The United Nations University

WIDER

World Institute for Development Economics Research

Working Papers No. 197

September 2000

Special and Differential Treatment for Developing Countries:

Does It Help Those Who Help Themselves

Kiichiro Fukasaku

UNU World Institute for
Development Economics Research
(UNU/WIDER)

Working Papers No. 197

Special and Differential Treatment for Developing Countries

Does It Help Those Who Help Themselves?

Kiichiro Fukasaku

September 2000

This study has been prepared within the UNU/WIDER project on Globalization and the Obstacles to the Successful Integration of Small Vulnerable Economies, which is directed by Dr S. Mansoob Murshed, UNU/WIDER.

UNU/WIDER gratefully acknowledges the financial contribution to this project by the Ministry for Foreign Affairs of Finland.

Kiichiro Fukasaku is affiliated with the OECD Development Centre, Paris.

UNU World Institute for Development Economics Research (UNU/WIDER) was established by the United Nations University as its first research and training centre and started work in Helsinki, Finland in 1985. The purpose of the Institute is to undertake applied research and policy analysis on structural changes affecting the developing and transitional economies, to provide a forum for the advocacy of policies leading to robust, equitable and environmentally sustainable growth, and to promote capacity strengthening and training in the field of economic and social policy making. Its work is carried out by staff researchers and visiting scholars in Helsinki and through networks of collaborating scholars and institutions around the world.

UNU World Institute for Development Economics Research (UNU/WIDER)
Katajanokanlaituri 6 B
00160 Helsinki, Finland

Camera-ready typescript prepared by Janis Vehmaan-Kreula at UNU/WIDER
Printed at Pikapaino Paatelainen Oy, Helsinki

ISSN 0782-8233
ISBN 952-455-080-6 (printed publication)
ISBN 952-455-081-4 (internet publication)

CONTENTS

LIST OF TABLES iv

ACKNOWLEDGEMENTS v

ABSTRACT vi

1. INTRODUCTION 1

2. PRE-URUGUAY ROUND S&D TREATMENT 3

3. POST-URUGUAY ROUND S&D TREATMENT 8

4. ISSUES RELATING TO THE FUTURE OF S&D TREATMENT 11

   4.1 Market access 11

   4.2 Trade capacity building 15

   4.3 Technical assistance 18

5. CONCLUSIONS 19

REFERENCES 35

LIST OF TABLES

Table 1	S&D treatment for developing countries under the GATT-WTO	4
Table 2	Post-Uruguay round simple bound mean tariff rates	12
Table 3	Imports of QUAD-4 OECD countries from beneficiaries of their GSP schemes 1976-1996	13
Table 4	Growth and export performance in developing regions	16
Annex Table 1	S&D treatment under the WTO agreement	21
Annex Table 2	National characteristics of developing countries in sub-Saharan Africa	31
Annex Table 3	Export profiles of least-developed countries in sub-Saharan Africa	33

ACKNOWLEDGEMENTS

The author is grateful to Ulrich Hiemenz as well as Jörg Mayer, S. Mansoob Murshed, Robert Read, Matt Slaughter and other seminar participants for helpful comments and suggestions. The opinions expressed in this paper are, however, those of the author alone, and do not reflect those of the organization to which the author belongs. All correspondence regarding this paper should be addressed to kiichiro.fukasaku@oecd.org.

ABSTRACT

This paper reviews main S&D provisions for developing countries under the GATT-WTO trading system and discusses issues relating to the future of S&D treatment from the perspective of the least-developed countries (LDCs). It argues that negotiations on S&D provisions in the next trade round must take the question of trade capacity building seriously. This would require WTO Members to make binding commitments to meeting the special needs of LDCs in terms of market access and technical assistance. Despite design flaws and deficiencies involved in various S&D provisions under the WTO Agreements, there is little reason to believe that the move back to the past approach to S&D treatment would be desirable for LDCs.

1. INTRODUCTION

The General Agreement on Tariffs and Trade (GATT) and its successor the World Trade Organization (WTO) accord developing countries special rights and privileges that affect the ways they participate in the multilateral trading system. These special rights and privileges are collectively referred to as 'special and differential' (hereafter, S&D) treatment for developing countries. Since the early years of the GATT both developed and developing countries have long accepted the concept of S&D treatment for the latter[1], but its orientation and emphasis have evolved over time.[2] Prior to the Uruguay Round of Multilateral Trade Negotiations (1986-94) it was primarily meant to accord developing countries special rights to nurture infant industries, preferential access to developed-country markets and non-reciprocity in trade negotiations. The principle of non-reciprocity legitimized 'free-riding' on the part of developing countries and allowed them to opt out of MFN-based liberalization commitments. At the successful conclusion of the Uruguay Round, however, member governments adopted the 'single undertaking' approach that required both developed and developing countries to adhere to nearly the same set of agreements on trade rules. The concept of S&D treatment was then re-oriented to addressing adjustment difficulties stemming from implementation of the WTO Agreements in many developing countries. Emphasis was also shifted to meeting the special needs of the least-developed countries (LDCs), the weakest partners in international economic relations. One of the main factors underlying this change was growing disenchantment with the development strategy based on import substitution.

