDCs' trade development, building on its principles of country ownership and partnership. We highlight the importance of contributing to reducing their supply side constraints. We reaffirm our commitment made at Doha, and recognise the urgent need to make the IF more effective and timely in addressing the trade-related development needs of LDCs.</p> <p>49. In this regard, we are encouraged by the endorsement by the Development Committee of the World Bank and International Monetary Fund (IMF) at its autumn 2005 meeting of an enhanced IF. We welcome the establishment of a Task Force by the Integrated Framework Working Group as endorsed by the IF Steering Committee (IFSC) as well as an agreement on the three elements which together constitute an enhanced IF. The Task Force, composed of donor and LDC members, will provide recommendations to the IFSC by April 2006. The enhanced IF shall enter into force no later than December 03, 2006.</p> <p>50. We agree that the Task Force, in line with its Mandate and based on the three elements agreed to, shall provide recommendations on how the implementation of the IF can be improved, <i>inter alia</i>, by considering ways to:</p> <ol style="list-style-type: none"> 1. provide increased, predictable, and additional funding on a multi-year basis;

	<p>2. strengthen the IF in-country, including through mainstreaming trade into national development plans and poverty reduction strategies; more effective follow-up to diagnostic trade integration studies and implementation of action matrices; and achieving greater and more effective coordination amongst donors and IF stakeholders, including beneficiaries;</p> <p>3. improve the IF decision-making and management structure to ensure an effective and timely delivery of the increased financial resources and programmes.</p> <p>51. We welcome the increased commitment already expressed by some Members in the run-up to, and during, this Session. We urge other development partners to significantly increase their contribution to the IF Trust Fund. We also urge the six IF core agencies to continue to cooperate closely in the implementation of the IF, to increase their investments in this initiative and to intensify their assistance in trade-related infrastructure, private sector development and institution building to help LDCs expand and diversify their export base.</p>
<i>Technical Cooperation</i>	<p>52. We note with appreciation the substantial increase in trade-related technical assistance since our Fourth Session, which reflects the enhanced commitment of Members to address the increased demand for technical assistance, through both bilateral and multilateral programmes. We note the progress made in the current approach to planning and implementation of WTO's programmes, as embodied in the Technical Assistance and Training Plans adopted by Members, as well as the improved quality of those programmes. We note that a strategic review of WTO's technical assistance is to be carried out by Members, and expect that in future planning and implementation of training and technical assistance, the conclusions and recommendations of the review will be taken into account, as appropriate.</p> <p>53. We reaffirm the priorities established in paragraph 38 of the Doha Ministerial Declaration for the delivery of technical assistance and urge the Director-General to ensure that programmes focus</p>

	<p>accordingly on the needs of beneficiary countries and reflect the priorities and mandates adopted by Members. We endorse the application of appropriate needs assessment mechanisms and support the efforts to enhance ownership by beneficiaries, in order to ensure the sustainability of trade-related capacity building. We invite the Director-General to reinforce the partnerships and coordination with other agencies and regional bodies in the design and implementation of technical assistance programmes, so that all dimensions of trade-related capacity building are addressed, in a manner coherent with the programmes of other providers. In particular, we encourage all Members to cooperate with the International Trade Centre, which complements WTO work by providing a platform for business to interact with trade negotiators, and practical advice for small and medium-sized enterprises (SMEs) to benefit from the multilateral trading system. In this connection, we note the role of the Joint Integrated Technical Assistance Programme (JITAP) in building the capacity of participating countries.</p> <p>54. In order to continue progress in the effective and timely delivery of trade-related capacity building, in line with the priority Members attach to it, the relevant structures of the Secretariat should be strengthened and its resources enhanced. We reaffirm our commitment to ensure secure and adequate levels of funding for trade-related capacity building, including in the Doha Development Agenda Global Trust Fund, to conclude the Doha Work Programme and implement its results.</p>
<i>Commodity Issues</i>	<p>55. We recognise the dependence of several developing and least-developed countries on the export of commodities and the problems they face because of the adverse impact of the long-term decline and sharp fluctuation in the prices of these commodities. We take note of the work undertaken in the Committee on Trade and Development on commodity issues, and instruct the Committee, within its mandate, to intensify its work in cooperation with other relevant international</p>

	<p>organisations and report regularly to the General Council with possible recommendations. We agree that the particular trade-related concerns of developing and least-developed countries related to commodities shall also be addressed in the course of the agriculture and NAMA negotiations. We further acknowledge that these countries may need support and technical assistance to overcome the particular problems they face, and urge Members and relevant international organisations to consider favourably requests by these countries for support and assistance.</p>
<i>Coherence</i>	<p>56. We welcome the Director-General's actions to strengthen the WTO's cooperation with the IMF and the World Bank in the context of the WTO's Marrakesh mandate on Coherence, and invite him to continue to work closely with the General Council in this area. We value the General Council meetings that are held with the participation of the heads of the IMF and the World Bank to advance our Coherence mandate. We agree to continue building on that experience and expand the debate on international trade and development policymaking and inter-agency cooperation with the participation of relevant UN agencies. In that regard, we note the discussions taking place in the Working Group on Trade, Debt and Finance on, <i>inter alia</i>, the issue of Coherence, and look forward to any possible recommendations it may make on steps that might be taken within the mandate and competence of the WTO on this issue.</p>
<i>Aid for Trade</i>	<p>57. We welcome the discussions of Finance and Development Ministers in various fora, including the Development Committee of the World Bank and IMF, that have taken place this year on expanding Aid for Trade. Aid for Trade should aim to help developing countries, particularly LDCs, to build the supply-side capacity and trade-related infrastructure that they need to assist them to implement and benefit from WTO Agreements and more broadly to expand their trade. Aid for Trade cannot be a substitute for the development benefits that will result from a successful conclusion to the DDA, particularly on market access. However, it can be a valuable complement to the DDA. We invite the Director-General to create a task</p>

	<p>force that shall provide recommendations on how to operationalise Aid for Trade. The Task Force will provide recommendations to the General Council by July 2006 on how Aid for Trade might contribute most effectively to the development dimension of the DDA. We also invite the Director-General to consult with Members as well as with the IMF and World Bank, relevant international organisations and the regional development banks with a view to reporting to the General Council on appropriate mechanisms to secure additional financial resources for Aid for Trade, where appropriate through grants and concessional loans.</p>
<i>Recently-acceded Members</i>	<p>58. We recognise the special situation of recently-acceded Members who have undertaken extensive market access commitments at the time of accession. This situation will be taken into account in the negotiations.</p>
<i>Accessions</i>	<p>59. We reaffirm our strong commitment to making the WTO truly global in scope and membership. We welcome those new Members who have completed their accession processes since our last Session, namely Nepal, Cambodia and Saudi Arabia. We note with satisfaction that Tonga has completed its accession negotiations to the WTO. These accessions further strengthen the rules-based multilateral trading system. We continue to attach priority to the 29 ongoing accessions with a view to concluding them as rapidly and smoothly as possible. We stress the importance of facilitating and accelerating the accession negotiations of least-developed countries, taking due account of the guidelines on LDC accession adopted by the General Council in December 2002.</p>

Annex A

Agriculture

Report by the Chairman of the Special Session of the Committee on Agriculture to the TNC

1. The present report has been prepared on my own responsibility. I have done so in response to the direction of Members as expressed at the informal Special Session of the Committee on Agriculture on November 11, 2005. At that meeting, following the informal Heads of Delegation meeting the preceding day, Members made it crystal clear that they sought from me at this point an objective factual summary of where the negotiations have reached at this time. It was clear from that meeting that Members did not expect or desire anything that purported to be more than that. In particular, it was clear that, following the decision at the Heads of Delegation meeting that full modalities will not be achieved at Hong Kong, Members did not want anything that suggested implicit or explicit agreement where it did not exist.
2. This is not, of course, the kind of paper that I would have chosen or preferred to have prepared at this point. Ideally, my task should have been to work with Members to generate a draft text of modalities. But this text reflects the reality of the present situation. There will be – because there must be if we are to conclude these negotiations – such a draft text in the future. I look at this now as a task postponed, but the precise timing of this is in the hands of Members.
3. As for this paper, it is precisely what it is described to be. No more, no less. It is the Chairman's report and, as such, it goes from me to the TNC. It is not anything more than my personal report – in particular, it is not in any sense an agreed text of Members. It does not, therefore, in any way prejudge or prejudice the positions of Members on any matter within it or outside of it. And, it certainly does not bind Members in any way. It should go without saying that the agreed basis of our work is, and shall remain, the Doha Mandate itself and the Framework in the Decision adopted by the General Council on August 01, 2004.
4. As to the character of the paper, I have endeavoured to reflect what I discerned as the wishes of Members when they directed me to prepare this paper. I have tried to capture as clearly as I can such conditional progress and convergence as has developed in the post-July 2004 period. In doing so, I have not tried to brush under the carpet divergences that remain, and the paper tries to be just as clear on those points. Of course, it is a summary report. As such, it cannot – and does not – recapitulate each and every detail on each and every issue. But I took from Members' comments that they would prefer a paper which could 'orient' further discussion.
5. In that regard, I hope that anyone reading this paper would be able to get a pretty clear idea of what it is that remains to be done. Members made it clear that it was not

my task as Chair to prescribe what is to be done next in a programmatic way. My task was to register where we are now, but I confess to having done so with an eye to genuinely clarifying where key convergences exist or key divergences remain, rather than obscuring or overcomplicating matters.

6. My own sense, when I review this myself, is the compelling urgency of seizing the moment and driving the process to a conclusion as rapidly as possible. We have made – particularly since August of this year – genuine and material progress. Indeed, it has come at a relatively rapid pace. It is also clear to me that it has been the product of a genuinely negotiating process. In other words, it has been a case of making proposals and counterproposals. That is why the matters covered in this report have an essentially conditional character. As I see it, the reality is that we have yet to find that last bridge to agreement that we need to secure modalities. But it would be a grave error, in my view, to imagine that we can take much time to find that bridge. As Chair, I am convinced that we must maintain momentum. You don't close divergences by taking time off to have a cup of tea. If you do so, you will find that everyone has moved backwards in the meantime. That, it seems to me, is a profound risk to our process. I would like to believe that this report at least underlines to us that there is indeed something real and important still within our grasp and we ought not to risk losing it. Our over-riding challenge and responsibility is to meet the development objective of the Doha Development Agenda. To meet this challenge and achieve this goal, we must act decisively and with real urgency.
7. The future life of this paper, if any, is a matter entirely in the hands of TNC Members to decide. This, as I see it, is the proper safeguard of the integrity of what has come to be described as a "bottom-up" process.

DOMESTIC SUPPORT

8. There has been very considerable potential convergence, albeit on a manifestly conditional basis.

Overall Cut

- There is a working hypothesis of three bands for overall cuts by developed countries. There is a strongly convergent working hypothesis that the thresholds for the three bands be US\$ billion 0-10; 10-60; >60. On this basis, the European Communities would be in the top band, the United States and Japan in the second band, and all other developed countries at least in the third band. For developing countries, there is a view that either developing countries are assigned to the relevant integrated band (the bottom) or that there is a separate band for them.¹
- Based on post-July 2005 proposals, there has been an undeniably significant convergence on the range of cuts. Of course, this has been conditional. But subject to that feature, a great deal of progress has been made since the bare bones of the July 2004 Framework. The following matrix provides a snapshot:

Bands	Thresholds (US\$ billion)	Cuts
1	0-10	31%-70%
2	10-60	53%-75%
3	> 60	70%-80%

De Minimis

- On product-specific *de minimis* and non-product-specific *de minimis*, there is a zone of engagement for cuts between 50 percent and 80 percent for developed countries.
- As regards developing countries, there are still divergences to be bridged. In addition to the exemption specifically provided for in the Framework, there is a view that, for all developing countries, there should be no cut in *de minimis* at all. Alternatively, at least for those with no AMS, there should be no cut and, in any case, any cut for those with an AMS should be less than 2/3 of the cut for developed countries.

Blue Box

9. There is important and significant convergence on moving beyond (i.e. further constraining) Blue Box programme payments envisaged in the July 2004 Framework. However, the technique for achieving this remains to be determined. One proposal is to shrink the current 5 percent ceiling to 2.5 percent.² Another proposal rejects this in favour of additional criteria disciplining the so-called “new” Blue Box only. Others favour a combination of both, including additional disciplines on the “old” Blue Box.

AMS

- There is a working hypothesis of three bands for developed countries.
- There is close (but not full) convergence on the thresholds for those bands. There appears to be convergence that the top tier should be US\$25bn and above. There is some remaining divergence over the ceiling for the bottom band: between US\$12 bn and 15bn.
- There has been an undeniably significant convergence on the range of cuts. Of course, this has been conditional. But, that understood, a great deal of progress has been made since the bare bones of the July 2004 Framework. The following matrix³ provides a snapshot:

Bands	Thresholds (US\$ billion)	Cuts
1	0-12/15	37-60%
2	12/15-25	60-70%
3	>25	70-83%

- There is therefore working hypothesis agreement that the European Communities should be in the top tier, and the US in the second tier. However, while the basis for Japan’s placement as between these two tiers has been narrowed, it remains to be finally resolved.

- For developed countries in the bottom band, with a relatively high level of AMS relative to total value of agriculture production, there is emerging consensus that their band-related reduction should be complemented with an additional effort.
- What is needed now is a further step to bridge the remaining gap in positions – particularly as regards the United States and the European Communities, it being understood that this is not a matter to be resolved in isolation from the other elements in this pillar and beyond.
- On the base period for product-specific caps, certain proposals (such as for 1995-2000 and 1999-2001) are on the table. This needs to be resolved appropriately, including the manner in which special and differential treatment should be applied.

Green Box

10. The review and clarification commitment has not resulted in any discernible convergence on operational outcomes. There is, on the one side, a firm rejection of anything that is seen as departing from the existing disciplines while there is, on the other, an enduring sense that more could be done to review the Green Box without undermining ongoing reform. Beyond that there is, however, some tangible openness to finding appropriate ways to ensure that the Green Box is more “development friendly” i.e. better tailored to meet the realities of developing country agriculture but in a way that respects the fundamental requirement of at most minimal trade distortion.

EXPORT COMPETITION

End Date

11. While concrete proposals⁴ have been made on the issue of an end date for elimination of all forms of export subsidies, there is at this stage no convergence. There are suggestions for the principle of front-loading or accelerated elimination for specific products, including particularly cotton.

Export Credits

12. Convergence has been achieved on a number of elements of disciplines with respect to export credits, export credit guarantee or insurance programmes with repayment periods of 180 days and below. However, a number of critical issues remain.⁵

Exporting State Trading Enterprises

13. There has been material convergence on rules to address trade-distorting practices identified in the July 2004 Framework text, although there are still major differences regarding the scope of practices to be covered by the new disciplines. Fundamentally opposing positions remain, however, on the issue of the future use of monopoly powers. There have been concrete drafting proposals on such matters as definition of entities and practices to be addressed as well as transparency. But there has been no genuine convergence in such areas.

Food Aid

14. There is consensus among Members that the WTO shall not stand in the way of the provision of genuine food aid. There is also consensus that what is to be eliminated

is commercial displacement. There have been detailed and intensive discussions, some of which have even been text-based, but not to a point where a consolidated draft text could be developed. This has been precluded by Members clinging to fundamentally disparate conceptual premises. There are proposals that in the disciplines a distinction should be made between at least two types of food aid: emergency food aid and food aid to address other situations. However, there is not yet a common understanding where emergency food aid ends and other food aid begins, reflecting concerns that this distinction should not become a means to create a loophole in disciplines. A fundamental sticking point is whether, except in exceptional, genuine emergency situations, Members should (albeit gradually) move towards untied, in-cash food aid only, as some Members propose but other Members strongly oppose.⁶

Special and Differential Treatment

15. Framework provisions for special and differential treatment, including with respect to the monopoly status of state trading enterprises in developing countries and an extended lifetime for Article 9.4, have been uncontroversial, but details remain to be established.

