

EVOLUTION IN THE MULTILATERAL TRADE REGIME: REFINING AND STRENGTHENING THE SPECIAL AND DIFFERENTIAL TREATMENT

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June 2006
Toronto
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CONTERNTS

1. Introduction
2. Special and Differential Treatment
 - 2.1 Intellectual Foundation of the Special and Differential Treatment
 - 2.2 Discriminatory System of Preferential Market Access
3. Beneficiaries of Special and Different Treatment
4. Hierarchies of Beneficiaries and Preferential Market Access
5. Special and Differential Treatment in the Doha Round
 - 5.1 Official Commitments to Special and Differential Treatment
 - 5.2 Refining and Strengthening the Special and Differential Treatment
6. Erosion of Non-Reciprocal Preferences
7. Summary and Conclusions

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Patience and perseverance have a magical effect before which difficulties disappear and obstacles vanish.

—John Quincy Adams

1. Introduction

This article dwells on the diversity-driven special treatment of the developing economies in the multilateral trade regime. The concept of “special and differential treatment” (SDT) materialized early during the General Agreement on Tariffs and Trade (GATT) period. During the life-time of the GATT the concept of the SDT developed in several stages. Developing countries were given non-reciprocal preferences under SDT by the industrial economies. Being on the lower rungs of the economic ladder, they also need some policy space. This consideration has been a part of the multilateral trading system for decades. Whether the target group of economies benefited from the SDT, and if they did by how much remained opened to debate. The developing economies used SDT for *inter alia* securing preferential access in the markets of the industrial countries. The SDT took varying forms and was related to different trade issues. There were numerous categories of preferential market access schedules given to developing countries under different agreements and arrangements. In the recent years the SDT intensified for the low-income developing countries and the least-developed countries (LDCs)¹ were granted preferential market access by the industrial economies under the Generalized System of Preferences (GSP), a large category of market-access schedule. What new shape the SDT should take to achieve the objectives of the Doha Development Agenda (DDA).

In section 2 the concept of SDT and its intellectual origins have been traced, while section 3 focuses on various beneficiary country groups. The issue of hierarchies of beneficiaries is the focus of section 4. What new shape the SDT is likely to take under the Doha Round is analyzed in section 5. Many small and low-income developing countries are concerned that trade liberalization under the Doha Round would erode their preferences. Section 6 analyses whether this apprehension is justified. Section 7 concludes and summarizes.

2. Special and Differential Treatment

¹ In 2006, the United Nations classification of least-developed countries (LDCs) included 50 countries, of which 30 are members of the WTO and 5 are observers.

The members of the World Trade Organization (WTO) range from very high-income to very low-income countries. In terms of stages of growth, institutional development, resources and capacity constraints they cover a large spectrum. The WTO does not have a definition of developing economies, although some supranational institutions, like the World Bank, not only provide a closely worded definition of developing economies but also of various sub-groups among them. In case of the WTO, it is the member that decides and declares its status itself. Members announce for themselves whether they are “developed” or “developing” countries. However, other members can challenge the decision of a member to make use of provisions available to developing countries. Given the fact that members have a large diversity in economic and institutional resources, their ability and willingness to incur costs associated with implementation of new multilateral trade rules also varies significantly. So does their ability to derive benefit from new multilateral trade rules. The implementation and adjustment cost of new regulations is almost always borne by the developing economies because these rules essentially represent the status quo in the mature industrial economies and passed on to the developing economies as the best practices.

Over the decades, the traditional approach in the multilateral trade system for the developing economies was to seek benefits under SDT. This was a part of the process of evolution of the multilateral trade regime. It went back to the period when negotiations for the International Trade Organization (ITO) were going on in 1946 and 1947 (Narlikar, 2006). What does the term SDT precisely entail? It captures the GATT/WTO provisions that (i) allow high-income countries to grant preferential access to their markets to some developing economies, (ii) allow the developing economies the right to limit reciprocity in MTNs to levels “consistent with development needs”, (iii) give them exemption from some WTO obligations, many of which are transitory and some permanent, (iv) gives them extra time periods to comply with them, (v) allow them greater freedom to use otherwise restricted trade policies and (vi) provide technical assistance and help in institution building so that the WTO obligations can be fulfilled and negotiated decisions implemented. The basic philosophical premise behind the provisions of SDT is simple and logical. The developing economies are provided SDT on the premise that industrial development in them needs assistance for some time in both their home market (by way of protection) and in their export markets (by way of preferences in the form of lower tariffs and non-tariff barriers).

