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# Erosion of Preferential Access and Changes In Special and Differential (S and D) Status

GATT 1947 is built upon a series of disciplines, rights and obligations. As one would expect, it also contains exceptions and exclusions to the basic disciplines. In general these are specific to particular economic circumstances. Thus a waiver on MFN is given under Article XXIV for countries entering into a regional trading arrangement; a waiver on the use of QRs is given to countries facing a balance of payments crisis (under Articles XII or XVIIIB). The only group which has benefited from country-specific provisions are developing countries. These come in two forms of rights which have been established: a right to preferential access and a right to protect. The former permits developing countries to gain access to industrialised country markets; the latter allows them to make use of import restraints in ways that industrialised countries cannot. How will the Agreement affect these?

## 4.1 Erosion of Preferential Access

There are several preferential access schemes from which CDCs benefit. Some are on a bilateral basis. The most notable of the multilateral regimes are Lomé, the Caribbean Basin Initiative and the Generalised System of Preferences. The first is specific to the EU, the second to the US, whilst the third applies to the major OECD countries.

Since all of these schemes frame their preferences by reference to MFN tariffs, any reduction in the latter must inevitably erode the value of those preferences. Ultimately the degree of erosion of preference margins will depend upon the impact of final offers on MFN rates and the volume of imports which benefit from GSP under the different schemes. As long as some positive value of LDC exports benefits from preferential access, the effect of tariff reduction must be to diminish those preferences. Other things being equal, this will leave developing countries worse off. Calculations by GATT suggest that the reductions in preference margins are significant, 82 per cent in Canada, 61 per cent in Japan, 50 per cent in the US and 32 per cent in the EU, with the highest losses occurring for agricultural products. This suggests that many CDCs will be worse off. The analysis by Stevens and Kennan (1994) of the impact of the EU changes suggests that this will certainly be the case where CDCs in Sub-Saharan Africa are concerned. The EU is the key market for this group of countries and their margin of preference will be eroded. Sorsa (1995) however feels that this possibility is exaggerated.

However, there are three important qualifications to make. First, as Langhammer and Sapir (1987) show, the degree to which developing countries benefit from GSP is limited by product specification restrictions, rules of origin, quantitative limits and so on. In practice, therefore, very little by way of preferential imports may actually be taken. This is especially true of agricultural products. Thus the base against which losses from preference reductions are measured may be a narrow one.

The second qualification relates to the impact of the tariff reductions on market demand. In the absence of perfectly inelastic demand schedules, some market expansion will occur: the more elastic is demand over the relevant range, the greater the increase. Clearly, if a market presence has already been established in non-preferential imports then benefits from

Table 10: **Uruguay Round Agreements which include 'special and differential' commitments**

| Agreement | Less Developed: Right to Protect | Less Developed: Pref. Access | Less Developed: Transitional | Least Developed: Right to Protect | Least Developed: Pref. Access | Least Developed: Transitional |
|---|---|---|---|---|---|---|
| Agriculture | | | | | | |
| • Domestic support | ✓ | | ✓ | ✓ | | |
| • Export subsidies | ✓ | | ✓ | ✓ | | |
| Textiles and clothing | | | | | ✓ | |
| Technical Barriers | ✓ | | | ✓ | | |
| TRIMs | ✓ | | ✓ | ✓ | | |
| Anti-Dumping | | ✓ | | | ✓ | |
| Customs Valuation | | | ✓ | | | ✓ |
| Subsidies | | | | | | |
| • Domestic support | ✓ | | ✓ | ✓ | | ✓ |
| • Export subsidies | ✓ | | ✓ | ✓ | | |
| Safeguards | ✓ | ✓ | ✓ | | | |
| Services | | | ✓ | | | |
| TRIPs | | | ✓ | | | ✓ |
| Dispute Settlement | | | | ✓ | ✓ | |

higher imports will follow. This particular effect is, of course, bound up with the broader trade expansion effects and it is difficult to separate out. The key point is that it is not inevitable that preference erosion will leave CDCs worse off. The probability is that the small/least developed, which rely more heavily on preferences, will suffer rather more than the NICs and NECs.