Special Circumstances

16. Work on the criteria and consultation procedures to govern any ad hoc temporary financing arrangements relating to exports to developing countries in exceptional circumstances is not much developed.

MARKET ACCESS

Tiered Formula

- We have progressed on *ad valorem* equivalents.⁷ This has successfully created a basis for allocating items into bands for the tiered formula.
- We have a working hypothesis of four bands for structuring tariff cuts.
- There has been very considerable convergence on adopting a linear-based approach for cuts within those bands. Members have, of course, by no means formally abandoned positions that are even more divergent.⁸ We need now to narrow the extent of divergence that remains. This will include whether or not to include any “pivot” in any band.
- Members have made strong efforts to promote convergence on the size of actual cuts to be undertaken within those bands. But, even though genuine efforts have been made to move from formal positions (which of course remain), major gaps are yet to be bridged. Somewhat greater convergence has been achieved as regards the thresholds for the bands. Substantial movement is clearly essential to progress.⁹
- Some Members continue to reject completely the concept of a tariff cap. Others have proposed¹⁰ a cap between 75-100 percent.

Sensitive Products

- Members have been prepared to make concrete - albeit conditional - proposals on the number of sensitive products. But, in a situation where proposals extend from

as little as one percent to as much as 15 percent of tariff lines, further bridging this difference is essential to progress.

- The fundamental divergence over the basic approach to treatment of sensitive products needs to be resolved.¹¹ Beyond that, there needs to be convergence on the consequential extent of liberalisation for such products.

Special and Differential Treatment

- Just as for developed countries, there is a working hypothesis of four bands for developing countries. There is no disagreement on lesser cuts within the bands. A certain body of opinion is open to considering cuts of two-thirds of the amount of the cuts for developed countries as a plausible zone in which to search more intensively for convergence.¹² But significant disagreement on that remains, and divergence is, if anything, somewhat more marked on the connected issue of higher thresholds for developing countries.¹³
- Some Members continue to reject completely the concept of a tariff cap for developing countries. Others have proposed¹⁴ a cap at 150 percent.
- For sensitive products, there is no disagreement that there should be greater flexibility for developing countries, but the extent of this needs to be further defined.¹⁵

Special Products

- Regarding *designation* of special products, there has been a clear divergence between those Members which consider that, prior to establishment of schedules, a list of non-exhaustive and illustrative criteria-based indicators should be established and those Members which are looking for a list which would act as a filter or screen for the selection of such products. Latterly, it has been proposed (but not yet discussed with Members as a whole) that a developing country Member should have the right to designate at least 20 per cent of its agricultural tariff lines as Special Products, and be further entitled to designate an SP where, for that product, an AMS has been notified and exports have taken place. This issue needs to be resolved as part of modalities so that there is assurance of the basis upon which Members may designate special products.
- Some moves toward convergence on *treatment* of Special Products have been made recently. Some Members had considered that special products should be fully exempt from any new market access commitments whatsoever and have automatic access to the SSM. Others had argued there should be some degree of market opening for these products, albeit reflecting more flexible treatment than for other products. In the presence of this fundamental divergence, it had clearly been impossible to undertake any definition of what such flexibility would be. Genuine convergence is obviously urgently needed. There is now a new proposal for a tripartite categorization of Special Products involving limited tariff cuts for at least a proportion of such products which remains to be fully discussed. It remains to be seen whether this discussion can help move us forward.

Special Safeguard Mechanism

- There is agreement that there would be a special safeguard mechanism and that it should be tailored to the particular circumstances and needs of developing countries. There is no material disagreement with the view that it should have a quantity trigger. Nor is there disagreement with the view that it should at least be capable of

addressing effectively what might be described as import “surges”. Divergence remains over whether, or if so how, situations that are lesser than “surge” are to be dealt with. There is, however, agreement that any remedy should be of a temporary nature. There remains strong divergence however on whether, or if so how, a special safeguard should be “price-based” to deal specifically with price effects.

- There is some discernible openness, albeit at varying levels, to at least consider coverage of products that are likely to undergo significant liberalisation effects, and/or are already bound at low levels and/or are special products. Beyond that, however, there remains a fundamental divergence between those considering all products should be eligible for such a mechanism and those opposing such a blanket approach.

Other Elements

17. There has been no further material convergence on the matters covered by paragraphs 35 and 37 of the July 2004 Framework text. The same may be said for paragraph 36 on tariff escalation, albeit that there is full agreement on the need for this to be done, and a genuine recognition of the particular importance of this for commodities exporters. Certain concrete proposals have been made on paragraph 38 (SSG) and met with opposition from some Members.
18. Concrete proposals have been made and discussed on how to implement paragraph 43 of the July 2004 Framework on tropical and diversification products. But there remains divergence over the precise interpretation of this section of the July Framework¹⁶ and no common approach has been established.
19. The importance of long-standing preferences pursuant to paragraph 44 of the July 2004 Framework is fully recognised and concrete proposals regarding preference erosion have been made and discussed.¹⁷ There seems not to be inherent difficulty with a role for capacity building. However, while there is some degree of support for e.g. longer implementation periods for at least certain products in order to facilitate adjustment, there is far from convergence on even this. Some argue it is not sufficient or certainly not in all cases, while others that it is not warranted at all.

LEAST-DEVELOPED COUNTRIES

20. There is no questioning of the terms of paragraph 45 of the July Framework agreement, which exempts least-developed countries from any reduction requirement. The stipulation that “developed Members, and developing country Members in a position to do so, should provide duty-free and quota-free market access for products originating from least-developed countries” is not at this point concretely operational for all Members. At this stage, several Members have made undertakings. Proposals for this to be bound remain on the table.¹⁸

COTTON

21. While there is genuine recognition of the problem to be addressed and concrete proposals have been made, Members remain at this point short of concrete and specific achievement that would be needed to meet the July Framework direction to address this matter ambitiously, expeditiously and specifically. There is no disagreement with the view that all forms of export subsidies are to be eliminated for cotton although the timing and speed remains to be specified. Proposals to eliminate them immediately or from day one of the implementation period are not at this point shared by all Members. In the case of trade distorting support, proponents seek full elimination with “front-loaded” implementation.¹⁹ There is a view that the extent to which this can occur, and its timing, can only be determined in the context of an overall agreement.

Another view is that there could be at least substantial and front-loaded reduction on cotton specifically from day one of implementation, with the major implementation achieved within twelve months, and the remainder to be completed within a period shorter than the overall implementation period for agriculture.²⁰

RECENTLY-ACCEDED MEMBERS

22. Concrete proposals have been made and discussed, but no specific flexibility provisions have commanded consensus.

MONITORING AND SURVEILLANCE

23. A proposal has been made but there is no material advance at this point.

OTHER ISSUES

24. On paragraph 49 (sectoral initiatives, differential export taxes, GIs) certain positions and proposals have been tabled and/or referred to. They are issues that remain of interest but not agreed.
25. At this point, proposals on paragraph 50 have not advanced materially.
26. In the case of small and vulnerable economies, a concrete proposal has been made recently. It has not yet been subject to consultation.
27. There is openness to the particular concerns of commodity-dependent developing and least-developed countries facing long-term decline and/or sharp fluctuations in prices. There is, at this point (where, overall, precise modalities are still pending), support for the view that such modalities should eventually be capable of addressing effectively key areas for them.²¹

Annex B

Market Access for Non-Agricultural Products

Report by the Chairman of the Negotiating Group on Market Access to the TNC

A. Introduction

1. A Chairman's commentary of the state of play of the NAMA negotiations was prepared in July 2005 and circulated in document JOB(05)/147 and Add.1 (hereinafter referred to as the "Chairman's commentary"). The current report, made on my responsibility, reflects the state of play of the NAMA negotiations at this juncture of the Doha Development Agenda, and supplements that commentary.
2. With an eye on the forthcoming Ministerial, Section B of this report attempts to highlight those areas of convergence and divergence on the elements of Annex B of Decision adopted by the General Council on August 01, 2004, (hereinafter referred to as the "NAMA framework"), and to provide some guidance as to what may be a possible future course of action with respect to some of the elements. Section C of the report provides some final remarks about possible action by Ministers at Hong Kong.
3. In preparing this report, use has been made of documents provided by Members (as listed in TN/MA/S/16/Rev.2) as well as the discussions in the open-ended sessions of the Group, plurilateral meetings and bilateral contacts, as long as they were not in the nature of confessionals.

B. summary of the state of play

4. Full modalities must have detailed language and, where required, final numbers on all elements of the NAMA framework. Such an agreement should also contain a detailed work plan concerning the process after the establishment of full modalities for the purpose of the submission, verification and annexation of Doha Schedules to a legal instrument. While acknowledging that progress has been made since the adoption of the NAMA framework, the establishment of full modalities is, at present, a difficult prospect given the lack of agreement on a number of elements in the NAMA framework including the formula, paragraph 8 flexibilities and unbound tariffs.
5. Regarding the structure of this section, generally Members recognise that the issues identified in the preceding paragraph are the three elements of the NAMA framework on which solutions are required as a matter of priority, and that there is a need to address them in an interlinked fashion. So, this report will commence with these three subjects before moving on to the other elements of the NAMA framework in the order in which they are presented therein.

Formula (paragraph 4 of the NAMA framework)

6. On the non-linear formula, there has been movement since the adoption of the NAMA framework. There is a more common understanding of the shape of the formula that Members are willing to adopt in these negotiations. In fact, Members have been focusing on a Swiss Formula. During the past few months, much time and effort has been spent examining the impact of such a formula from both a defensive and offensive angle. In terms of the specifics of that formula, there are basically two variations on the table: a formula with a limited number of negotiated coefficients and a formula where the value of each country's coefficient would be based essentially on the tariff average of bound rates of that Member, resulting in multiple coefficients.
7. In order to move beyond a debate on the merits of the two options (and in recognition of the fact that what matters in the final analysis is the level of the coefficient) more recently Members have engaged in a discussion of numbers. Such a debate has been particularly helpful, especially as it demonstrated in a quantifiable manner to what extent the benchmarks established in paragraph 16 of the Doha Ministerial Declaration would be achieved. While it is evident that one of the characteristics of such a formula is to address tariff peaks, tariff escalation and high tariffs (as it brings down high tariffs more than low tariffs), one benchmark which has been the subject of differences of opinion has been that of "less than full reciprocity in reduction commitments" and how it should be measured. Some developing Members are of the view that this means less than average percentage cuts i.e. as translated through a higher coefficient in the formula, than those undertaken by developed country Members. However, the latter have indicated that there are other measurements of less than full reciprocity in reduction commitments including the final rates after the formula cut which in their markets would be less than in developing country markets. Also, in their view, such a measurement of less than full reciprocity in reduction commitments has to take into account not only the additional effort made by them in all areas but also of paragraph 8 flexibilities and the fact that several developing Members and the LDCs would be exempt from formula cuts.
8. Other objectives put forward by developed Members and some developing Members as being part of the Doha NAMA mandate are: harmonization of tariffs between Members; cuts into applied rates; and improvement of South-South trade. However, these objectives have been challenged by other developing Members who believe that, on the contrary, they are not part of that mandate.
9. During the informal discussions, many Members engaged in an exchange on the basis of an approach with two coefficients. In the context of such debates, the coefficients which were mentioned for developed Members fell generally within the range of 5 to 10, and for developing Members within the range of 15 to 30, although some developing Members did propose lower coefficients for developed Members and higher coefficients for developing Members. In addition, a developing country coefficient of 10 was also put forward by some developed Members. However, while this discussion of numbers is a positive development, the inescapable reality is that the range of coefficients is wide and reflects the divergence that exists as to

Members' expectations regarding the contributions that their trading partners should be making.

Flexibilities for developing Members subject to a formula (paragraph 8 of the NAMA framework)

10. A central issue concerning the paragraph 8 flexibilities has been the question of linkage or non-linkage between these flexibilities and the coefficient in the formula. A view was expressed that the flexibilities currently provided for in paragraph 8 are equivalent to 4-5 additional points to the coefficient in the formula, and as a result there was need to take this aspect into account in the developing country coefficient. In response, the argument has been made by many developing Members that those flexibilities are a stand alone provision as reflected in the language of that provision, and should not be linked to the coefficient.

Otherwise, this would amount to re-opening the NAMA framework. Some of those Members have also expressed the view that the numbers currently within square brackets are the minimum required for their sensitive tariff lines, and have expressed concern about the conditions attached to the use of such flexibilities, such as the capping of the import value. In response, the point has been made by developed Members that they are not seeking to remove the flexibilities under paragraph 8, and therefore are not re-opening the NAMA framework. They further point out that the numbers in paragraph 8 are within square brackets precisely to reflect the fact that they are not fixed and may need to be adjusted downwards depending on the level of the coefficient.

In addition, the need for more transparency and predictability with regard to the tariff lines which would be covered by paragraph 8 flexibilities has been raised by some of these Members. Some developing Members have also advanced the idea that there should be the option for those developing Members not wanting to use paragraph 8 flexibilities to have recourse to a higher coefficient in the formula in the interest of having a balanced outcome.

Unbound Tariff Lines (paragraph 5, indent two of the NAMA framework)

11. There has been progress on the discussion of unbound tariff lines. There is an understanding that full bindings would be a desirable objective of the NAMA negotiations, and a growing sense that unbound tariff lines should be subject to formula cuts provided there is a pragmatic solution for those lines with low applied rates. However, some Members have stressed that their unbound tariff lines with high applied rates are also sensitive and due consideration should be given to those lines. There now appears to be a willingness among several Members to move forward on the basis of a non-linear mark-up approach to establish base rates, and in the case of some of these Members, provided that such an approach yields an equitable result.

A non-linear mark-up approach envisages the addition of a certain number of percentage points to the applied rate of the unbound tariff line in order to establish

the base rate on which the formula is to be applied. There are two variations of such an approach. In one case, a constant number of percentage points are added to the applied rate in order to establish the base rate. The other variation consists of having a different number of percentage points depending on the level of the applied rate. In other words, the lower the applied rate the higher the mark-up and the higher the applied rate, the lower the mark-up. There is also one proposal on the table of a target average approach where an average is established through the use of a formula, with the unbound tariff lines expected to have final bindings around that average.

12. On a practical level, in their discussions on unbound tariff lines, Members have been referring mostly to the constant mark-up methodology to establish base rates. In the context of such discussions, the number for the mark-up has ranged from 5 to 30 percentage points. Once again the gap between the two figures is wide, but Members have displayed willingness to be flexible.

Other elements of the formula (paragraph 5 of the NAMA framework)

13. Concerning product coverage (indent 1), Members have made good progress to establish a list of non-agricultural products as reflected in document JOB(05)/226/Rev.2. The main issue is whether the outcome of this exercise should be an agreed list or guidelines. It would appear that several Members are in favour of the former outcome, however, some have expressed their preference for the latter. In any event, there are only a limited number of items (17) on which differences exist and Members should try and resolve these differences as quickly as possible.
14. On ad valorem equivalents (indent 5), agreement was reached to convert non *ad valorem* duties to *ad valorem* equivalents on the basis of the methodology contained in JOB(05)/166/Rev.1 and to bind them in *ad valorem* terms. To date, four Members have submitted their preliminary AVE calculations, but there are many more due. Those Members would need to submit this information as quickly as possible so as to allow sufficient time for the multilateral verification process.
15. The subject of how credit is to be given for autonomous liberalization (indent 4) by developing countries provided that the tariff lines are bound on an MFN basis in the WTO since the conclusion of the Uruguay Round has not been discussed in detail since the adoption of the NAMA framework. However, this issue may be more usefully taken up once there is a clearer picture of the formula.
16. All the other elements of the formula such as tariff cuts commencing from bound rates after full implementation of current commitments (indent 2), the base year (indent 3), the nomenclature (indent 6) and reference period for import data (indent 7) have not been discussed any further since July 2004, as they were acceptable to Members as currently reflected in the NAMA framework.