2.1 Intellectual Foundation of the Special and Differential Treatment

The SDT is an obvious deviation or departure from the all-important MFN principle of the GATT/WTO. History of SDT is as old as the GATT/WTO system itself. It not only existed since the inception of the GATT but also had a significant history in the multilateral trading system. Raul Prebisch and Hans Singer were the intellectual fathers of the concept of SDT. They argued that during the 1950s and 1960s the exports of the developing economies were concentrated in the area of primary products and commodities, which were characterized by volatile prices and steadily deteriorating terms-of-trade. Therefore, they (along with

Ragnar Nurkse) propounded the strategy of import-substituting industrialization (ISI), supported by high rates of protection for the infant domestic industries in the developing economies. The rationale that infant industries needed protection from international competition is reflected in “policy space” argument, which posits leeway in the implementation of WTO for the developing economies. Although the infant industry argument is accepted by economic theory, this group of economic theorists applied it a little too comprehensively and indiscriminately. Consequently, in the economies that followed the ISI strategy, the infant industries remained infants for decades—until many of them touched their middle ages. This strategy was avidly followed by South Asian and Latin American economies in the 1950s and beyond. The second premise behind the SDT was that trade liberalization under the MFN clause was not enough for the small and low-income developing countries to be able to expand their trade, and thereby accelerate their growth rates. These low-income economies needed preferential market access in the industrial country markets through instruments like SDT. To that end, various programs under the auspicious of the GSPs were considered necessary.

In the international fora like the United Nations (UN) General Assembly and subsequently in the United Nations Conference on Trade and Development (UNCTAD) the developing economies lobbied for equitable outcome in the GATT system, rather than mere equitable processes, so that preferential treatment can be institutionalized for them. As the GATT did not have institutional mechanisms like majoritarian voting and coalition-building, these efforts had to take place outside the GATT. These lobbying efforts achieved some measure of success in the form of Article XVIII of GATT-1947.² In the initial stages SDT was limited to the provisions of Article XVIII, which allowed developing economies to void or renegotiate their commitments as well as limited infant industry protection. Modification that took place in 1954-55 was inclusion of Article XVIIIb, which allowed the developing countries use of Quantitative Restriction (QRs) for balance-of-payments reasons.

Developing economies continued their endeavors to have the objective of growth and development included in the agenda of the supranational institutions. The 1960s was designated as the UN Development Decade. This turned out to be a fruitful period for the developing economies when they achieved more success. The second defining moment in the development of the concept of SDT came during the Kennedy Round (1962-67), when Part IV on the benefits to and

² In economics of international trade, the two expressions, namely, the GATT-1947 and the GATT-1994, are frequently used. The difference between the two is that the latter is the revised version of the original GATT Agreement of 1947. The text of the Agreement was significantly revised and amended during the Uruguay Round and the new version was agreed upon in Marrakesh, Morocco. Apparently, the GATT-1994 reflected the outcome of the negotiations on issues relating to the interpretations of specific articles. In its renewed version, the GATT-1994 includes specific understandings with respect to GATT Articles, its obligations and provisions, plus the Marrakesh Protocol of GATT-1994.

obligations of the developing economies was introduced in the Articles of Agreements of the GATT-1947. Added in 1965, Part IV of the GATT was devoted to trade and development. It provided for discriminatory “advantages” for developing countries during the MTNs. The Committee on Trade and Development (CTD) was established. It is noteworthy that much of the language of Part IV suggested good intentions rather than obligations. The developing economies were explicitly relieved of any requirement to reciprocate the benefits provided by the industrial economies. Recognition of the principle of non-reciprocity by the industrial economies was an unprecedented measure. Article XXXVI of Part IV acknowledged the wide income disparities between the developing and industrial economies and emphasized the need for rapid economic advancement in the developing economies by means of “a rapid and sustained expansion of the export earnings of the less-developed contracting parties.” In 1971, a waiver was adopted to temporarily legitimize the GSP under the GATT system. These were significant epistemic and institutional developments and for the first time the developing economies were able to introduce a concept of fairness in the GATT system.

2.2 Enabling Clause

The third important period in the life of SDT came during the Tokyo Round (1973-79). What SDT entails was further clarified and made a formal element of the multilateral trading system in 1979, when the Enabling Clause was introduced. It established that the developing economies were exempted from Article I, the MFN clause of the GATT-1947.³ The Enabling Clause legally established the principle of non-reciprocity in trade negotiations, in turn, facilitated more favorable treatment and preferential market access for the developing countries in the mature industrial economies. In negotiations in different rounds of MTNs, the reciprocity was limited for them to levels “consistent with development needs”, as specified in the Enabling Clause. In addition, they were provided with greater freedom to use trade policies than the GATT rules otherwise permitted. SDT also entailed the cost of implementation of WTO agreements. The Enabling Clause effectively made GSP a permanent feature of the Multilateral trade regime, and further extended discriminatory preferences to the UN designated LDCs group.