Third, although many CDCs are most preferred suppliers in Europe, they do not enjoy this status elsewhere, for example in the US. Thus there may be potential gains from the rearrangement of tariff rates in these markets.

## 4.2 Graduation and the Right to Protect

The cornerstone of developing countries' right to protect operates through Article XVIII. Clause XVIIIB sanctions intervention in support of the balance of payments but on more lenient terms than Article XII. Clause XVIIIC offers a right to protect in support of infant industries: a right which does not extend to industrialised countries.

The Final Act does affirm quite explicitly the principle of special and differential treatment at various points throughout the Agreement. In contrast to GATT 1947, however, two important points should be noted. First, S and D is affirmed explicitly in various contexts throughout as well as being affirmed as a specific principle. Table 10 lists the areas where a right to protect is explicitly provided for. As can be seen, the range is wider than under GATT 1947. In that sense, the Round has not diminished the right to protect of developing countries, indeed it may actually have extended it. However, this extension refers to the routes through which S and D can be accessed.

The second feature of the Agreement which must be highlighted is an explicit graduation provision. This is a profound change, with potentially significant economic effects. It means that for the first time a distinction is made between the least developed and other developing countries. Moreover, this is not a cosmetic distinction, it affects the privileges from which the countries concerned can benefit. Refer again to Table 10. As we can see, the distinction is important in agricultural support, technical barriers, subsidies and safeguards. In some areas, the least developed will enjoy privileges which other developing countries will not; in other cases they will be given a longer period over which to phase out any specific measures.

Which countries are the 'least developed'? For the subsidies agreement, they are identified as the United Nations group of 47 least developed countries, with the addition of Bolivia, Cameroon, Congo, Côte d'Ivoire, Dominican Republic, Egypt, Ghana, Guatemala, Guyana, India, Indonesia, Kenya, Morocco, Nicaragua, Nigeria, Pakistan, Philippines, Senegal, Sri Lanka and Zimbabwe. The criterion used to identify this group is income per capita, with the cut-off being a GDP per capita of $1,000 (nominal). From the standpoint of CDCs, quite a number fall into this category. Whether the least developed are better off or worse off is a matter of judgement: it depends upon whether or not one believes that the provisions were helpful in the past. This is controversial. For most of the period since World War II, there has been a long, and at times acrimonious, debate over the relative merits of import substitution and export-oriented trade strategies. A very large empirical literature has now been accumulated. Broadly speaking, the evidence in general suggests that trade policy regimes which have relied heavily on non-selective import substitution have been associated with poorer economic performance (see, for instance, Greenaway and Nam 1988). To that extent, an explicit graduation criterion may help constrain the proliferation of excessive reliance on inward-oriented trade policies. Note that this is not to say that import substitution cannot be helpful. The evidence suggests that it may be in the early stages of industrialisation. What is typically damaging is the cumulation of import restraints associated with 'second stage' development, which a graduation criterion may help with. Then the issue becomes one of when to graduate. The criterion does mean that recourse to some instruments (like subsidies), which are in general more efficient than quotas or tariffs, begins to be constrained at a relatively low level of income, per capita. That could be damaging.

### Future Evolution of S and D

Both dimensions of special and differential (S and D) treatment of developing countries have been affected by the Round. The right to access has been eroded by the liberalisation which is envisaged; the right to protect has been constrained. One should not think of these as unambiguously threatening from the standpoint of CDCs, however. Although one can find cases where preferential access under GSP or Lomé has been successful, in general these schemes are so constrained by qualification criteria, quotas, rules of origin and so on, as to have been of limited usefulness. A strong case can be made to the effect that many CDCs will be better off facing lower MFN tariffs and fewer NTBs, than they were with (apparent) preferential access. Regarding the right to protect, if this does indeed confer benefits then the introduction of a graduation criterion enhances the relative position of the least developed. As a consequence, these countries may actually find it easier to nurture infant industries and gain world market share than when competing on level terms with other developing countries, especially NICs.

Having established a graduation principle, it is safe to assume that these will be a permanent feature of the GATT infrastructure. It is actually a helpful development from the standpoint of targeting concessions and assistance and a multilaterally agreed and transparent criterion is preferable to the likely alternative, namely, opaque criteria being unilaterally applied by the major trading nations/blocs.