Other flexibilities for developing Members

Members with low binding coverage (paragraph 6 of the NAMA framework)

17. A submission by a group of developing Members, covered under paragraph 6 provisions, was made in June 2005. The paper proposed that Members falling under this paragraph should be encouraged to substantially increase their binding coverage, and bind tariff lines at a level consistent with their individual development, trade, fiscal and strategic needs. A preliminary discussion of this proposal revealed that there were concerns about this proposal re-opening this paragraph by seeking to enhance the flexibilities contained therein. Further discussion of this proposal is required. However, it appears that the issue of concern to some of the paragraph 6 Members is not related so much to the full binding coverage, but rather to the average level at which these Members would be required to bind their tariffs.

Flexibilities for LDCs (paragraph 9 of the NAMA framework)

18. There appears to be a common understanding that LDCs will be the judge of the extent and level of the bindings that they make. At the same time, Members have indicated that this substantial increase of the binding commitments which LDCs are expected to undertake should be done with a good faith effort. In this regard, some yardsticks for this effort were mentioned including the coverage and level of bindings made in the Uruguay Round by other LDCs as well as the more recently acceded LDCs.

Small, vulnerable economies

19. A paper was submitted recently by a group of Members which proposes *inter alia* lesser and linear cuts to Members identified by a criterion using trade share. While some developing and developed Members were sympathetic to the situation of such Members, concerns were expressed with respect to the threshold used to establish eligibility, and also the treatment envisaged. Other developing Members expressed serious reservations about this proposal which in their view appeared to be creating a new category of developing Members, and to be further diluting the ambition of the NAMA negotiations. The sponsors of this proposal stressed that the small, vulnerable economies had characteristics which warranted special treatment.
20. This is an issue on which there is a serious divergence of opinion among developing Members. This subject will need to be debated further. Discussions may be facilitated through additional statistical analysis.

Sectorals (paragraph 7 of the NAMA framework)

21. It appears that good progress is being made on the sectoral tariff component of the NAMA negotiations. Work which is taking place in an informal Member-driven process has focused on *inter alia* identification of sectors, product coverage, participation, end rates and adequate provisions of flexibilities for developing countries. Besides the sectorals based on a critical mass approach identified in the

Chairman's commentary – bicycles, chemicals, electronics/electrical equipment, fish, footwear, forest products, gems and jewellery, pharmaceuticals and medical equipment, raw materials and sporting goods – I understand that work is ongoing on other sectors namely apparel, auto/auto parts and textiles.

22. While this component of the NAMA negotiations is recognised in the NAMA framework to be a key element to delivering on the objectives of paragraph 16 of the Doha NAMA mandate, some developing Members have questioned the rationale of engaging in sectoral negotiations before having the formula finalized. Many have also re-iterated their view that sectorals are voluntary in nature. The point has also been made by other developing Members that sectorals harm smaller developing Members due to an erosion of their preferences. However, the proponents of such initiatives have argued that sectorals are another key element of the NAMA negotiations and an important modality for delivering on the elimination of duties as mandated in paragraph 16 of the Doha Ministerial Declaration. In addition, they have pointed out that some of the sectorals were initiated by developing Members. Moreover, such initiatives require substantive work and were time-consuming to prepare. Concerning preference erosion, this was a cross-cutting issue.
23. Members will need to begin considering time-lines for the finalization of such work, and the submission of the outcomes which will be applied on an MFN basis.

Market Access for LDCs (paragraph 10 of the NAMA framework)

24. In the discussions on this subject, it was noted that the Committee on Trade and Development in Special Session is examining the question of duty-free and quota-free access for non-agricultural products originating from LDCs. Consequently, there is recognition by Members that the discussions in that Committee would most probably have an impact on this element of the NAMA framework, and would need to be factored in at the appropriate time.

Newly Acceded Members (paragraph 11 of the NAMA framework)

25. Members recognize the extensive market access commitments made by the NAMs at the time of their accession. From the discussions held on this subject, it was clarified that those NAMs which are developing Members have access to paragraph 8 flexibilities. As special provisions for tariff reductions for the NAMs, some Members are willing to consider longer implementation periods than those to be provided to developing Members. Other proposals such as a higher coefficient and “grace periods” for the NAMs were also put forward, but a number of Members have objected to these ideas. There has also been a submission by four low-income economies in transition who have requested to be exempt from formula cuts in light of their substantive contributions at the time of their WTO accession and the current difficult state of their economies. While some Members showed sympathy for the situation of these Members, they expressed the view that other solutions may be more appropriate. Some developing Members also expressed concern about this proposal creating a differentiation between Members. Further discussion is required on these issues.

NTBs (paragraph 14 of the NAMA framework)

26. Since adoption of the July 2004 framework, Members have been focusing their attention on non-tariff barriers in recognition of the fact that they are an integral and equally important part of the NAMA negotiations. Some Members claim that they constitute a greater barrier to their exports than tariffs. The Group has spent a considerable amount of time identifying, categorising and examining the notified NTBs. Members are using bilateral, vertical and horizontal approaches to the NTB negotiations. For example, many Members are raising issues bilaterally with their trading partners. Vertical initiatives are ongoing on automobiles, electronic products and wood products.

There have been some proposals of a horizontal nature concerning export taxes, export restrictions and remanufactured products. On export taxes, some Members have expressed the view that such measures fall outside the mandate of the NAMA negotiations. Some Members have also raised in other Negotiating Groups some of the NTBs they had notified initially in the context of the NAMA negotiations. For example, a number of trade facilitation measures are now being examined in the Negotiating Group on Trade Facilitation. Some other Members have also indicated their intention to bring issues to the regular WTO Committees.

NTBs currently proposed for negotiation in the NAMA Group are contained in document JOB(05)/85/Rev.3.

27. Some proposals have been made of a procedural nature in order to expedite the NTB work, including a suggestion to hold dedicated NTB sessions. Further consideration will need to be given to this and other proposals. Members will also need to begin considering some time-lines for the submission of specific negotiating proposals and NTB outcomes.

Appropriate Studies and Capacity Building Measures (paragraph 15 of the NAMA framework)

28. There has been no discussion as such on this element as it is an ongoing and integral part of the negotiating process. Several papers have been prepared by the Secretariat during the course of the negotiations and capacity building activities by the Secretariat have increased considerably since the launch of the Doha Development Agenda. Such activities will need to continue taking into account the evolution of the negotiations.

Non-reciprocal preferences (paragraph 16 of the NAMA framework)

29. In response to calls by some Members for a better idea of the scope of the problem, the ACP Group circulated an indicative list of products (170 HS 6-digit tariff lines) vulnerable to preference erosion in the EC and US markets as identified through a vulnerability index. Simulations were also submitted by the African Group. Some developing Members expressed concern that the tariff lines listed covered the majority of their exports, or covered critical exports to those markets and were also

precisely the lines on which they sought MFN cuts. As a result, for these Members, it was impossible to entertain any solution which related to less than full formula cuts or longer staging. In this regard, concern was expressed by them that non-trade solutions were not being examined. For the proponents of the issue, a trade solution was necessary as this was a trade problem. According to them, their proposal would not undermine trade liberalization because they were seeking to manage such liberalisation on a limited number of products.

30. This subject is highly divisive precisely because the interests of the two groups of developing Members are in direct conflict. Additionally, it is a cross-cutting issue which makes it even more sensitive. While, the aforementioned list of products has been helpful in providing a sense of the scope of the problem and may help Members to engage in a more focused discussion, it is clear that pragmatism will need to be shown by all concerned.

Environmental Goods (paragraph 17 of the NAMA framework)

31. Since the adoption of the July framework in 2004, limited discussions have been held on this subject in the Group. However, it is noted that much work under paragraph 31(iii) of the Doha Ministerial Declaration has been undertaken by the Committee on Trade and Environment in Special Session. There would need to be close coordination between the two negotiating groups and a stock taking of the work undertaken in that Committee would be required at the appropriate time by the NAMA Negotiating Group.

Other elements of the NAMA framework

32. On the other elements of the NAMA framework, such as supplementary modalities (paragraph 12), elimination of low duties (paragraph 13) and tariff revenue dependency (paragraph 16) the Group has not had a substantive debate. This has in part to do with the nature of the issue or because more information is required from the proponents. Regarding supplementary modalities, such modalities will become more relevant once the formula has been finalised. On elimination of low duties, this issue may be more suitable to consider once there is a better sense of the likely outcome of the NAMA negotiations. On tariff revenue dependency, more clarity is required from the proponents on the nature and scope of the problem.

C. Final remarks

33. As may be observed from the above report, Members are far away from achieving full modalities. This is highly troubling. It will take a major effort by all if the objective of concluding the NAMA negotiations by the end of 2006 is to be realised.
34. To this end, I would highlight as a critical objective for Hong Kong a common understanding on the formula, paragraph 8 flexibilities and unbound tariffs. It is crucial that Ministers move decisively on these elements so that the overall outcome is acceptable to all. This will give the necessary impetus to try and fulfil at a date soon thereafter the objective of full modalities for the NAMA negotiations.

35. Specifically, Ministers should:

- Obtain agreement on the final structure of the formula and narrow the range of numbers.
- Resolve their basic differences over paragraph 8 flexibilities.
- Clarify whether the constant mark-up approach is the way forward, and if so, narrow the range of numbers.

Annex C

Services

Objectives

1. In order to achieve a progressively higher level of liberalization of trade in services, with appropriate flexibility for individual developing country Members, we agree that Members should be guided, to the maximum extent possible, by the following objectives in making their new and improved commitments:

Mode 1

- (i) commitments at existing levels of market access on a non-discriminatory basis across sectors of interest to Members
- (ii) removal of existing requirements of commercial presence

(b) Mode 2

- (i) commitments at existing levels of market access on a non-discriminatory basis across sectors of interest to Members
- (ii) commitments on mode 2 where commitments on mode 1 exist

(c) Mode 3

- (i) commitments on enhanced levels of foreign equity participation
- (ii) removal or substantial reduction of economic needs tests
- (iii) commitments allowing greater flexibility on the types of legal entity permitted

(d) Mode 4

- (i) new or improved commitments on the categories of Contractual Services Suppliers, Independent Professionals and Others, de-linked from commercial presence, to reflect inter alia:
 - removal or substantial reduction of economic needs tests
 - indication of prescribed duration of stay and possibility of renewal, if any
- (ii) new or improved commitments on the categories of Intra-corporate Transferees and Business Visitors, to reflect inter alia:
 - removal or substantial reduction of economic needs tests
 - indication of prescribed duration of stay and possibility of renewal, if any

(e) MFN Exemptions

- (i) removal or substantial reduction of exemptions from most-favoured-nation (MFN) treatment
- (ii) clarification of remaining MFN exemptions in terms of scope of application and duration

(f) Scheduling of Commitments

- (i) ensuring clarity, certainty, comparability and coherence in the scheduling and classification of commitments through adherence to, inter alia, the Scheduling

Guidelines pursuant to the Decision of the Council for Trade in Services adopted on March 23, 2001

- (ii) ensuring that scheduling of any remaining economic needs tests adheres to the Scheduling Guidelines pursuant to the Decision of the Council for Trade in Services adopted on March 23, 2001.
- 2. As a reference for the request-offer negotiations, the sectoral and modal objectives as identified by Members may be considered.²²
- 3. Members shall pursue full and effective implementation of the Modalities for the Special Treatment for Least-Developed Country Members in the Negotiations on Trade in Services (LDC Modalities) adopted by the Special Session of the Council for Trade in Services on September 03, 2003, with a view to the beneficial and meaningful integration of LDCs into the multilateral trading system.
- 4. Members must intensify their efforts to conclude the negotiations on rule-making under GATS Articles X, XIII, and XV in accordance with their respective mandates and timelines:
 - (a) Members should engage in more focused discussions in connection with the technical and procedural questions relating to the operation and application of any possible emergency safeguard measures in services.
 - (b) On government procurement, Members should engage in more focused discussions and in this context put greater emphasis on proposals by Members, in accordance with Article XIII of the GATS.
 - (c) On subsidies, Members should intensify their efforts to expedite and fulfil the information exchange required for the purpose of such negotiations, and should engage in more focused discussions on proposals by Members, including the development of a possible working definition of subsidies in services.
- 5. Members shall develop disciplines on domestic regulation pursuant to the mandate under Article VI:4 of the GATS before the end of the current round of negotiations. We call upon Members to develop text for adoption. In so doing, Members shall consider proposals and the illustrative list of possible elements for Article VI:4 disciplines.²³

Approaches

- 6. Pursuant to the principles and objectives above, we agree to intensify and expedite the request-offer negotiations, which shall remain the main method of negotiation, with a view to securing substantial commitments.
- 7. In addition to bilateral negotiations, we agree that the request-offer negotiations should also be pursued on a plurilateral basis in accordance with the principles of the GATS and the Guidelines and Procedures for the Negotiations on Trade in Services. The results of such negotiations shall be extended on an MFN basis. These negotiations would be organised in the following manner:
 - (a) Any Member or group of Members may present requests or collective requests to other Members in any specific sector or mode of supply, identifying their objectives for the negotiations in that sector or mode of supply.
 - (b) Members to whom such requests have been made shall consider such requests in accordance with paragraphs 2 and 4 of Article XIX of the GATS and paragraph 11 of the Guidelines and Procedures for the Negotiations on Trade in Services.

- (c) Plurilateral negotiations should be organised with a view to facilitating the participation of all Members, taking into account the limited capacity of developing countries and smaller delegations to participate in such negotiations.
- 8. Due consideration shall be given to proposals on trade-related concerns of small economies.
- 9. Members, in the course of negotiations, shall develop methods for the full and effective implementation of the LDC Modalities, including expeditiously:
 - (a) Developing appropriate mechanisms for according special priority including to sectors and modes of supply of interest to LDCs in accordance with Article IV:3 of the GATS and paragraph 7 of the LDC Modalities.
 - (b) Undertaking commitments, to the extent possible, in such sectors and modes of supply identified, or to be identified, by LDCs that represent priority in their development policies in accordance with paragraphs 6 and 9 of the LDC Modalities.
 - (c) Assisting LDCs to enable them to identify sectors and modes of supply that represent development priorities.
 - (d) Providing targeted and effective technical assistance and capacity building for LDCs in accordance with the LDC Modalities, particularly paragraphs 8 and 12.
 - (e) Developing a reporting mechanism to facilitate the review requirement in paragraph 13 of the LDC Modalities.
- 10. Targeted technical assistance should be provided through, *inter alia*, the WTO Secretariat, with a view to enabling developing and least-developed countries to participate effectively in the negotiations. In particular and in accordance with paragraph 51 on Technical Cooperation of this Declaration, targeted technical assistance should be given to all developing countries allowing them to fully engage in the negotiation. In addition, such assistance should be provided on, *inter alia*, compiling and analysing statistical data on trade in services, assessing interests in and gains from services trade, building regulatory capacity, particularly on those services sectors where liberalisation is being undertaken by developing countries.

Timelines

- 11. Recognising that an effective timeline is necessary in order to achieve a successful conclusion of the negotiations, we agree that the negotiations shall adhere to the following dates:
 - (a) Any outstanding initial offers shall be submitted as soon as possible.
 - (b) Groups of Members presenting plurilateral requests to other Members should submit such requests by February 28, 2006 or as soon as possible thereafter.
 - (c) A second round of revised offers shall be submitted by July 31, 2006.
 - (d) Final draft schedules of commitments shall be submitted by October 31, 2006.
 - (e) Members shall strive to complete the requirements in 9(a) before the date in 11(c).

Review of Progress

- 12. The Special Session of the Council for Trade in Services shall review progress in the negotiations and monitor the implementation of the Objectives, Approaches and Timelines set out in this Annex.