The Enabling Clause had a “Graduation Principle” associated with it. It was an important qualification, which made it clear that the developing countries enjoying the benefits of GSP will go off the GSP list when they move up the ladder of economic growth. The Enabling Clause was to be understood as an impermanent measure devised for a specific objective. It clearly implied that the developing economies had to assume their normal reciprocity in multilateral trade

³ Although most-favored nation (MFN) sounds like a contradiction, implying some kind of special treatment to a particular trade partner, in the WTO jargon it means non-discrimination. That is, treating all trade partners under the WTO regime equally. Each WTO member treats all the WTO members as “most-favored” trading partner. If any country improves the market benefits to one trading partner, it is obliged to give the same best treatment to all the other WTO members so that they all remain “most-favored”. However, historically MFN did not mean equal treatment.

liberalization when the time came to do so. The MFN and reciprocity were the fundamental principles of the GATT their waivers were granted only for supporting the economic growth process.

These objectives were covered by Article XVIII of GATT-1947, and subsequently GATT-1994. Conceived in a considerate manner, Article XVIII not only permits the developing economies to use their trade policies in pursuit of economic development and industrialization but also imposes a weaker discipline on them than on the industrial economies in several areas of GATT/WTO regulations. It also exhorted the industrial countries to taken into account the interests of the developing economies in the application of the GATT discipline. The Enabling Clause made SDT an essential element of the GATT discipline and system. With prescience, the Enabling Clause also required that, as economic development gathers momentum, the developing economies would try and improve their capacity to gradually reciprocate concessions. This was christened the process of “graduation”. Subsequently, several preferential trade agreements (PTAs) were created under the Enabling Clause.⁴

2.3 Discriminatory System of Preferential Market Access

The SDT is a system of preferences, which by definition has to be discriminatory. Historically, efforts to operationalize SDT essentially centered on preferential market access through the GSP. To this end, there has been a long standing trend of unilateral discriminatory liberalization, which was operationalized through offering tariff- and quota-free market access for the small and low-income developing economies, particularly the LDCs. This group comprises economically vulnerable countries. If fully implemented, the discriminatory liberalization schemes could certainly make the SDT more effective than it was in the past.

Unilateral market access could not be offered to the developing economies that do not fall under the LDC category, because it would have been a political impossibility in the industrial economies.⁵ Therefore, the absolute poor of the global economy can not benefit from the SDT because a large proportion of them live in South Asia and Sub-Saharan Africa. While all of these economies come under the category of developing economies, not all of them are LDCs. This means that the absolute poor can only benefit if trade liberalization is made multilaterally, in a non-discriminatory manner.

3. Beneficiaries of Special and Different Treatment

⁴ For instance, the Caribbean Basin Initiative (CBI), the Lome Convention, the Cotonou Agreement, the NAFTA Parity Act, the Central American Common Market (CACM) and the CARICOM Common Market, are some of the PTAs that were created under the Enabling Clause.

⁵ The developing economies according to the World Bank (2006) definition are divided into various sub-groups, These sub-groupings are available in *Classification of Economies* on the Internet at <http://www.worldbank.org/data/countryclass/countryclass.html>. Economies are divided according to 2003 per capita gross national income. The groups are: low-income developing countries have, \$765 or less; lower-middle income, \$766 - \$3,035; upper-middle income, \$3,036 - \$9,385; and high income, \$9,386 or more.

Overt time, non-reciprocal trade preferences became a part of the relationship between the developing and industrial economies in the multilateral trade regime. The SDT principle has operated for the developing economies, principally for the small and low-income ones, for many decades. In the recent period such preferences deepened, particularly for the LDCs and Africa, Caribbean, and the Pacific (ACP) economies. Noteworthy among the SDT schedules are Everything-But-Arms (EBA) initiative by the European Union (EU) and its parallel that the United States (US) came up with, namely, African Growth and Opportunity Act (AGOA). The SDT schedules usually exempt certain products from tariffs. Exports of banana, rice and sugar are not covered under the EBA. As many as 144 developing countries and customs territories have presently been benefiting from the GSP schedules of the Organization for Economic Cooperation and Development (OECD) countries (IMF, 2006).