Annex D

Rules

I Anti-Dumping and Subsidies and Countervailing Measures including Fisheries Subsidies

We:

1. *acknowledge* that the achievement of substantial results on all aspects of the Rules mandate, in the form of amendments to the Anti-Dumping (AD) and Subsidies and Countervailing Measures (SCM) Agreements, is important to the development of the rules-based multilateral trading system and to the overall balance of results in the DDA;
2. *aim* to achieve in the negotiations on Rules further improvements, in particular, to the transparency, predictability and clarity of the relevant disciplines, to the benefit of all Members, including in particular developing and least-developed Members. In this respect, the development dimension of the negotiations must be addressed as an integral part of any outcome;
3. *call on* Participants, in considering possible clarifications and improvements in the area of anti-dumping, to take into account, *inter alia*, (a) the need to avoid the unwarranted use of anti-dumping measures, while preserving the basic concepts, principles and effectiveness of the instrument and its objectives where such measures are warranted; and (b) the desirability of limiting the costs and complexity of proceedings for interested parties and the investigating authorities alike, while strengthening the due process, transparency and predictability of such proceedings and measures;
4. *consider* that negotiations on anti-dumping should, as appropriate, clarify and improve the rules regarding, *inter alia*, (a) determinations of dumping, injury and causation, and the application of measures; (b) procedures governing the initiation, conduct and completion of antidumping investigations, including with a view to strengthening due process and enhancing transparency; and (c) the level, scope and duration of measures, including duty assessment, interim and new shipper reviews, sunset, and anti-circumvention proceedings;
5. *recognise* that negotiations on anti-dumping have intensified and deepened, that Participants are showing a high level of constructive engagement, and that the process of rigorous discussion of the issues based on specific textual proposals for amendment to the AD Agreement has been productive and is a necessary step in achieving the substantial results to which Ministers are committed;

6. *note* that, in the negotiations on anti-dumping, the Negotiating Group on Rules has been discussing in detail proposals on such issues as determinations of injury/causation, the lesser duty rule, public interest, transparency and due process, interim reviews, sunset, duty assessment, circumvention, the use of facts available, limited examination and all others rates, dispute settlement, the definition of dumped imports, affiliated parties, product under consideration, and the initiation and completion of investigations, and that this process of discussing proposals before the Group or yet to be submitted will continue after Hong Kong;
7. *note*, in respect of subsidies and countervailing measures, that while proposals for amendments to the SCM Agreement have been submitted on a number of issues, including the definition of a subsidy, specificity, prohibited subsidies, serious prejudice, export credits and guarantees, and the allocation of benefit, there is a need to deepen the analysis on the basis of specific textual proposals in order to ensure a balanced outcome in all areas of the Group's mandate;
8. *note* the desirability of applying to both anti-dumping and countervailing measures any clarifications and improvements which are relevant and appropriate to both instruments;
9. *recall* our commitment at Doha to enhancing the mutual supportiveness of trade and environment, *note* that there is broad agreement that the Group should strengthen disciplines on subsidies in the fisheries sector, including through the prohibition of certain forms of fisheries subsidies that contribute to overcapacity and over-fishing, and *call on* Participants promptly to undertake further detailed work to, *inter alia*, establish the nature and extent of those disciplines, including transparency and enforceability. Appropriate and effective special and differential treatment for developing and least-developed Members should be an integral part of the fisheries subsidies negotiations, taking into account the importance of this sector to development priorities, poverty reduction, and livelihood and food security concerns;
10. *direct* the Group to intensify and accelerate the negotiating process in all areas of its mandate, on the basis of detailed textual proposals before the Group or yet to be submitted, and complete the process of analysing proposals by Participants on the AD and SCM Agreements as soon as possible;
11. *mandate* the Chairman to prepare, early enough to assure a timely outcome within the context of the 2006 end date for the Doha Development Agenda and taking account of progress in other areas of the negotiations, consolidated texts of the AD and SCM Agreements that shall be the basis for the final stage of the negotiations.

II. Regional Trade Agreements

1. We welcome the progress in negotiations to clarify and improve the WTO's disciplines and procedures on regional trade agreements (RTAs). Such agreements, which can foster trade liberalisation and promote development, have become an

important element in the trade policies of virtually all Members. Transparency of RTAs is thus of systemic interest as are disciplines that ensure the complementarity of RTAs with the WTO.

2. We commend the progress in defining the elements of a transparency mechanism for RTAs, aimed, in particular, at improving existing WTO procedures for gathering factual information on RTAs, without prejudice to the rights and obligations of Members. We instruct the Negotiating Group on Rules to intensify its efforts to resolve outstanding issues, with a view to a provisional decision on RTA transparency by April 30, 2006.
3. We also note with appreciation the work of the Negotiating Group on Rules on WTO's disciplines governing RTAs, including *inter alia* on the "substantially all the trade" requirement, the length of RTA transition periods and RTA developmental aspects. We instruct the Group to intensify negotiations, based on text proposals as soon as possible after the Sixth Ministerial Conference, so as to arrive at appropriate outcomes by end 2006.

Annex E

Trade Facilitation

Report by the Negotiating Group on Trade Facilitation to the TNC

1. Since its establishment on October 12, 2004, the Negotiating Group on Trade Facilitation met eleven times to carry out work under the mandate contained in Annex D of the Decision adopted by the General Council on August 01, 2004. The negotiations are benefiting from the fact that the mandate allows for the central development dimension of the Doha negotiations to be addressed directly through the widely acknowledged benefits of trade facilitation reforms for all WTO Members, the enhancement of trade facilitation capacity in developing countries and LDCs, and provisions on special and differential treatment (S&DT) that provide flexibility. Based on the Group's Work Plan (TN/TF/1), Members contributed to the agreed agenda of the Group, tabling 60 written submissions sponsored by more than 100 delegations. Members appreciate the transparent and inclusive manner in which the negotiations are being conducted.
2. Good progress has been made in all areas covered by the mandate, through both verbal and written contributions by Members. A considerable part of the Negotiating Group's meetings has been spent on addressing the negotiating objective of improving and clarifying relevant aspects of GATT Articles V, VIII and X, on which about 40 written submissions²⁴ have been tabled by Members representing the full spectrum of the WTO's Membership. Through discussions on these submissions and related questions and answers (JOB(05)/222), Members have advanced their understanding of the measures in question and are working towards common ground on many aspects of this part of the negotiating mandate. Many of these submissions also covered the negotiating objective of enhancing technical assistance and support for capacity building on trade facilitation, as well as the practical application of the principle of S&DT. The Group also discussed other valuable submissions dedicated to these issues.²⁵ Advances have also been made on the objective of arriving at provisions for effective cooperation between customs or any other appropriate authorities on trade facilitation and customs compliance issues, where two written proposals have been discussed.²⁶ Members have also made valuable contributions on the identification of trade facilitation needs and priorities, development aspects, cost implications and inter-agency cooperation.²⁷
3. Valuable input has been provided by a number of Members in the form of national experience papers²⁸ describing national trade facilitation reform processes. In appreciation of the value to developing countries and LDCs of this aspect of the negotiations, the Negotiating Group recommends that Members be encouraged to continue this information sharing exercise.

4. Building on the progress made in the negotiations so far, and with a view to developing a set of multilateral commitments on all elements of the mandate, the Negotiating Group recommends that it continue to intensify its negotiations on the basis of Members' proposals, as reflected currently in document TN/TF/W/43/Rev.4, and any new proposals to be presented. Without prejudice to individual Member's positions on individual proposals, a list of (I) proposed measures to improve and clarify GATT Articles V, VIII and X; (II) proposed provisions for effective cooperation between customs and other authorities on trade facilitation and customs compliance; and, (III) cross-cutting submissions; is provided below to facilitate further negotiations. In carrying out this work and in tabling further proposals, Members should be mindful of the overall deadline for finishing the negotiations and the resulting need to move into focussed drafting mode early enough after the Sixth Ministerial Conference so as to allow for a timely conclusion of text-based negotiations on all aspects of the mandate.
5. Work needs to continue and broaden on the process of identifying individual Member's trade facilitation needs and priorities, and the cost implications of possible measures. The Negotiating Group recommends that relevant international organisations be invited to continue to assist Members in this process, recognising the important contributions being made by them already, and be encouraged to continue and intensify their work more generally in support of the negotiations.
6. In light of the vital importance of technical assistance and capacity building to allow developing countries and LDCs to fully participate in and benefit from the negotiations, the Negotiating Group recommends that the commitments in Annex D's mandate in this area be reaffirmed, reinforced and made operational in a timely manner.

To bring the negotiations to a successful conclusion, special attention needs to be paid to support for technical assistance and capacity building that will allow developing countries and LDCs to participate effectively in the negotiations, and to technical assistance and capacity building to implement the results of the negotiations that is precise, effective and operational, and reflects the trade facilitation needs and priorities of developing countries and LDCs. Recognising the valuable assistance already being provided in this area, the Negotiating Group recommends that Members, in particular developed ones, continue to intensify their support in a comprehensive manner and on a long-term and sustainable basis, backed by secure funding.

7. The Negotiating Group also recommends that it deepen and intensify its negotiations on the issue of S&DT, with a view to arriving at S&DT provisions that are precise, effective and operational and that allow for necessary flexibility in implementing the results of the negotiations. Reaffirming the linkages among the elements of Annex D, the Negotiating Group recommends that further negotiations on S&DT build on input presented by Members in the context of measures related to GATT Articles V, VIII and X and in their proposals of a cross-cutting nature on S&DT.

I. Proposed Measures to improve and clarify GATT articles V, VIII and X

A. Publication and Availability of Information

- Publication of Trade Regulations
- Publication of Penalty Provisions
- Internet Publication
 - (a) of elements set out in Article X of GATT 1994
 - (b) of specified information setting forth procedural sequence and other requirements for importing goods
- Notification of Trade Regulations
- Establishment of Enquiry Points/SNFP/Information Centres
- Other Measures to Enhance the Availability of Information

B. Time Periods Between Publication and Implementation

- Interval between Publication and Entry into Force

C. Consultation and Comments on New and Amended Rules

- Prior Consultation and Commenting on New and Amended Rules
- Information on Policy Objectives Sought

D. Advance Rulings

- Provision of Advance Rulings

E. Appeal Procedures

- Right of Appeal
- Release of Goods in Event of Appeal

F. Other Measures to Enhance Impartiality and Non-Discrimination

- Uniform Administration of Trade Regulations
- Maintenance and Reinforcement of Integrity and Ethical Conduct Among Officials
 - (a) Establishment of a Code of Conduct
 - (b) Computerised System to Reduce/Eliminate Discretion
 - (c) System of Penalties
 - (d) Technical Assistance to Create/Build up Capacities to Prevent and Control Customs Offences
 - (e) Appointment of Staff for Education and Training
 - (f) Coordination and Control Mechanisms

G. Fees and Charges Connected with Importation and Exportation

- General Disciplines on Fees and Charges Imposed on or in Connection with Importation and Exportation
 - (a) Specific Parameters for Fees/Charges
 - (b) Publication/Notification of Fees/Charges
 - (c) Prohibition of Collection of Unpublished Fees and Charges
 - (d) Periodic Review of Fees/Charges
 - (e) Automated Payment
- Reduction/Minimisation of the Number and Diversity of Fees/Charges

H. Formalities Connected with Importation and Exportation

- Disciplines on Formalities/Procedures and Data/Documentation Requirements Connected with Importation and Exportation
 - (a) Non-discrimination
 - (b) Periodic Review of Formalities and Requirements
 - (c) Reduction/Limitation of Formalities and Documentation Requirements
 - (d) Use of International Standards
 - (e) Uniform Customs Code
 - (f) Acceptance of Commercially Available Information and of Copies
 - (g) Automation
 - (h) Single Window/One-time Submission
 - (i) Elimination of Pre-Shipment Inspection
 - (j) Phasing out Mandatory Use of Customs Brokers

I. Consularization

- Prohibition of Consular Transaction Requirement

J. Border Agency Cooperation

- Coordination of Activities and Requirement of all Border Agencies

K. Release and Clearance of Goods

- Expedited/Simplified Release and Clearance of Goods
 - (a) Pre-arrival Clearance
 - (b) Expedited Procedures for Express Shipments
 - (c) Risk Management /Analysis, Authorized Traders
 - (d) Post-Clearance Audit
 - (e) Separating Release from Clearance Procedures
 - (f) Other Measures to Simplify Customs Release and Clearance
- Establishment and Publication of Average Release and Clearance Times

L. Tariff Classification

- Objective Criteria for Tariff Classification

M. Matters Related to Goods Transit

- Strengthened Non-discrimination
- Disciplines on Fees and Charges
 - (a) Publication of Fees and Charges and Prohibition of Unpublished ones
 - (b) Periodic Review of Fees and Charges
 - (c) More effective Disciplines on Charges for Transit
 - (d) Periodic Exchange Between Neighbouring Authorities
- Disciplines on Transit Formalities and Documentation Requirements
 - (a) Periodic Review
 - (b) Reduction/Simplification
 - (c) Harmonisation/Standardisation
 - (d) Promotion of Regional Transit Arrangements
 - (e) Simplified and Preferential Clearance for Certain Goods
 - (f) Limitation of Inspections and Controls
 - (g) Sealing

- (h) Cooperation and Coordination on Document Requirements
 - (i) Monitoring
 - (j) Bonded Transport Regime/Guarantees
- Improved Coordination and Cooperation
 - (a) Amongst Authorities
 - (b) Between Authorities and the Private Sector
 - Operationalisation and Clarification of Terms

II. PROPOSED PROVISIONS FOR EFFECTIVE COOPERATION BETWEEN CUSTOMS AND OTHER AUTHORITIES ON TRADE FACILITATION AND CUSTOMS COMPLIANCE

- Multilateral Mechanism for the Exchange and Handling of Information

III. CROSS-CUTTING SUBMISSIONS

1. Needs and Priorities Identification

- General tool to assess needs and priorities and current levels of trade facilitation
- Take result of assessment as one basis for establishing trade facilitation rules, arranging S&D treatment and providing technical assistance and capacity building support

2. Technical Assistance and Capacity Building

- Technical Assistance and Capacity Building in the Course of the Negotiations
 - Identification of Needs and Priorities
 - Compilation of Needs and Priorities of Individual Members
 - Support for Clarification and Educative Process Including Training
- Technical Assistance and Capacity Building Beyond the Negotiations Phase
 - Implementation of the Outcome
 - Coordination Mechanisms for Implementing Needs and Priorities as well as Commitments

3. Multiple-Areas

- Identification of Trade Facilitation Needs and Priorities of Members
- Cost Assessment
- Inter-Agency Cooperation
- Links and Inter-relationship between the Elements of Annex D
- Inventory of Trade Facilitation Measures
- Assessment of the Current Situation
- Timing and Sequencing of Measures

Annex F

Special and Differential Treatment

LDC Agreement-specific Proposals

23) Understanding in Respect of Waivers of Obligations under the GATT 1994

- (i) We agree that requests for waivers by least-developed country Members under Article IX of the WTO Agreement and the Understanding in respect of Waivers of Obligations under the GATT 1994 shall be given positive consideration and a decision taken within 60 days.
- (ii) When considering requests for waivers by other Members exclusively in favour of least-developed country Members, we agree that a decision shall be taken within 60 days, or in exceptional circumstances as expeditiously as possible thereafter, without prejudice to the rights of other Members.

36) Decision on Measures in Favour of Least-Developed Countries

We agree that developed-country Members shall, and developing-country Members declaring themselves in a position to do so should:

- (a) (i) Provide duty-free and quota-free market access on a lasting basis, for all products originating from all LDCs by 2008 or no later than the start of the implementation period in a manner that ensures stability, security and predictability.
- (ii) Members facing difficulties at this time to provide market access as set out above shall provide duty-free and quota-free market access for at least 97 per cent of products originating from LDCs, defined at the tariff line level, by 2008 or no later than the start of the implementation period. In addition, these Members shall take steps to progressively achieve compliance with the obligations set out above, taking into account the impact on other developing countries at similar levels of development, and, as appropriate, by incrementally building on the initial list of covered products.
- (iii) Developing-country Members shall be permitted to phase in their commitments and shall enjoy appropriate flexibility in coverage.
- (b) Ensure that preferential rules of origin applicable to imports from LDCs are transparent and simple, and contribute to facilitating market access.

Members shall notify the implementation of the schemes adopted under this decision every year to the Committee on Trade and Development. The Committee on Trade and

Development shall annually review the steps taken to provide duty-free and quota-free market access to the LDCs and report to the General Council for appropriate action.

We urge all donors and relevant international institutions to increase financial and technical support aimed at the diversification of LDC economies, while providing additional financial and technical assistance through appropriate delivery mechanisms to meet their implementation obligations, including fulfilling SPS and TBT requirements, and to assist them in managing their adjustment processes, including those necessary to face the results of MFN multilateral trade liberalisation.

38) Decision on Measures in Favour of Least-Developed Countries

It is reaffirmed that least-developed country Members will only be required to undertake commitments and concessions to the extent consistent with their individual development, financial or trade needs, or their administrative and institutional capacities.

Within the context of coherence arrangements with other international institutions, we urge donors, multilateral agencies and international financial institutions to coordinate their work to ensure that LDCs are not subjected to conditionalities on loans, grants and official development assistance that are inconsistent with their rights and obligations under the WTO Agreements.

84) Agreement on Trade-Related Investment Measures

LDCs shall be allowed to maintain on a temporary basis existing measures that deviate from their obligations under the TRIMs Agreement. For this purpose, LDCs shall notify the Council for Trade in Goods (CTG) of such measures within two years, starting 30 days after the date of this declaration. LDCs will be allowed to maintain these existing measures until the end of a new transition period, lasting seven years. This transition period may be extended by the CTG under the existing procedures set out in the TRIMs Agreement, taking into account the individual financial, trade, and development needs of the Member in question.

LDCs shall also be allowed to introduce new measures that deviate from their obligations under the TRIMs Agreement. These new TRIMs shall be notified to the CTG no later than six months after their adoption. The CTG shall give positive consideration to such notifications, taking into account the individual financial, trade, and development needs of the Member in question. The duration of these measures will not exceed five years, renewable subject to review and decision by the CTG.

Any measures incompatible with the TRIMs Agreement and adopted under this decision shall be phased out by year 2020.

88) Decision on Measures in Favour of Least-Developed Countries–Paragraph 1

Least-developed country Members, whilst reaffirming their commitment to the fundamental principles of the WTO and relevant provisions of GATT 1994, and while complying with the general rules set out in the aforesaid instruments, will only be

required to undertake commitments and concessions to the extent consistent with their individual development, financial and trade needs, and their administrative and institutional capabilities. Should a least-developed country Member find that it is not in a position to comply with a specific obligation or commitment on these grounds, it shall bring the matter to the attention of the General Council for examination and appropriate action.

We agree that the implementation by LDCs of their obligations or commitments will require further technical and financial support directly related to the nature and scope of such obligations or commitments, and direct the WTO to coordinate its efforts with donors and relevant agencies to significantly increase aid for trade-related technical assistance and capacity building.

Endnotes

- 1 On the proposed basis that cut remains to be determined for those developing countries with an AMS. In any case, there is a view (not shared by all) that cuts for developing countries should be less than 2/3 of the cut for developed countries.
- 2 The exact extent of the flexibility to be provided pursuant to paragraph 15 of the July 2004 Framework remains to be agreed.
- 3 Of course, this needs to be viewed as illustrative rather than overly literally, if for no other reason than that these are conditional figures. For instance, while the European Communities has indicated it could be prepared to go as far as 70% in the top tier, they make it clear that this is acceptable only if the United States will go to 60% in the second tier. The United States for its part, however, has only indicated preparedness to go to that 60% if the European Communities is prepared to go as high as 83% - which it has not indicated it is prepared to do.
- 4 One Member has proposed the year 2010 for “export subsidies”, with accelerated elimination for “specific” products. Another group of Members have proposed a period “no longer than five years” for all forms of export subsidies, with “direct” export subsidies subject to front-loading within that period.
- 5 This includes, but is not limited to: exemptions, if any, to the 180 day rule; whether the disciplines should allow for pure cover only or also permit direct financing; the appropriate period for programmes to fully recover their costs and losses through the premia levied from the exporters (principle of self-financing - there needs to be convergence between position which range from one year to fifteen years); the disciplines regarding special circumstances; and the question of special and differential treatment, including whether, as some Members argue, developing countries should be allowed longer repayment terms for export credits extended by them to other developing countries and the specifics of differential treatment in favour of least-developed and net food-importing developing countries.
- 6 This fundamental divergence has effectively precluded convergence on such matters as what disciplines, if any, should be established with respect to monetization of food aid or the question of the provision of food aid in fully grant form only. The importance of operationally effective transparency requirements is generally acknowledged, but details have still to be developed, particularly those relating to the role of the WTO in this context. Further work is required to clarify the role of recipient countries and relevant international organizations or other entities in triggering or providing food aid.

- 7 The method for calculating the AVEs for the sugar lines is still to be established.
- 8 At one end of the spectrum, as it were, a “harmonisation” formula within the bands; at the other end “flexibility” within the formula.
- 9 The matrix below is an illustrative table that portrays the extent of divergences that remain, even on the basis of post-August 2005 proposals. This does not entirely cover all the subtleties of those proposals to utilise a “pivot” (although most are in fact within the ranges tabulated), but is intended to convey a snapshot of the status of average cuts proposed post-August.

	Thresholds	Range of cuts (%)
Band 1	0% - 20/30%	20-65
Band 2	20/30% - 40/60%	30-75
Band 3	40/60% - 60/90%	35-85
Band 4	>60/90%	42-90

- 10 As an element in certain conditional proposals on overall market access, tabled post-July 2005.
- 11 Some see this as being tariff quota based and expressed as a percentage of domestic consumption, with proposals of up to 10 percent. Others propose *pro rata* expansion on an existing trade basis, including taking account of current imports. Some also propose no new TRQs, with sensitivity in such cases to be provided through other means, e.g. differential phasing. There is also a proposal for a “sliding scale” approach.
- 12 In this pillar, as well as in the other two, there is general convergence on the point that developing countries will have entitlement to longer implementation periods, albeit that concrete precision remains to be determined.
- 13 The matrix below is an illustrative table that portrays the extent of divergences that remain, just on the basis of post-August 2005 proposals.

Thresholds	Range of cuts (%)	
Band 1	0% - 20/50%	15-25*
Band 2	20/50% - 40/100%	20-30*
Band 3	40/100% - 60/150%	25-35*
Band 4	>60-150%	30-40*

* There is also a proposal that cuts for developing countries should be “slightly lesser” than the upper tariff cuts for developed countries shown in the preceding table (i.e.: “slightly lesser” than 65, 75, 85 and 90 percent).

- 14 As an element in certain conditional proposals on overall market access, tabled post-July 2005.
- 15 While the eventual zone of convergence for developed countries undoubtedly has a bearing in this area, it has been proposed by a group of Members that the principles of sensitive products generally and for TRQs specifically should be different for developing countries. Another group of Members has proposed, in the post-August period, an entitlement for developing countries of at least 50% more than the maximum number of lines used by any developed Member. This would (based on developed country proposals) amount to a potential variation between 1.5 percent and 22.5 percent of tariff lines. This latter group has also proposed that products relating to long-standing preferences shall be designated as sensitive and that any TRQ expansion should not be “at the detriment of existing ACP

quotas". This particular view has been, however, strongly opposed by other Members which take the firm position that tropical and diversification products should not at all be designated as sensitive products.

- 16 It is argued by some Members that this is to be interpreted as meaning full duty- and tariff quota-free access, but by others as less than that.
- 17 Note 15 above refers.
- 18 It is also proposed that this should be accompanied by simple and transparent rules of origin and other measures to address non-tariff barriers.
- 19 Concrete proposals have been made, with a three-step approach: 80% on day one, an additional 10% after 12 months and the last 10% a year later.
- 20 A Member has indicated that it is prepared to implement all its commitments from day one and, in any case, to autonomously ensure that its commitments on eliminating the most trade-distorting domestic support, eliminating all forms of export subsidies and providing mfn duty- and quota-free access for cotton will take place from 2006.
- 21 This would appear to include in particular such a matter as tariff escalation, where it discourages the development of processing industries in the commodity producing countries. The idea of a review and clarification of what the current status is of GATT 1994 provisions relating to the stabilisation of prices through the adoption of supply management systems by producing countries, and the use of export taxes and restrictions under such systems is also on the table. Proponents would seek something more than this such as more concrete undertakings in the area of non-tariff measures and actual revision of existing provisions. There is, at this point, no consensus in these latter areas, but an appreciation at least of the underlying issues at stake.
- 22 As attached to the Report by the Chairman to the Trade Negotiations Committee on 28 November 2005, contained in document TN/S/23. This attachment has no legal standing.
- 23 As attached to the Report of the Chairman of the Working Party on Domestic Regulation to the Special Session of the Council for Trade in Services on 15 November 2005, contained in document JOB(05)/280.
- 24 TN/TF/W/6-W/15, W/17-W/26, W/28, W/30-W/32, W/34-36, W/38-W/40, W/42, W/44-W/49, W/53, W/55, W/58, W/60-W/62, W/64-W/67, W/69, W/70.
- 25 TN/TF/W/33, W/41, W/56, W/63, W/73 and W/74.
- 26 TN/TF/W/57 and W/68.
- 27 TN/TF/W/29, W/33, W/41, W/62 and W/63.
- 28 TN/TF/W/48, W/50, W/53, W/55, W/58, W/60, W/61, W/65, W/69 and W/75.

WORLD TRADE ORGANIZATION

Annexure 2

WT/AFT/1

27 July 2006

(06-3617)

Aid for Trade Task Force

Recommendations of The Task Force on Aid For Trade

MANDATE

The Hong Kong Ministerial Declaration invited the WTO Director-General to create a Task Force to provide recommendations “on how to operationalise Aid for Trade” and “on how Aid for Trade might contribute most effectively to the development dimension of the DDA”. It states that “Aid for Trade should aim to help developing countries, particularly LDCs, to build the supply-side capacity and trade-related infrastructure that they need to assist them to implement and benefit from WTO Agreements and more broadly to expand their trade. Aid for Trade cannot be a substitute for the development benefits that will result from a successful conclusion to the DDA, particularly on market access.”

RATIONALE

Aid for Trade is about assisting developing countries to increase exports of goods and services, to integrate into the multilateral trading system, and to benefit from liberalized trade and increased market access. Effective Aid for Trade will enhance growth prospects and reduce poverty in developing countries, as well as complement multilateral trade reforms and distribute the global benefits more equitably across and within developing countries.

FINANCING

Additional, predictable, sustainable and effective financing is fundamental for fulfilling the Aid-for-Trade mandate. The effectiveness of the following recommendations for operationalising Aid for Trade requires substantial additional targeted resources for trade-related programmes and projects as pledged at the WTO’s Hong Kong Ministerial Conference, and against the background of the broader international commitment at the UN’s Monterrey Conference and the G-8 Summits in Gleneagles and St. Petersburg to significantly scale up development assistance by 2010. The Task Force urges the Director-General to seek confirmation from donors and agencies that funds are readily available for the implementation of the Aid-for-Trade initiative as part of his mandate to consult on “appropriate mechanisms to secure additional financial resources for Aid for Trade”.¹ In order to measure additionality and the adequacy of funding available to meet the Aid-for-Trade needs of developing countries, including those associated with a successful completion of the DDA, an account of what is being done today needs to be established as part of that process. The Task Force urges donors and agencies to

provide the necessary information in order to make it possible for the Director-General to fulfil his mandate.

SCOPE

The scope of Aid for Trade should be defined in a way that is both broad enough to reflect the diverse trade needs identified by countries, and clear enough to establish a border between Aid for Trade and other development assistance of which it is a part. Projects and programmes should be considered as Aid for Trade if these activities have been identified as trade-related development priorities in the recipient country's national development strategies. In this regard, it should be pointed out that while the PRSPs² reflect national development priorities for some countries, other development strategies are equally important and will need Aid-for-Trade financing. At the same time, clear and agreed benchmarks are necessary for reliable global monitoring of Aid-for-Trade efforts to assure accurate accounting and to assess additionality. The following categories, building upon the definitions used in the Joint WTO/OECD Database, have been identified:

(a) Trade policy and regulations, including:

Training of trade officials, analysis of proposals and positions and their impact, support for national stakeholders to articulate commercial interest and identify trade-offs, dispute issues, institutional and technical support to facilitate implementation of trade agreements and to adapt to and comply with rules and standards.

(b) Trade development, including:

Investment promotion, analysis and institutional support for trade in services, business support services and institutions, public-private sector networking, e-commerce, trade finance, trade promotion, market analysis and development.

(c) Trade-related infrastructure, including:

Physical infrastructure

(d) Building productive capacity

(e) Trade-related adjustment, including:

Supporting developing countries to put in place accompanying measures that assist them to benefit from liberalized trade.

(f) Other trade-related needs

Reporting on categories (a) and (b) should follow the definitions in the Joint WTO/OECD Database. The activities that fall outside of the current Joint WTO/OECD Trade Capacity Building Database definition, i.e. category (c), (d) (e) and (f) should be reported as Aid for Trade when these activities have been explicitly identified as trade-related priorities in the recipient country's national development strategies, such as the PRSP.

CHALLENGES/GAPS

Since the start of the DDA in 2001, donors have stepped up their commitments on trade-related assistance. More developing countries are also integrating trade into their development strategies. But major challenges remain. These can include:

- Low attention to trade as a tool of development in recipient countries and in donor agencies.
- Insufficient trade mainstreaming in national development strategies and PRSPs.
- Lack of private-sector involvement in identifying trade needs.
- Limited absorptive capacity in recipient countries.
- Inadequate linking mechanisms and lack of predictability in donor response to trade priorities identified at the national and regional levels.
- Lack of coordination and coherence in donors' trade-related response.
- Slow, duplicative and bureaucratic processes in the assessment and delivery of trade assistance, including burdensome parallel structures within recipient countries.
- Lack of data on, and analysis of, trade policies and their impact on development, lack of easily-available information on existing Aid-for-Trade instruments.
- Ineffective monitoring of trade-related country policies and donor activities; absence of rigorous, independent project and programme evaluation and impact assessment.
- Limited support for regional, sub-regional and cross-border trade-related programmes and projects.
- Inadequate support to address the adjustment costs of trade liberalisation.
- Insufficient resources for infrastructure and productive capacity building.
- Uneven country coverage.

OPERATIONALIZING AID FOR TRADE

E.1 Objectives

- To enable developing countries, particularly LDCs, to use trade more effectively to promote growth, development and poverty reduction and to achieve their development objectives, including the Millennium Development Goals (MDGs).
- To help developing countries, particularly LDCs, to build supply-side capacity and trade-related infrastructure in order to facilitate their access to markets and to export more.
- To help facilitate, implement, and adjust to trade reform and liberalisation.
- To assist regional integration.
- To assist smooth integration into the world trading system
- To assist in implementation of trade agreements.

E.2 Guiding principles

Aid for Trade should be guided by the Paris Declaration on Aid Effectiveness, applicable to all parties involved (donors, agencies and beneficiaries), including key principles such as country ownership, mutual accountability, aligning aid to national development strategies, effective donor coordination, harmonisation of donor procedures, use of programme-based aid modalities, managing for result, transparency, and predictable and multi-year commitments, which should be built into all programming. Aid for Trade should be rendered in a coherent manner taking

full account, *inter alia*, of the gender perspective and of the overall goal of sustainable development. Administrative costs associated with the delivery of Aid for Trade should be minimised to ensure that the resources go to the actual implementation of identified priority projects and programmes. The competence and skills of the human resources available at national and regional levels should be used in an optimal way.