Theoretically this concept is meaningful and significant, but in reality it did not engender substantial benefits to the beneficiary developing economies. There were several causes behind this failure. The preferential market access schedules under SDT were designed voluntarily by the industrial economies, which chose both the eligible countries and products for their respective schedules. It was observed that, for one, the selected countries and products generally lacked capacity to export and, secondly, countries and products with export potential were excluded from the schedules. Third, when the market preferences were granted, the preference schedules were laden with restrictions, product exclusions and administrative rules in the form of documentary requirements.

Schemes like the EBA and AGOA could potentially have a good deal of favorable impact over exports of the beneficiary economies, but those benefits were primarily conditional upon the supply-side capabilities in these economies. Supply-side constraints did seriously limit potential use of SDT schedules. Second, documentary requirements by the preference granting countries for ascertaining the origin of exports, or the so-called rules of origin (ROO) requirements tended to work as a real administrative barrier and reduced the utilization rate of the GSP schedules. This applies most to some sectors of large exports, like textiles and apparel. Third, most LDCs failed to benefit from the GSP schedules because of costs and uncertainties created by product exclusion (Brenton, 2003). Fourth, the strategy of granting non-reciprocal market access to LDCs under various GSP schedules did not turn out to be effective. Preferences were not enforceable commitments under the WTO. Consequently, many of these schedules mere worked as exhortations. They did not go beyond “best endeavor” promises that were subjected to numerous restrictions.

Fifth, overall coverage of these schedules was only a tiny part of exports of small and low-income developing economies. Experiences under various GSP schedules revealed that the eligible countries were able to utilize only a small part of the preference granted to them. Their utilization rate was quantified. The exports of eligible countries under various preferential schemes formed a very

small part of the EU and US imports. Over the preceding three decades, they have ranged between 0.9 percent and 0.4 percent of total annual imports of the EU and the US imports (WB, 2004). Sixth, the preference schedules were characterized by trade diversion, that is, they diverted trade with the ineligible developing countries. Finally, the preferential market access schedules did not benefit the target groups of population called the absolute poor of the world.⁶

While there were a large number of eligible recipients of SDT's benefits, not all of them benefited from it. Numerous studies have shown that while some developing economies benefited from non-reciprocal preferences to a significant degree, others did not benefit at all (Ozden and Reinhardt, 2003; Grossman and Sykes, 2005). As regards which developing economies did benefit, the foremost group was a small sub-set of relatively more advanced developing economies of Asia, which gradually acquired the status of emerging-market economies (EMEs). The supply-side scenario in this small group was better developed than in the other small, low-income developing economies. Also, the export revenues generated were put to good use by them. This group not only had the wherewithal to export the products but also met the administrative requirements of the GSP-granting countries well. Preparation of the required documents by the preference-granting countries was efficiently met by them. This sub-set of economies did not allow ROO to become an effective barrier. It was observed that liberal ROO were a critical factor for eliciting a strong response from the potential beneficiary economies, particularly in products like textiles and apparel.⁷

According to the statistics compiled by the World Bank (2004), in 2001 there were 130 countries that were eligible for the SDT. According to the International Monetary Fund this number was 144 in 2006 (IMF, 2006). Of these, 10 countries accounted for 77 percent of the US non-oil imports under its GSP. The same 10 countries accounted for 49 percent of all GSP imports from all the industrial countries that were providing GSP. Occasionally a small developing country did benefit substantially from preferential market access where domestic prices were raised above the world market prices by tariffs, subsidies or other trade distorting mechanisms. For instance, Mauritius which exports sugar and enjoys preferential access to the EU markets benefited a good deal from this opportunity. However, these benefits to Mauritius came at a high cost to the EU taxpayers and consumers (WB, 2004).

⁶ The definition of absolute poor is based on subsistence, the minimum standard needed to live. Robert McNamara who coined this term defined it as "a condition of life beneath any reasonable standard of human dignity." There has been a long drawn debate in the discipline regarding whether income or consumption poverty lines should be defined in absolute or relative terms. Most international organizations define the poverty line in an absolute way as the "level of income necessary for people to buy the goods necessary to their survival." In keeping with this concept, the dollar-a-day line, at 1985 purchasing power parity, is being extensively used in academic researches and by policy makers (Bourgignon, 1999). However, broader definition of poverty is the general lack of capabilities that enables a person to live a life he or she values, encompassing such domains as income, health, education, empowerment and human rights.

⁷ See for instance Brenton (2003) and Brenton and Manchin (2002).