F.3 Strengthening the “demand side”

A commitment to country ownership and country-driven approaches – as well as a commitment of governments to fully mainstream trade into their development strategies – is key to the effectiveness of Aid for Trade. In some countries, the processes for mainstreaming trade into national development strategies, for formulating trade strategies, and for proposing priority trade projects for donor financing, need to be strengthened through technical assistance and capacity building to help developing countries put in place effective and sustainable trade policy frameworks and processes. Where consultative mechanisms already exist, they can be used – or improved upon. Value-chain analysis could be one valuable tool to identify trade needs.

The Enhanced Integrated Framework (IF) for LDCs. The purpose of the IF is to strengthen the LDCs’ trade capacity, including the ability to identify their trade needs and to propose priorities to be supported by development partners. The recommendations on an enhanced IF, as agreed by the Integrated Framework Steering Committee (IFSC), will be an essential foundation for strengthening the demand-side of Aid for Trade in LDCs.

Non-LDCs. Many other developing countries also need support to mainstream trade into national strategies, to establish broad-based consultation processes involving the private sector, civil society organizations and relevant government agencies to formulate trade strategies, to develop action matrices, and to formulate priority project proposals.

Regional needs. Some of the constraints facing developing countries are regional, sub-regional or cross-border in nature. These needs should be identified and properly addressed. Regional organisations, including regional banks, regional integration organisations and regional economic communities, may play a role in assisting countries to identify such needs.

Recommendations:

- Implement the recommendations for an enhanced Integrated Framework.
- Establish effective national coordination, involving all relevant stakeholders, including the private sector, with a view to identifying the strengths and weaknesses of economies as a whole, and the particular challenges facing the trade sector.
- Explore the necessity of establishing a similar, but separately funded, in-country-process for non-LDCs “International Development Assistance (IDA)-only” countries, if such mechanisms do not already exist or can be improved upon.
- Urge agencies, donors and governments in other developing countries to work together to establish similar processes if they do not already exist. These processes

should be modelled to the specific circumstances and needs of the country concerned, building on what already exists where possible and appropriate.

- Urge donors and agencies, together with regional banks and organisations, to step up their efforts to identify regional, sub-regional and cross-border needs, including those related to regional integration.
- Establish a system of data collection and analysis at country level.

F.4 Strengthening donor “response”

Donor policies. Donors should give more attention to trade issues in their aid programming and strengthen their trade expertise both in the field and at headquarters. There is a need for improved coordination of staff working across sectors and for greater trade mainstreaming in aid agencies’ programmes.

Donor coordination. Greater donor and agency coordination and harmonization of procedures – at both the local and global level – is critical. Trade-related programmes and projects should be more coherent, both in terms of operations and policy.

Donor response. In allocating resources for Aid for Trade, donors and agencies should be guided by priority projects and programmes identified by developing countries, as well as by their potential merit in relation to the objectives for Aid for Trade. These priorities should be mirrored by donor and agency support. Each agency would need to determine how to deploy or reorient its financial and technical assistance to support either capacity building or accompanying measures related to trade liberalisation.

Recommendations:

Donors and agencies should:

- integrate trade and growth issues more effectively in their aid programming;
- further strengthen their trade expertise both in the field and in capitals;
- use needs assessment processes (where available), and their results, as a basis for their programming;
- move towards a programme/sector/budget approach, if country owned, if mainstreamed in national development strategies and if a robust system of financial accountability is in place;
- make targeted funds available for building infrastructure and removing supply-side constraints – over and above capacity building and technical assistance – perhaps as co-financing with multilateral development banks; and
- consider channelling Aid-for-Trade Funds multilaterally, when appropriate.

F.5 Strengthening the bridge between “demand” and “response”

F.5.1 Country level

Matching. Strengthened in-country structures, with improved links to donor financing, are needed to help move from trade-related diagnostics to implementation, and to maximize access to multilateral and bilateral resources. The task of matching demand for Aid-for-Trade projects with response could be addressed by strengthening national coordination through a “National Aid-for- Trade Committee”, which would include recipient countries,

donors, and other relevant stakeholders, such as the private sector, under the leadership of relevant ministries. This committee should complement – not replace – existing PRSPs and other coordination mechanisms. If needed, this process could be supported by agencies that could serve as a clearing house.

Mainstreaming trade. Effectiveness in implementing Aid for Trade will depend on many actors working together in a coherent way. It will involve, for example, the World Bank, the IMF, regional development banks, UN agencies and donors at the national as well as the international level, and trade, agriculture, development and finance ministries at the national level. It is the responsibility of donors, agencies and recipients to do their part in reforming how those entities integrate trade into development and national strategies.

South-South cooperation. Technical cooperation among developing countries is a valuable tool to deliver effective results because of their common experience and understanding of the challenges they face. The valuable technical expertise of the South could be used to implement projects through triangular schemes of cooperation.

Private sector. As actors in the field, private enterprises are well placed to identify trade-related problems and bottlenecks. An increased dialogue between the public sector and private entrepreneurs would improve effectiveness in assessing Aid-for-Trade needs, in diagnostics, and in implementation, as well as in evaluating effectiveness in implementation.

Recommendations:

- Recipient countries should mainstream trade into national strategies, such as PRSPs, formulate trade strategies, and propose priority trade projects for donor financing.
- The division of responsibility for funding and implementing Aid-for-Trade projects and programmes should be addressed through country-based processes such as PRSPs or Consultative Groups, if necessary complemented with a partner conference focusing specifically on trade-related support, convened once countries have integrated trade into their national strategies.
- A National Aid-for-Trade Committee could be established, where necessary, to ensure trade mainstreaming in national development strategies, determine country needs, set priorities, assist in matching “demand” and “response”, and help in evaluation. Tasks could include identifying co-financing or leveraging funds from other larger funds, as well as assessing adjustment needs and brokering financing for such programmes. Recipient countries could request agencies to perform a coordinating role.
- Partners should commit to contributing to the implementation of trade strategies and identified priority projects and programmes. The resulting plan should incorporate a results-based management framework resting on – and reinforcing – mutual accountability. Indicators of progress should be agreed.
- Promote the involvement of local, regional and private-sector actors, as well as South-South cooperation through triangular schemes.

F.5.2 Regional level

Many countries require cross-border infrastructure and regional policy cooperation to trade more effectively. The ability to identify cross-border and regional needs should be strengthened at the country, regional and multilateral level. Once needs have been identified, donors and agencies must improve their ability to respond. In particular, assistance in formulating and financing accompanying measures could help to make regional integration an effective building block for the multilateral trading system. At the forthcoming September Development Committee Meeting, strengthening support for regional, sub-regional and cross-border needs will be discussed.

Recommendations:

- Strengthen the following functions in relation to regional, sub-regional and cross-border issues:
- diagnosis of needs;
- costing of projects;
- preparation of project proposals; and
- the coordination of donor response, including brokering and co-financing of needs that at present are difficult to finance through country-based processes, (e.g., cross-border infrastructure and policy-integration projects).
- Assign responsibility for these functions. In doing so, priority should be given to improving and strengthening existing mechanisms, including those at the multilateral and regional level, before considering a new mechanism. In exploring the most efficient solution, the conclusions from the discussions at the forthcoming Development Committee should be taken into account. Any solution should involve all relevant stakeholders and give priority to existing regional integration programmes that lack funding.
- Explore the merits of establishing a Regional Aid-for-Trade Committee, comprising sub-regional and regional organisations and financial institutions, to oversee the implementation of the sub-regional and regional dimensions of Aid for Trade, to report on needs, responses and impacts, and to oversee monitoring and evaluation.

F.5.3 Global level

A number of tasks in relation to Aid for Trade are best performed at the global level. These include:

Data collection. Lack of empirical data has made it difficult to examine the relationship between policies related to trade and development performance. Better data and statistics are a precondition for better understanding the process of globalization and its impact, and for determining priorities for development cooperation.

Knowledge creation and sharing. Dissemination of Aid-for-Trade evaluation results, development of best practices and guidelines, and facilitation of information sharing, involving all relevant actors, needs to be improved at the global level, in order to assure efficient use of Aid-for-Trade funds.

Channelling donor funding. Some donors might wish to direct Aid-for Trade funds through multilateral channels, which would allow them to support Aid for Trade without

having to build their own institutional capacity in this area and without getting involved at country level. This could include providing support for processes similar to the IF for non-LDC IDA-only countries.

Matching. While a clearing-house function should in most cases be performed at the country and the regional level, sessions dedicated to specific themes and groups of countries could be periodically organized to provide a platform for donors and developing countries to discuss specific gaps which may occur in the implementation of Aid for Trade. One important function could be to connect outstanding Trade-Related Assistance (TRA) needs to donors willing to contribute to their fulfilment.

Recommendations:

- Strengthen the following functions in relation to global issues:
- the collection and analysis of data on trade policies and their impact, the facilitation of knowledge sharing, and the development of guidelines. Funding for such activities needs to be secured;
 - provision of information on existing Aid-for-Trade instruments and expertise; and
 - matching and brokering unfunded TRA-needs and available donor funding for such projects and programmes.
- Assign responsibility for these functions. In doing so, priority should be given to improving and strengthening existing mechanisms before considering the establishment of a new clearing house at the global level.

F.6 Strengthening monitoring and evaluation

Monitoring and evaluating progress is essential in building confidence that increased Aid for Trade will be delivered and effectively used. It will also provide strong incentives to both donors and recipients to advance the Aid-for-Trade agenda. It is important to emphasize the need for concrete and visible results on the ground. All the providers of Aid for Trade and the recipient countries have the responsibility to report on progress and results.

Monitoring. In recipient countries, monitoring should cover trade mainstreaming in national strategies, such as PRSPs, the identification of priority needs, donor responses, progress in implementing trade-related projects and programmes as well as the impact of these efforts. Donors who have made commitments to Aid for Trade should report on the content of such commitments as well as on how they plan to meet the targets for Aid for Trade that they have announced.

Evaluation. Rigorous Aid-for-Trade programme evaluation is particularly important because projected significant increases in Aid for Trade may stretch the delivery capacity of donors and the absorptive capacity of recipients. In-depth country-impact evaluations of Aid-for-Trade programmes should be undertaken to build knowledge and facilitate a results-based approach to delivery. Evaluation of in-country processes should focus, *inter alia*, on progress in mainstreaming trade in national development plans. Evaluations should adopt a results-based approach in order to ensure effectiveness of Aid-for-Trade programmes in relation to the objectives.

Recommendations:

- A global periodic review of Aid for Trade should be convened by a monitoring body in the WTO, based on reports from several different sources, to be published if feasible on the WTO web page:
- from the country level;
 - from donors;
 - from the regional level;
 - from relevant multilateral agencies; and
 - from the private sector.
- Mechanisms to facilitate reporting to the global monitoring body should be enhanced, including the possibility of a notification process for WTO Members.
- The global periodic reviews should be followed by an annual debate on Aid for Trade convened in the WTO General Council to give political guidance on Aid for Trade.
- Recipient countries should report on the trade mainstreaming in national development strategies, such as the PRSPs, the formulation of trade strategies, Aid-for-Trade needs, donor responses, and implementation and impact. The primary responsibility for reporting to the global monitoring body would lie with the National Aid-for-Trade Committee.
- Donors should report on funds dedicated for Aid for Trade, how they intend to meet their announced Aid-for-Trade targets, the Aid-for-Trade categories covered, and their progress in mainstreaming trade into their aid programming.
- Multilateral and regional actors should be encouraged to report regularly on their Aid-for-Trade activities, progress and impact. When appropriate these actors – including the OECD/DAC – should be asked to assist in providing input and in the organisation of the periodic Aid-for-Trade review in the WTO.
- The private-sector should be provided an opportunity to report on their Aid for Trade contributions.
- An assessment of Aid for Trade – either as a donor or as a recipient – should be included in the WTO Trade Policy Reviews.
- Evaluation of country-needs identification, trade mainstreaming in national strategies and PRSPs, donor response and impact on the ground in relation to stated objectives, should be promoted and funded.
- The scope of the Joint WTO/OECD Database should be reviewed in light of the Task Force's definition of Aid for Trade. It should also be updated based on more accurate identification of needs (and the responses) by both providers and recipients of Aid for Trade.

HOW AID FOR TRADE CAN CONTRIBUTE TO THE DEVELOPMENT DIMENSION OF THE DOHA-ROUND

Aid for Trade is important in its own right. It should assist developing countries to benefit from increased trade opportunities multilaterally (both from previous rounds and from the anticipated results of the DDA), regionally, bilaterally and unilaterally. The Task Force therefore recommends that Aid for Trade must be operationalised as soon as possible. At the same time, the Task Force affirms that Aid for Trade is a complement, not a substitute, for a successful Doha Round. Increasing trade opportunities for developing countries, in particular the least-developed among them, remains the most important contribution that the WTO can make to development. A successful conclusion

of the Round will increase the need for assistance to implement new agreements (e.g., Trade Facilitation), to ease adjustment costs, and to make use of new market access. Aid for Trade is a complement to the Doha Round, but it is not conditional upon its success.

NEXT STEPS

These recommendations are directed to many different actors. The Task Force suggests the following next steps:

- urges Members to expeditiously implement the recommendations of the Task Force.
- urges the Director-General to use these recommendations in pursuing his mandate to consult on “appropriate mechanisms to secure additional financial resources for Aid for Trade” so that the joint mandate in Paragraph 57 of the Hong Kong Declaration can be implemented in a holistic manner.
- invites the Director-General to communicate these recommendations to relevant agencies and organisations and to urge Ministers at the upcoming Development Committee Meeting in Singapore to give consideration to these recommendations and to encourage the Bank and the Fund to ensure adequate follow-up and to report on the results at the 2007 Annual meeting.
- invites the Director-General to continue, under his coherence mandate, a dialogue on how recommendations targeted at the agencies could be implemented, including where responsibility for implementation should lie.
- invites the Director-General to establish an ad hoc consultative group to take forward the practical follow-up of these recommendations.
- invites the Director-General to begin examining how to implement the recommendations regarding WTO monitoring of Aid for Trade.
- invites the Director-General to convene, at an appropriate time, an initial review of Aid for Trade, with the participation of all relevant stakeholders.
- suggests, after the completion of the DDA, that the Secretariat conduct an assessment of associated Aid-for-Trade needs in developing countries, particularly those most affected, including LDCs, and of how Aid for Trade can contribute to the development dimension of the DDA.

Annexes:

Paris Declaration on Aid Effectiveness

Joint WTO/OECD Trade Capacity Building Database

Paragraph 57 of the Hong Kong Ministerial Declaration

ANNEX 1

Paris Declaration on Aid Effectiveness

Ownership , Harmonisation , Alignment, Results and Mutual Accountability

I. Statement of Resolve

1. We, Ministers of developed and developing countries responsible for promoting development and Heads of multilateral and bilateral development institutions, meeting in Paris on 2 March 2005, resolve to take far-reaching and monitorable actions to reform the ways we deliver and manage aid as we look ahead to the UN five-year review of the Millennium Declaration and the Millennium Development Goals (MDGs) later this year. As in Monterrey, we recognise that while the volumes of aid and other development resources must increase to achieve these goals, aid effectiveness must increase significantly as well to support partner country efforts to strengthen governance and improve development performance. This will be all the more important if existing and new bilateral and multilateral initiatives lead to significant further increases in aid.
2. At this High-Level Forum on Aid Effectiveness, we followed up on the Declaration adopted at the High-Level Forum on Harmonisation in Rome (February 2003) and the core principles put forward at the Marrakech Roundtable on Managing for Development Results (February 2004) because we believe they will increase the impact aid has in reducing poverty and inequality, increasing growth, building capacity and accelerating achievement of the MDGs.