A comparison of beneficiary countries that were eligible for the US GSP, and those that were recently graduated from it, revealed that the latter category outperformed the former in terms of export performance. Countries that were no longer on the GSP eligibility list had a higher export to GDP ratio, as well as higher export growth rate in real terms. One explanation of the success of the countries that graduated from the US GSP-eligible list that seems rational is that it appears that GSP provided a stimulus to their export industries. Causality must be carefully attributed, but GSP seemingly helped the graduating countries in engendering supply side capabilities, which strengthened with the passage of time and turned these small developing economies into successful trading economies. The flip side of the coin is that mere GSP eligibility cannot turn them into successful exporters. Reforming their macroeconomic policy structure must have played a decisive role in this endeavor.

4. Hierarchies of Beneficiaries and Preferential Market Access

In the hierarchy of beneficiaries from preferential market access, the most preferred countries are those that are part of a regional integration agreement (RIA) with the preference-granting economy. Trade partners in an RIA commonly have close trade and economic ties. This trade relationship is usually reciprocal in nature. The LDCs, which enjoy unilateral preferences or free market access, come next in terms of importance. Other small developing economies with which the preference-granting economies have GSP relationship are the last. GSPs are unilateral in nature and are devised for large country groups of beneficiaries by policy-makers.

Several unilateral preferential market access programs were devised as GSPs by the industrial economies as well laid out, structured and customized programs that were intended to be carefully implemented. Each one of them had characteristic features regarding eligibility criteria, product coverage, and administrative rules, in important areas like ROO. Together these criteria determine which developing countries are excluded and which can benefit from the customized unilateral preferential market access schedule. The programs devised and implemented by the US include the AGOA, the Caribbean Basin Initiative, the Andean Trade Promotion Act, as well as several unilateral and reciprocal trade agreements with Israel and Jordan. Likewise the principal EU programs include the Cotonou convention which includes the African, Caribbean and the Pacific (ACP) countries and the EBA initiative targeting the LDCs. The EU has also entered a large number of unilateral and reciprocal trade agreements with the North African, Middle Eastern, and the Mediterranean economies.⁸

The characteristic features of the unilateral and reciprocal trade agreements differ in several important respects. For instance, some sectors (such as textiles and apparel, processed foods, etc.) are treated as “sensitive” items and usually excluded from the GSP. These sensitive sectors of trade are included in the

⁸ See Das (2004) for these details, in particular Chapter 3, as well as Schiff and Winters (2003).

some unilateral and reciprocal trade agreements. For instance, by 2009, the EBA initiative will cover all the exports of the target group of countries. All the protectionist measures will be eliminated for imports into the EU economies from the 50 LDCs. However, an unseen restriction in this is that the products that matter most to LDCs (rice, sugar and banana) were not to be liberalized until after 2006. Their liberalization would begin in 2007 and end in 2009. Secondly, under the unilateral and reciprocal trade agreements administrative requirements tend to be more relaxed in comparison to the more comprehensive GSP schemes, particularly regarding the ROO.

Despite recent improvements in the implementation of these programs, as alluded to earlier, the overall imports into the industrial economies under various preferential schemes have continued to remain diminutive, almost insignificant. An exception in this regard is the textiles and apparel exports from small African economies that came under the AGOA to the US, which recorded significant gains. In 2001, imports by the Quad countries from the GSP beneficiary economies amounted to \$588 billion, of which \$298 billion were subject to normal trade and non-trade restrictions, while \$184 billion came under various preferential trade programs. That is, the coverage of these programs was 38.9 percent of the eligible exports, which in turn received market access preference. In 1991, this proportion was 51.1 percent. Thus the proportion of coverage of eligible exports declined during the decade of the 1990s (Inama, 2003). A similar quantitative study by Haveman and Shatz (2003) produced comparable, although slightly different, evidence of coverage.

5. Special and Differential Treatment in the Doha Round

Subsequent rounds of MTNs reaffirmed faith in the SDT, which included both the Uruguay and the Doha Rounds. The DDA was clear about reaffirming the importance to the SDT for the multilateral trade regime and referred to it as “an integral part of the WTO agreement” in the Doha Communiqué in paragraph 44. The SDT figures at several places in the Doha Communiqué. The objective of the DDA in this area is clearly laid down in paragraph 2 of the Communiqué as “... we shall continue to make positive efforts designed to ensure that developing countries, and specially the least-developed among them, secure a share in the world trade commensurate with the need of their economic development. In this context, enhanced market access, balanced rules, and well-targeted, sustainably financed technical assistance and capacity-building programs have important roles to play” (WTO, 2001).

Recognizing that SDT did not succeed in imparting a lot of benefits to the target group of beneficiaries, in paragraph 44 participating members called for a review of the SDT schedules so that their provisions can be strengthened “making them more precise, effective and operational” so that it is able to fulfill its objectives (WTO, 2001). As the benefits of SDT were provided through enhanced market access, balanced rules, and well-targeted, sustainably financed technical assistance, a good case exists for rethinking of all the three channels so that the

benefits can be targeted more precisely for the target groups that need them most. Affirming the good intentions of the negotiators, in paragraph 14, the Doha Communiqué provided a deadline, March 2003, for reestablishing the new modalities of the SDT. The deliberations and dialogues on this issue continued all through 2002 and 2003.

Notwithstanding the upbeat commitments expressed in firm language in the Doha Communiqué, during these deliberations, the WTO members were not only deeply divided on important SDT matters, but also had opinions that were significantly far apart from each other. They could not near a consensus or an agreement of any kind. The deep division between WTO members on the scope and design of SDT was indubitably the reflection of wide diversity between them in terms of income levels, stages of growth, capacity and institutional constraints, national policies and investment priorities. The forgoing sections have pointed to differences in each member's ability and willingness to bear the burden of cost associated with implementation of WTO rules and payoff from these rules,

5.1. Official Commitments to Special and Differential Treatment

After the failure of the Fifth Ministerial Conference in Cancún, the so-called July Framework Agreement was arrived at during the last day of July 2004. In this agreement the General Council of the WTO reaffirms that provisions for SDT are an integral part of the WTO agreements. The Council not only reaffirmed the DDA objective of strengthening them but also recommended making them more "precise, effective and operational". The Committee on Trade and Development (CTD) began a review the SDT. The Council instructed the CTD to expeditiously complete the review of all the outstanding agreement-specific proposals regarding SDT and report to the General Council, with clear recommendations for a decision, by July 2005. The CTD, within the parameters of the Doha mandate, was asked to address all other outstanding work, including on the cross-cutting issues, the monitoring mechanism and the incorporation of SDT into the architecture of WTO rules. However, the CTD after several meetings failed to make concrete recommendations to the General Council. Members continued to have strong and fundamental disagreements on several issues.

The General Council reviewed and recognized the progress that has been made since the beginning of the negotiations of the Doha Ministerial Conference in expanding Trade-Related Technical Assistance (TRTA) to small and low-income developing countries and economies in transition. In furthering this effort the Council affirms that such countries, and in particular the LDCs, should be provided with enhanced TRTA and capacity building assistance, to increase their effective participation in the negotiations, to facilitate their implementation of WTO rules, and to enable them to adjust and diversify their economies. In this context the Council welcomed and further encouraged the improved coordination with other agencies, including under the Integrated Framework (IF) for TRTA for the LDCs and the Joint Integrated Technical Assistance Program (JITAP) (WTO, 2004). This did give an impression that the SDT is being taken up for serious

review and at the end of the Doha Round should emerge stronger than ever in the past.

The Hong Kong Declaration of December 18, 2005, once again reaffirmed that the provisions for the SDT are an integral part of the WTO Agreements (WTO, 2005b). In paragraphs 35 through 38 of the Hong Kong Ministerial Communiqué members expressed their determination to fulfill the DDA mandate, spelled out in paragraph 44 of the Doha Ministerial Declaration as well as in the July Framework Agreement, that all SDT provisions would be reviewed with a view to “strengthening them and making more precise, effective and operational”. Official recognition was given to “lack of progress” in the Hong Kong Declaration, accordingly the CTD was instructed to “expeditiously complete the review of all outstanding Agreement-specific proposals and report to the General Council, with clear recommendations for decision by December 2006”.

5.2 Refining and Strengthening the Special and Differential Treatment

In view of the fact that the SDT did not spawn large benefits for the target groups, academics and policy makers have debated over what future shape the SDT should take so that it is able to meet the expected goals.⁹ In its various official pronouncements, the on-going Doha Round negotiations gave an additional importance to this debate, because this is *inter alia* is being seen as an opportunity to refine the SDT system. As alluded to above, while the WTO members have found agreement on SDT elusive, there is some degree of agreement among analysts and researchers on the new shape of STD. Their recommendations are thoughtful and comprehensive and are summarized as follows. First, a bold unilateral measure like a general reduction in all MFN tariffs in the industrial economies on labor-intensive exports of the small and low-income developing economies to 5 percent by 2010 and 10 percent on agricultural exports will indeed be able to reduce some of the veritable impediments like the ROO related documentation requirements. The target date of achieving Millennium Development Goals (MDGs) is 2015. By this time all tariffs on exports of manufactured products from the developing economies should be eliminated.