Scale up for more effective aid

3. We reaffirm the commitments made at Rome to harmonise and align aid delivery. We are encouraged that many donors and partner countries are making aid effectiveness a high priority, and we reaffirm our commitment to accelerate progress in implementation, especially in the following areas::
 - i.. Strengthening partner countries' national development strategies and associated operational frameworks (e.g., planning, budget, and performance assessment frameworks).
 - ii. Increasing alignment of aid with partner countries' priorities, systems and procedures and helping to strengthen their capacities.
 - iii. Enhancing donors' and partner countries' respective accountability to their citizens and parliaments for their development policies, strategies and performance.
 - iv. Eliminating duplication of efforts and rationalising donor activities to make them as cost-effective as possible.
 - v. Reforming and simplifying donor policies and procedures to encourage collaborative behaviour and progressive alignment with partner countries' priorities, systems and procedures.

- vi. Defining measures and standards of performance and accountability of partner country systems in public financial management, procurement, fiduciary safeguards and environmental assessments, in line with broadly accepted good practices and their quick and widespread application.
4. We commit ourselves to taking concrete and effective action to address the remaining challenges, including:
 - i. Weaknesses in partner countries' institutional capacities to develop and implement results-driven national development strategies.
 - ii. Failure to provide more predictable and multi-year commitments on aid flows to committed partner countries.
 - iii. Insufficient delegation of authority to donors' field staff, and inadequate attention to incentives for effective development partnerships between donors and partner countries.
 - iv. Insufficient integration of global programmes and initiatives into partner countries' broader development agendas, including in critical areas such as HIV/AIDS.
 - v. Corruption and lack of transparency, which erode public support, impede effective resource mobilisation and allocation and divert resources away from activities that are vital for poverty reduction and sustainable economic development. Where corruption exists, it inhibits donors from relying on partner country systems.
 5. We acknowledge that enhancing the effectiveness of aid is feasible and necessary across all aid modalities. In determining the most effective modalities of aid delivery, we will be guided by development strategies and priorities established by partner countries. Individually and collectively, we will choose and design appropriate and complementary modalities so as to maximise their combined effectiveness.
 6. In following up the Declaration, we will intensify our efforts to provide and use development assistance, including the increased flows as promised at Monterrey, in ways that rationalise the often excessive fragmentation of donor activities at the country and sector levels.

Adapt and apply to differing country situations

7. Enhancing the effectiveness of aid is also necessary in challenging and complex situations, such as the tsunami disaster that struck countries of the Indian Ocean rim on 26 December 2004. In such situations, worldwide humanitarian and development assistance must be harmonised within the growth and poverty reduction agendas of partner countries. In fragile states, as we support state-building and delivery of basic services, we will ensure that the principles of harmonisation, alignment and managing for results are adapted to environments of weak governance and capacity. Overall, we will give increased attention to such complex situations as we work toward greater aid effectiveness.

Specify indicators, timetable and targets

8. We accept that the reforms suggested in this Declaration will require continued high-level political support, peer pressure and coordinated actions at the global, regional and country levels. We commit to accelerate the pace of change by implementing, in a spirit of mutual accountability, the Partnership Commitments

presented in Section II and to measure progress against 12 specific indicators that we have agreed today and that are set out in Section III of this Declaration.

9. As a further spur to progress, we will set targets for the year 2010. These targets, which will involve action by both donors and partner countries, are designed to track and encourage progress at the global level among the countries and agencies that have agreed to this Declaration. They are not intended to prejudice or substitute for any targets that individual partner countries may wish to set. We have agreed today to set five preliminary targets against indicators as shown in Section III. We agree to review these preliminary targets and to adopt targets against the remaining indicators as shown in Section III before the UNGA Summit in September 2005; and we ask the partnership of donors and partner countries hosted by the DAC to prepare for this urgently³. Meanwhile, we welcome initiatives by partner countries and donors to establish their own targets for improved aid effectiveness within the framework of the agreed Partnership Commitments and Indicators of Progress. For example, a number of partner countries have presented action plans, and a large number of donors have announced important new commitments. We invite all participants who wish to provide information on such initiatives to submit it by April 04, 2005 for subsequent publication.

Monitor and evaluate implementation

10. Because demonstrating real progress at country level is critical, under the leadership of the partner country we will periodically assess, qualitatively as well as quantitatively, our mutual progress at country level in implementing agreed commitments on aid effectiveness. In doing so, we will make use of appropriate country level mechanisms.
11. At the international level, we call on the partnership of donors and partner countries hosted by the DAC to broaden partner country participation and, by the end of 2005, to propose arrangements for the medium term monitoring of the commitments in this Declaration. In the meantime, we ask the partnership to co-ordinate the international monitoring of the Indicators of Progress included in Section III; to refine targets as necessary; to provide appropriate guidance to establish baselines; and to enable consistent aggregation of information across a range of countries to be summed up in a periodic report. We will also use existing peer review mechanisms and regional reviews to support progress in this agenda. We will, in addition, explore independent cross-country monitoring and evaluation processes – which should be applied without imposing additional burdens on partners – to provide a more comprehensive understanding of how increased aid effectiveness contributes to meeting development objectives.
12. Consistent with the focus on implementation, we plan to meet again in 2008 in a developing country and conduct two rounds of monitoring before then to review progress in implementing this Declaration.

II. Partnership Commitments

Developed in a spirit of mutual accountability, these Partnership Commitments are based on the lessons of experience. We recognise that commitments need to be interpreted in the light of the specific situation of each partner country.

OWNERSHIP

Partner countries exercise effective leadership over their development policies, and strategies and co-ordinate development actions

14. **Partner countries** commit to:

- Exercise leadership in developing and implementing their national development strategies⁴ through broad consultative processes.
- Translate these national development strategies into prioritised results-oriented operational programmes as expressed in medium-term expenditure frameworks and annual budgets (**Indicator 1**).
- Take the lead in co-ordinating aid at all levels in conjunction with other development resources in dialogue with donors and encouraging the participation of civil society and the private sector.

15. **Donors** commit to:

- Respect partner country leadership and help strengthen their capacity to exercise it.

ALIGNMENT

Donors base their overall support on partner countries' national development strategies, institutions and procedures

Donors align with partners' strategies

16. **Donors** commit to:

- Base their overall support — country strategies, policy dialogues and development co-operation programmes — on partners' national development strategies and periodic reviews of progress in implementing these strategies⁵ (**Indicator 3**).
- Draw conditions, whenever possible, from a partner's national development strategy or its annual review of progress in implementing this strategy. Other conditions would be included only when a sound justification exists and would be undertaken transparently and in close consultation with other donors and stakeholders.
- Link funding to a single framework of conditions and/or a manageable set of indicators derived from the national development strategy. This does not mean that all donors have identical conditions, but that each donor's conditions should be derived from a common streamlined framework aimed at achieving lasting results.

Donors use strengthened country systems

17. Using a country's own institutions and systems, where these provide assurance that aid will be used for agreed purposes, increases aid effectiveness by strengthening the partner country's sustainable capacity to develop, implement and account for its policies to its citizens and parliament. Country systems and procedures typically include, but are not restricted to, national arrangements and procedures for public financial management, accounting, auditing, procurement, results frameworks and monitoring.

18. Diagnostic reviews are an important — and growing — source of information to governments and donors on the state of country systems in partner countries. Partner countries and donors have a shared interest in being able to monitor progress over time in improving country systems. They are assisted by performance assessment frameworks, and an associated set of reform measures, that build on the information set out in diagnostic reviews and related analytical work.
19. **Partner countries and donors** jointly commit to:
- Work together to establish mutually agreed frameworks that provide reliable assessments of performance, transparency and accountability of country systems (**Indicator 2**).
 - Integrate diagnostic reviews and performance assessment frameworks within country-led strategies for capacity development.
20. **Partner countries** commit to:
- Carry out diagnostic reviews that provide reliable assessments of country systems and procedures.
 - On the basis of such diagnostic reviews, undertake reforms that may be necessary to ensure that national systems, institutions and procedures for managing aid and other development resources are effective, accountable and transparent.
 - Undertake reforms, such as public management reform, that may be necessary to launch and fuel sustainable capacity development processes.
21. **Donors** commit to:
- Use country systems and procedures to the maximum extent possible. Where use of country systems is not feasible, establish additional safeguards and measures in ways that strengthen rather than undermine country systems and procedures (**Indicator 5**).
 - Avoid, to the maximum extent possible, creating dedicated structures for day-to-day management and implementation of aid-financed projects and programmes (**Indicator 6**).
 - Adopt harmonised performance assessment frameworks for country systems so as to avoid presenting partner countries with an excessive number of potentially conflicting targets.

Partner countries strengthen development capacity with support from donors

22. The capacity to plan, manage, implement, and account for results of policies and programmes, is critical for achieving development objectives — from analysis and dialogue through implementation, monitoring and evaluation. Capacity development is the responsibility of partner countries with donors playing a support role. It needs not only to be based on sound technical analysis, but also to be responsive to the broader social, political and economic environment, including the need to strengthen human resources.
23. **Partner countries** commit to:
- Integrate specific capacity strengthening objectives in national development strategies and pursue their implementation through country-led capacity development strategies where needed.

24. **Donors** commit to:

- Align their analytic and financial support with partners' capacity development objectives and strategies, make effective use of existing capacities and harmonise support for capacity development accordingly (**Indicator 4**).

Strengthen public financial management capacity

25. **Partner countries** commit to:

- Intensify efforts to mobilise domestic resources, strengthen fiscal sustainability, and create an enabling environment for public and private investments.
- Publish timely, transparent and reliable reporting on budget execution.
- Take leadership of the public financial management reform process.

26. **Donors** commit to:

- Provide reliable indicative commitments of aid over a multi-year framework and disburse aid in a timely and predictable fashion according to agreed schedules (**Indicator 7**).
- Rely to the maximum extent possible on transparent partner government budget and accounting mechanisms (**Indicator 5**).

27. **Partner countries** and **donors** jointly commit to:

- Implement harmonised diagnostic reviews and performance assessment frameworks in public financial management.

Strengthen national procurement systems

28. **Partner countries** and **donors** jointly commit to:

- Use mutually agreed standards and processes⁶ to carry out diagnostics, develop sustainable reforms and monitor implementation.
- Commit sufficient resources to support and sustain medium and long-term procurement reforms and capacity development.
- Share feedback at the country level on recommended approaches so they can be improved over time.

29. **Partner countries** commit to take leadership and implement the procurement reform process.

30. **Donors** commit to:

- Progressively rely on partner country systems for procurement when the country has implemented mutually agreed standards and processes (**Indicator 5**).
- Adopt harmonised approaches when national systems do not meet mutually agreed levels of performance or donors do not use them.

Untie aid: getting better value for money

31. Untying aid generally increases aid effectiveness by reducing transaction costs for partner countries and improving country ownership and alignment. DAC Donors will continue to make progress on untying as encouraged by the 2001 DAC Recommendation on Untying Official Development Assistance to the Least Developed Countries (**Indicator 8**).

HARMONISATION

Donors' actions are more harmonised, transparent and collectively effective

Donors implement common arrangements and simplify procedures

32. **Donors** commit to:

- Implement the donor action plans that they have developed as part of the follow-up to the Rome High- Level Forum.
- Implement, where feasible, common arrangements at country level for planning, funding (e.g. joint financial arrangements), disbursement, monitoring, evaluating and reporting to government on donor activities and aid flows. Increased use of programme-based aid modalities can contribute to this effort (**Indicator 9**).
- Work together to reduce the number of separate, duplicative, missions to the field and diagnostic reviews (**Indicator 10**); and promote joint training to share lessons learnt and build a community of practice.

Complementarity: more effective division of labour

33. Excessive fragmentation of aid at global, country or sector level impairs aid effectiveness. A pragmatic approach to the division of labour and burden sharing increases complementarity and can reduce transaction costs.

34. **Partner** countries commit to:

- Provide clear views on donors' comparative advantage and on how to achieve donor complementarity at country or sector level.

35. **Donors** commit to:

- Make full use of their respective comparative advantage at sector or country level by delegating, where appropriate, authority to lead donors for the execution of programmes, activities and tasks.
- Work together to harmonise separate procedures.

Incentives for collaborative behaviour

36. **Donors** and **partner countries** jointly commit to:

- Reform procedures and strengthen incentives—including for recruitment, appraisal and training — for management and staff to work towards harmonisation, alignment and results.

Delivering effective aid in fragile states⁷

37. The long-term vision for international engagement in fragile states is to build legitimate, effective and resilient state and other country institutions. While the guiding principles of effective aid apply equally to fragile states, they need to be adapted to environments of weak ownership and capacity and to immediate needs for basic service delivery.

38. **Partner countries** commit to:

- Make progress towards building institutions and establishing governance structures that deliver effective governance, public safety, security, and equitable access to basic social services for their citizens.

- Engage in dialogue with donors on developing simple planning tools, such as the transitional results matrix, where national development strategies are not yet in place.
- Encourage broad participation of a range of national actors in setting development priorities.

39. **Donors** commit to:

- Harmonise their activities. Harmonisation is all the more crucial in the absence of strong government leadership. It should focus on upstream analysis, joint assessments, joint strategies, co-ordination of political engagement; and practical initiatives such as the establishment of joint donor offices.
- Align to the maximum extent possible behind central government-led strategies or, if that is not possible, donors should make maximum use of country, regional, sector or non-government systems.
- Avoid activities that undermine national institution building, such as bypassing national budget processes or setting high salaries for local staff.
- Use an appropriate mix of aid instruments, including support for recurrent financing, particularly for countries in promising but high-risk transitions.

Promoting a harmonised approach to environmental assessments

40. Donors have achieved considerable progress in harmonisation around environmental impact assessment (EIA) including relevant health and social issues at the project level. This progress needs to be deepened, including on addressing implications of global environmental issues such as climate change, desertification and loss of biodiversity.

41. **Donors** and **partner countries** jointly commit to:

- Strengthen the application of EIAs and deepen common procedures for projects, including consultations with stakeholders; and develop and apply common approaches for “strategic environmental assessment” at the sector and national levels.
- Continue to develop the specialised technical and policy capacity necessary for environmental analysis and for enforcement of legislation.

42. Similar harmonisation efforts are also needed on other cross-cutting issues, such as gender equality and other thematic issues including those financed by dedicated funds.

MANAGING FOR RESULTS

Managing resources and improving decision-making for results

43. Managing for results means managing and implementing aid in a way that focuses on the desired results and uses information to improve decision-making.

44. **Partner countries** commit to:

- Strengthen the linkages between national development strategies and annual and multi-annual budget processes.
- Endeavour to establish results-oriented reporting and assessment frameworks that monitor progress against key dimensions of the national and sector

development strategies; and that these frameworks should track a manageable number of indicators for which data are cost-effectively available (**Indicator 11**).

45. **Donors** commit to:

- Link country programming and resources to results and align them with effective partner country performance assessment frameworks, refraining from requesting the introduction of performance indicators that are not consistent with partners' national development strategies.
- Work with partner countries to rely, as far as possible, on partner countries' results-oriented reporting and monitoring frameworks.
- Harmonise their monitoring and reporting requirements, and, until they can rely more extensively on partner countries' statistical, monitoring and evaluation systems, with partner countries to the maximum extent possible on joint formats for periodic reporting.

46. **Partner countries** and **donors** jointly commit to:

- Work together in a participatory approach to strengthen country capacities and demand for results based management.

MUTUAL ACCOUNTABILITY

Donors and partners are accountable for development results

47. A major priority for partner countries and donors is to enhance mutual accountability and transparency in the use of development resources. This also helps strengthen public support for national policies and development assistance.