Second, like the first recommendation, industrial economies need to unilaterally expand market access for LDCs, along with simplification of the ROO requirements. This will be able to circumvent some of the problems presently faced by the GSP schedules.

Third, in keeping with the spirit of the first and the second recommendations, developing economies on their part should slash their tariff barriers on the basis of an agreed formula-based approach. This would amount to their reciprocation

⁹ Some of the recent studies include Oyejide (2002), Hart and Dymond (2003), Hoekman *et al* (2003a, 2003b and 2003c), Hoekman *et al* (2004) and Hoekman (2005). These recommendations on SDT have been drawn from the studies enumerated here.

to the measures taken by the industrial economies. It will help in keeping the multilateral trade regime balanced.

Fourth, paragraph 2 (d) of Article I of the GATS identifies international trade in the supply of services through the presence of natural persons in a foreign country, when both the country of origin and the recipient country are members of the GATS. This is known as Mode-4 of providing services. Industrial economies should make binding commitments in trade in services to expand temporary excess of services providers by a specific proportion of the workforce, say, one percent. Judged by the present level of temporary access, this indeed is a large measure and will realistically take some time to implement in a phased manner without disturbing the domestic economies in the industrial countries.

Fifth, acceptance of the principle of policy space for the developing economies under the WTO discipline would go a long way in helping many small and low-income developing economies. They may be permitted to decide whether to implement a new set of WTO rules, as long as their non-implementation does not significantly impair the trade interests of other WTO members.

Sixth, the developing economies on their part need to accept the core discipline of WTO on market access, including undertaking liberalization commitments. It may, however, be done in a differentiated manner across the entire spectrum of developing economies.

Seventh, the multilateral trade system needs to explore feasible channels of meeting the special institutional development needs of low-income developing economies and LDCs.

Eighth, the industrial economies need to meet the trade-related technical assistance needs of the small and low-income developing economies.¹⁰

Although none of the above proposals are novel and revolutionary, these or similar expansion of SDT have been discussed in the past. However, if they are deliberated, promoted and adopted during the Doha Round, the final outcome would indeed be supportive of development in the small and low-income developing economies and the LDCs. The name DDA would then ring true.

6. Erosion of Non-Reciprocal Preferences

It was alluded to that a large number of developing economies were eligible to receive benefits from one GSP schedule or the other. These developing economies, particularly WTO members from the ACP group and LDCs, have an additional concern about the erosion of non-reciprocal trade preferences during the Doha Round. As the industrial economies slash their tariffs on imports from all of their trading partners under the multilateral trade liberalization on MFN-basis, the value of trade preferences previously granted to these country groups

¹⁰ Ibid.

will decisively erode, adversely affecting the competitiveness of their exports.¹¹ To that extent these small and low-income developing countries believe that the MTNs render them vulnerable. To be sure, loss due to preference erosion—which will drive down competitiveness enjoyed exclusively due to GSP—will partly be offset by expanding multilateral market size and higher world prices. However, some of these economies apprehend serious loss of their export markets and expect setbacks in their export revenues. They have become indifferent to general MFN trade liberalization by lowering tariffs and elimination of quotas and have begun resisting and resenting the MFNs. This conflict has pitted a small number of low-income and some medium-income economies against the interests of the other developing economies.

It has been pointed out in the in the preceding section that, first, not all the developing countries gained a lot from the GSPs schemes that were devised for them. Second, empirical research on preferential erosion concluded that apprehension of erosion from MFN liberalization is the over-stated. A comprehensive study of the non-reciprocal preference recipient countries inferred that these countries as a group did not loose from preference erosion following MFN-based trade liberalization in the Doha Round, although significant gains and losses underlie the estimates of the average (Low and Piermartini, 2005). The beneficiaries of GSP schemes of the Quadrilateral (or Quad) countries¹² plus Australia enjoy a net gain of \$2 billion in terms of the value of adjusted preference margins on non-agricultural products using a Swiss formula, with a coefficient of 10. Almost all LDCs either lose from preference erosion or are unaffected by it because their exports are MFN tariff-free. Their loss was estimated at \$170 million, not high by any normal standard. However, most significant effect of preference erosion was found on LDCs exporting textiles and apparel.