48. **Partner countries** commit to:

- Strengthen as appropriate the parliamentary role in national development strategies and/or budgets.
- Reinforce participatory approaches by systematically involving a broad range of development partners when formulating and assessing progress in implementing national development strategies.

49. **Donors** commit to:

- Provide timely, transparent and comprehensive information on aid flows so as to enable partner authorities to present comprehensive budget reports to their legislatures and citizens.

50. **Partner countries** and **donors** commit to:

- Jointly assess through existing and increasingly objective country level mechanisms mutual progress in implementing agreed commitments on aid effectiveness, including the Partnership Commitments. (**Indicator 12**).

III. Indicators of Progress

To be measured nationally and monitored internationally

OWNERSHIP		TARGET FOR 2010	
1	<i>Partners have operational development strategies</i> — Number of countries with national development strategies (including PRSs) that have clear strategic priorities linked to a medium-term expenditure framework and reflected in annual budgets.		At least 75% of partner countries have operational development strategies.
ALIGNMENT			TARGETS FOR 2010
2	<i>Reliable country systems</i> — Number of partner countries that have procurement and public financial management systems that either (a) adhere to broadly accepted good practices or (b) have a reform programme in place to achieve these.		(a) Public financial management – Half of partner countries move up at least one measure (i.e., 0.5 points) on the PFM/ CPIA (Country Policy and Institutional Assessment) scale of performance.
			(b) Procurement – One-third of partner countries move up at least one measure (i.e., from D to C, C to B or B to A) on the four-point scale used to assess performance for this indicator.
3	<i>Aid flows are aligned on national priorities</i> – Percent of aid flows to the government sector that is reported on partners' national budgets.		Halve the gap — halve the proportion of aid flows to government sector not reported on government's budget(s) (with at least 85% reported on budget).
4	<i>Strengthen capacity by co-ordinated support</i> — Percent of donor capacity-development support provided through coordinated programmes consistent with partners' national development strategies.		50% of technical co-operation flows are implemented through co-ordinated programmes consistent with national development strategies.
			PERCENT OF DONORS
		Score*	Target
		5+	All donors use partner countries' PFM systems.

5a	<i>Use of country public financial management systems</i> – Percent of donors and of aid flows that use public financial management systems in partner countries, which either (a) adhere to broadly accepted good practices or (b) have a reform programme in place to achieve these.	3.5 to 4.5	90% of donors use partner countries' PFM systems
			PERCENT OF AID FLOWS
		Score*	Target
		5+	A two-thirds reduction in the % of aid to the public sector not using partner countries' PFM systems
		3.5 to 4.5	A one-third reduction in the % of aid to the public sector not using partner countries' PFM systems
			PERCENT OF DONORS
		Score*	Target
		A	All donors use partner countries' procurement systems.
5b	<i>Use of country procurement systems</i> – Percent of donors and of aid flows that use partner country procurement systems which either (a) adhere to broadly accepted good practices or (b) have a reform programme in place to achieve these.	B	90% of donors use partner countries' procurement systems
			PERCENT OF AID FLOWS
		Score*	Target
		A	A two-thirds reduction in the % of aid to the public sector not using partner countries' procurement systems.
		B	A one-third reduction in the % of aid to the public sector not using partners countries' procurement systems.

6	<i>Strengthen capacity by avoiding parallel implementation structures</i> – Number of parallel project implementation units (PIUs) per country.	Reduce by two-thirds the stock of parallel project implementation units (PIUs).
7	<i>Aid is more predictable</i> – Percent of aid disbursements released according to agreed schedules in annual or multi-year frameworks.	Halve the gap – halve the proportion of aid not disbursed within the fiscal year for which it was scheduled.
8	<i>Aid is untied</i> – Percent of bilateral aid that is untied.	Continued progress over time.
	HARMONISATION	TARGETS FOR 2010
9	<i>Use of common arrangements or procedures</i> – Percent of aid provided as programme-based approaches	66% of aid flows are provided in the context of programme-based approaches.
10	<i>Encourage shared analysis</i> – Percent of (a) field missions and/or (b) country analytic work, including diagnostic reviews that are joint.	(a) 40% of donor missions to the field are joint. (b) 66% of country analytical work is joint.
	MANAGING FOR RESULTS	TARGET FOR 2010
11	<i>Results-oriented frameworks</i> – Number of countries with transparent and monitorable performance assessment frameworks to assess progress against (a) the national development strategies and (b) sector programmes.]	Reduce the gap by one-third – Reduce the proportion of countries without transparent and monitorable performance assessment frameworks by one-third.
	MUTUAL ACCOUNTABILITY	TARGET FOR 2010
12	<i>Mutual accountability</i> – Number of partner countries that undertake mutual assessments of progress in implementing agreed commitments on aid effectiveness including those in this Declaration.	All partner countries have mutual assessment reviews in place.

Important Note: In accordance with paragraph 9 of the Declaration, the partnership of donors and partner countries hosted by the DAC (Working Party on Aid Effectiveness) comprising OECD/DAC members, partner countries and multilateral institutions, met twice, on 30-31 May 2005 and on 7-8 July 2005 to adopt, and review where appropriate, the targets for the twelve Indicators of Progress. At these meetings an agreement was reached on the targets presented under Section III of the present Declaration. This agreement is subject to reservations by one donor on (a) the methodology for assessing the quality of locally-managed procurement systems (relating to targets 2b and 5b) and (b) the acceptable quality of public financial management reform programmes (relating to target 5a.ii). Further discussions are underway to address these issues. The targets, including the reservation, have been notified to the Chairs of the High-level Plenary Meeting of the 59th General Assembly of the United Nations in a letter of 9 September 2005 by Mr. Richard Manning, Chair of the OECD Development Assistance Committee (DAC).

***Note on Indicator 5:** Scores for Indicator 5 are determined by the methodology used to measure quality of procurement and public financial management systems under Indicator 2 above.

APPENDIX A:

Methodological Notes on the Indicators of Progress

The Indicators of Progress provides a framework in which to make operational the responsibilities and accountabilities that are framed in the Paris Declaration on Aid Effectiveness. This framework draws selectively from the Partnership Commitments presented in Section II of this Declaration.

Purpose — The Indicators of Progress provide a framework in which to make operational the responsibilities and accountabilities that are framed in the Paris Declaration on Aid Effectiveness. They measure principally **collective behaviour at the country level**.

Country level vs. global level — The indicators are to be **measured at the country level** in close collaboration between partner countries and donors. Values of country level indicators can then be statistically aggregated at the **regional or global level**. This global aggregation would be done both for the country panel mentioned below, for purposes of statistical comparability, and more broadly for all partner countries for which relevant data are available.

Donor / Partner country performance — The indicators of progress also provide a **benchmark against which individual donor agencies or partner countries can measure their performance** at the country, regional, or global level. In measuring individual donor performance, the indicators should be applied with flexibility in the recognition that donors have different institutional mandates.

Targets — The targets are set at the global level. Progress against these targets is to be measured by aggregating data measured at the country level. In addition to global targets, partner countries and donors in a given country might agree on country-level targets.

Baseline — A baseline will be established for 2005 in a panel of self-selected countries. The partnership of donors and partner countries hosted by the DAC (Working Party on Aid Effectiveness) is asked to establish this panel.

Definitions and criteria — The partnership of donors and partner countries hosted by the DAC (Working Party on Aid Effectiveness) is asked to provide specific guidance on definitions, scope of application, criteria and methodologies to assure that results can be aggregated across countries and across time.

Note on Indicator 9 — Programme based approaches are defined in Volume 2 of Harmonising Donor Practices for Effective Aid Delivery (OECD, 2005) in Box 3.1 as a way of engaging in development cooperation based on the principles of co-ordinated support for a locally owned programme of development, such as a national development strategy, a sector programme, a thematic programme or a programme of a specific organisation. Programme based approaches share the following features: (a) leadership by the host country or organisation; (b) a single comprehensive programme and budget framework; (c) a formalised process for donor co-ordination and harmonisation of donor procedures for reporting, budgeting, financial management and procurement; (d) Efforts to increase the use of local systems for programme design and implementation, financial management, monitoring and evaluation. For the purpose of indicator 9 performance will be measured separately across the aid modalities that contribute to programme- based approaches.

APPENDIX B: **List of Participating Countries and Organisations**

Participating Countries		
Albania	Australia	Austria
Bangladesh	Belgium	Benin
Bolivia	Botswana	[Brazil]*
Burkina Faso	Burundi	Cambodia
Cameroon	Canada	China
Congo D.R.	Czech Republic	Denmark
Dominican Republic	Egypt	Ethiopia
European Commission	Fiji	Finland
France	Gambia, The	Germany
Ghana	Greece	Guatemala
Guinea	Honduras	Iceland
Indonesia	Ireland	Italy
Jamaica	Japan	Jordan
Kenya	Korea	Kuwait
Kyrgyz Republic	Lao PDR	Luxembourg

Madagascar	Malawi	Malaysia
Mali	Mauritania	Mexico
Mongolia	Morocco	Mozambique
Nepal	Netherlands	New Zealand
Nicaragua	Niger	Norway
Pakistan	Papua New Guinea	Philippines
Poland	Portugal	Romania
Russian Federation	Rwanda	Saudi Arabia
Senegal	Serbia and Montenegro	Slovak Republic
Solomon Islands	South Africa	Spain
Sri Lanka	Sweden	Switzerland
Tajikistan	Tanzania	Thailand
Timor-Leste	Tunisia	Turkey
Uganda	United Kingdom	United States of America
Vanuatu	Vietnam	Yemen
Zambia		

*** To be confirmed.**

More countries than listed here have endorsed the Paris Declaration. For a full and up to date list please consult www.oecd.org/dac/effectiveness/parisdeclaration/members.

Participating Organisations

African Development Bank	Arab Bank for Economic Development in Africa
Asian Development Bank	Commonwealth Secretariat
Consultative Group to Assist the Poorest (CGAP)	Council of Europe Development Bank (CEB)
Economic Commission for Africa (ECA)	Education for All Fast Track Initiative (EFA-FTI)
European Bank for Reconstruction and Development (EBRD)	European Investment Bank (EIB)
Global Fund to Fight Aids, Tuberculosis and Malaria	G24
Inter-American Development Bank	International Fund for Agricultural Development (IFAD)
International Monetary Fund (IMF)	International Organisation of the Francophonie
Islamic Development Bank	Millennium Campaign
New Partnership for Africa's Development (NEPAD)	Nordic Development Fund

Organisation for Economic Co-operation and Development (OECD)	Organisation of Eastern Caribbean States (OECS)
OPEC Fund for International Development	Pacific Islands Forum Secretariat
United Nations Development Group (UNDG)	World Bank

Civil Society Organisations

Africa Humanitarian Action	AFRODAD
Bill and Melinda Gates Foundations	Canadian Council for International Cooperation (CCIC)
Comité Catholique contre la Faim et pour le Développement (CCFD)	Coopération Internationale pour le Développement et la Solidarité (CIDSE)
Comisión Económica (Nicaragua)	ENDA Tiers Monde
EURODAD	International Union for Conservation of Nature and Natural Resources (IUCN)
Japan NGO Center for International Cooperation (JANIC)	Reality of Aid Network
Tanzania Social and Economic Trust (TASOET)	UK Aid Network

Annex 2

Joint WTO/OECD Trade Capacity Building Database⁸

The Trade Capacity Building Database (TCBDB) has been established by the WTO jointly with the OECD to provide information on trade-related technical assistance and capacity building projects. It covers national as well as regional projects. It is an on-going activity and the 2005 Joint WTO/OECD Report on Trade-Related Technical Assistance and Capacity Building was circulated in December 2005. At present, the period of coverage is 2001 to 2004 and partial 2005 and beyond. Data is reported from bilateral donors and multilateral/regional Agencies.

Trade-related Technical Assistance and Capacity Building Categories

1. Trade Policy and Regulations

- Dispute Settlement
- Customs Valuation
- Technical Barriers to Trade
- Sanitary and Phytosanitary Measures
- Trade Mainstreaming in PRSPs/development plans
- Trade-Related Intellectual Property Rights
- Agriculture
- Services
- Tariff Negotiations - Non-Agricultural Market Access
- Rules
- Trade and Environment
- Trade and Investment
- Trade and Competition
- Trade Facilitation
- Transparency and Government Procurement
- Accession
- Tariff Reforms
- Trade-Related Training Education
- Negotiation Training
- Regional Trade Agreements (RTAs)

Trade and Development

- Trade Promotion Strategy Design and Implementation
- Market Analysis and Development
- Business Support Services and Institutions
- Public-Private Sector Networking
- E-commerce
- Trade Finance

Infrastructure

- Infrastructure – data from the OECD Creditor Reporting System

Annex 3

Paragraph 57 of the Hong Kong Ministerial Declaration **(WT/MIN(05)/DEC)**

“We welcome the discussions of Finance and Development Ministers in various fora, including the Development Committee of the World Bank and IMF, that have taken place this year on expanding Aid for Trade. Aid for Trade should aim to help developing countries, particularly LDCs, to build the supply-side capacity and trade-related infrastructure that they need to assist them to implement and benefit from WTO Agreements and more broadly to expand their trade. Aid for Trade cannot be a substitute for the development benefits that will result from a successful conclusion to the DDA, particularly on market access. However, it can be a valuable complement to the DDA. We invite the Director-General to create a task force that shall provide recommendations on how to operationalize Aid for Trade. The Task Force will provide recommendations to the General Council by July 2006 on how Aid for Trade might contribute most effectively to the development dimension of the DDA. We also invite the Director-General to consult with Members as well as with the IMF and World Bank, relevant international organisations and the regional development banks with a view to reporting to the General Council on appropriate mechanisms to secure additional financial resources for Aid for Trade, where appropriate through grants and concessional loans.”

Endnotes

- 1 In Hong Kong, Japan announced development assistance spending on trade, production and distribution infrastructure of \$10 billion over three years, the US announced Aid-for-Trade grants of \$2.7 billion a year by 2010, and the EU and its member States announced trade-related development assistance spending of •2 billion per year by 2010.
- 2 Poverty Reduction Strategy Papers (PRSPs) describe the macroeconomic, structural and social policies and programmes that a low income country will pursue over several years to promote broad-based growth and reduce poverty, as well as external financing needs and the associated sources of financing. They are country-led, country-written documents prepared by governments through a participatory process involving domestic stakeholders and external development partners, including the World Bank and the IMF.
- 3 In accordance with paragraph 9 of the Declaration, the partnership of donors and partner countries hosted by the DAC (Working Party on Aid Effectiveness) comprising OECD/DAC members, partner countries and multilateral institutions, met twice, on 30-31 May 2005 and on 7-8 July 2005 to adopt, and review where appropriate, the targets for the twelve Indicators of Progress. At these meetings an agreement was reached on the targets presented under Section III of the present Declaration. This agreement is subject to reservations by one donor on (a) the methodology for assessing the quality of locally-managed procurement systems (relating to targets 2b) and 5b) and (b) the acceptable quality of public financial management reform programmes (relating to target 5a.ii). Further discussions are underway to address these issues. The targets, including the reservation, have been notified to the

Chairs of the High-level Plenary Meeting of the 59th General Assembly of the United Nations in a letter of 9 September 2005 by Mr. Richard Manning, Chair of the OECD Development Assistance Committee (DAC).

- 4 The term 'national development strategies' includes poverty reduction and similar overarching strategies as well as sector and thematic strategies.
- 5 This includes for example the Annual Progress Review of the Poverty Reduction Strategies (APR).
- 6 Such as the processes developed by the joint OECD-DAC – World Bank Round Table on Strengthening Procurement Capacities in Developing Countries.
- 7 The following section draws on the draft Principles for Good International Engagement in Fragile States, which emerged from the Senior Level Forum on Development Effectiveness in Fragile States (London, January 2005).
- 8 <http://tcbdb.wto.org>