Using elaborate cross-country analysis, Alexandraki and Lanke (2004) quantified the impact of preference erosion and inferred that it is a source of vulnerability for a small set of countries that have enjoyed deep preferential access to the markets of the Quad, have an undiversified export base, and a heavy export dependence on the Quad markets alone. The ability to absorb the impact of preference erosion will necessarily depend upon an economy's competitiveness in the affected sectors and their macroeconomic robustness. Computations in this empirical exercise revealed that the magnitude of potential shock in a realistic realizable scenario was small. It ranged between 0.5 percent and 1.2 percent of the total exports of the countries for the sample countries, and was dependent upon the elasticity of export supply. This small impact of preference erosion was also spread over time, in accordance with the liberalization schedule established under the Doha Round. However, for a small

¹¹ Several researchers have addressed these issues. See for instance Hoekman *et al* (2003), and Messerlin (2003) and Wolf (2003).

¹² Canada, the European Union (EU), Japan and the United States (US) are the four Quadrilateral (or Quad) countries.

sub-set of economies the shocks of preference erosion could be significant. Estimates show that small island countries that enjoyed deep preferences in the Quad markets due to historic, cultural or geo-political reasons in the EU (in case of banana and sugar exports) and the US (in case sugar exports) suffered most under the MFN liberalization under the Doha Round.

7. Conclusions and Summary

It is a significant fact that the members of the multilateral trade regime presently range from very high-income to very low-income countries. This reality of global economic life has a bearing on the operations of the multilateral trading system. Given the fact that members have a large variety in economic and institutional resources, their ability and willingness to incur costs associated with implementation of new multilateral trade rules also varies. So does their ability to derive benefit from new multilateral trade rules. Over the decades, the traditional approach of the developing economies, which were at lower income levels, has been to seek benefits from the industrial economies under SDT. This was a part of the process of evolution of the multilateral trade regime.

The concept of SDT grew in three basic stages. In the first stages SDT was limited to the provisions of Article XVIII of GATT-1947, which allowed developing economies to void or renegotiate their commitments. The second defining moment in SDT came during the Kennedy Round, when Part IV on the benefits to and obligations of the developing economies was introduced in the Articles of Agreements of the GATT-1947. The third important period in the life of SDT came during the Tokyo Round. What SDT entails was further clarified and made a formal element of the multilateral trading system in 1979, when the Enabling Clause was introduced.

The SDT has operated for the developing economies, principally for the small, low-income ones, for many decades. Non-reciprocal trade preferences became a part of the relationship between the developing and industrial economies in the multilateral trade regime. In the recent period such preferences deepened, particularly for the LDCs and Africa, Caribbean, and the Pacific (ACP) economies. Theoretically this concept was meaningful and significant, but in reality it did not engender substantial benefits to the beneficiary developing economies. Empirical research on this issue concluded that not many developing countries benefited from the SDT. There were several causes behind this failure. The beneficiaries of SDT, particularly WTO members from the ACP group and LDCs, have an additional concern, that is about the erosion of non-reciprocal trade preferences during the Doha Round. Empirical research on preferential erosion has concluded that apprehension of erosion from MFN liberalization is over-stated.

As sovereign countries, a large number of small and low-income developing economies and LDCs are now members of the WTO. With growing number, this category of countries acquired a good deal of influence in the multilateral trade

system and its decision-making process. During the Fifth Ministerial Conference in Cancún, and the subsequent WTO meeting in Geneva in July 2004, this sub-group of small developing countries held together as the Group-of-Ninety (G-90). This sub-group presently dominates the WTO system—albeit they are small trading economies. The new systemic reality of the multilateral trade regime is diametrically opposite to that of the early decades of the GATT system. The evolving multilateral trade regime will need to adapt to the expectations and needs of this country group.

It is widely recognized that small and low-income developing countries stand to gain in the long-term from trade liberalization and integration into the multilateral trade regime. There are short-term macroeconomic adjustments, which in turn lead to immediate adjustment costs. However, the short-term macroeconomic adjustment costs are small relative to the long-term efficiency gains.

Subsequent rounds of MTNs reaffirmed faith in the SDT, which include both the Uruguay and the Doha Rounds. The DDA was clear about reaffirming the importance to the SDT for the multilateral trade regime and referred to it as “an integral part of the WTO agreement. As it did not spawn large benefits for the target groups, there is a pressing need for refining the SDT. Academics and policy makers have debated over what future shape the SDT should take so that it is able to meet the expected goals. A comprehensive set of recommendations have been presented for this purpose.

The small and low-income developing economies need appropriate policy space to accommodate their requirements. They need greater flexibility for the trade policy implementation and to pursue policies that would otherwise be subject to strict multilateral discipline. It is prudent to give small and low-income developing countries a choice in the implementation of a specific set of new trade regulations, as long as this measure does not impose significant negative spillovers on other members

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