Today more than 100 of the 136 WTO Members are developing countries, of which 29 members are least-developed.[3] Their development concerns thus must be adequately taken into account in the global trade rules. At the same time, these rules need to serve as an effective anchor for developing

---

[1] It is important to note, however, that the original GATT strictly observed the non-discrimination principle despite the fact that 11 of the original 23 contracting parties were considered developing countries (Kessie 2000).

[2] See, among others, Michalopoulos (2000), Whalley (1999) and WTO (1999a) for a detailed discussion of the origin and evolution of S&D treatment under the GATT-WTO trading system. Kessie (2000) also addresses the question of enforceability of the legal provisions relating to S&D treatment.

[3] Jordan joined the WTO on 11 April 2000, which has increased the total number of WTO membership to 136.

countries to enhance governance and implement necessary policy reforms to reap the full benefits of globalization. Seeing from this angle, the past approach to S&D treatment has been stymied by the misconception that granting special privileges or exemptions is a 'benefit' to developing countries. Such misconception has distracted the attention of policy makers from addressing the real issue: to improve effective market access for the products of primary interest to developing-country exporters and encourage good governance in economic policy making by subjecting domestic policies to multilateral discipline. As we discuss below, there is much room for improvement in the development dimension of the WTO Agreements, but such improvement would be made possible only if developing country members are to participate more actively in multilateral trade negotiations under the auspices of the WTO. This is particularly the case for LDCs. How to address the question of S&D treatment in the next trade round will have an important ramification for trade and development of these economies in the coming years. Yet, opinions differ considerably among policy makers and analysts about the future orientation of S&D treatment.[4]

Given this background, the purpose of this paper is to review main S&D provisions under the GATT-WTO trading system and discuss issues relating to the future of S&D treatment from the perspective of LDCs. The paper argues that negotiations on S&D provisions in the next trade round must take the question of trade capacity building seriously. This would require WTO Members to make binding commitments to meeting the special needs of LDCs in terms of market access and technical assistance. Without such binding commitments, the effective participation of these economies in the WTO would not be guaranteed. The rest is organized as follows. Sections 2 and 3 review and highlight several key features of S&D treatment before and after the Uruguay Round, respectively. Section 4 discusses in more detail three issues – market access, trade capacity building and technical assistance – from the LDCs' point of view. Finally, Section 5 concludes.

---

[4] See, among others, Amsden (2000), Krueger (1997), Langhammer (1999), Michalopoulos (1999 and 2000), Oyehide (1998), Srinivasan (1999), Whalley (1999), Wang and Winters (2000) and Winters (2000). Moreover, there was no consensus view on the future of S&D treatment at a WTO seminar held on 7 March in Geneva (see the summary record of this seminar available at the Internet site of the WTO Homepage).

2. PRE-URUGUAY ROUND S&D TREATMENT

A recent paper by the WTO Secretariat (WTO 1999a) presents a comprehensive list of S&D provisions that had been introduced into the GATT and then the WTO Agreements since the mid-1950s. These provisions fall into three broad categories: (a) those allowing fewer obligations or the easing of rules for developing countries; (b) those requiring positive actions in favour of developing countries; and (c) those meeting the special needs of the LDCs (see Table 1).

From the 1950s to the 1970s the GATT embraced a variety of S&D provisions based on the traditional infant-industry argument. During this period a number of newly independent developing countries joined the GATT and wanted to nurture, through the flexible use of border measures, their domestic producers – national champions – that may have a potential competitive edge before facing up to full competition from foreign suppliers. This argument was evoked to ease the normal rules of the GATT for developing countries. The first major step in this direction was the re-drafting of Article XVIII at the 1954-55 GATT Review Session. This Article allowed developing countries to withdraw tariff concessions and apply non-tariff measures under certain conditions, in order to promote a particular industry and deal with balance-of-payments difficulties. In the similar vein, the argument for infant-industry protection was further extended to the area of tariff negotiations (Article XXVIII bis) in which paragraph 3(b) recognized the needs of developing countries for a more flexible use of tariff protection for development and revenue purposes. Furthermore, the easing of normal GATT rules on internal measures also began with regard to Article XVI:4 commitment (the ban of export subsidies on industrial products). When the contracting parties adopted in December 1961 the Declaration Giving Effect to the Provisions of Article XVI:4 of GATT, this commitment was not made obligatory to developing countries.

Contracting parties took another major step in 1965 with the introduction of a special chapter on 'Trade and Development' (Part IV) into the GATT. Part IV contained provisions on the principle of non-reciprocity in trade negotiations between developed and developing countries. Article XXXVI:8 states that '[t]he developed contracting parties do not expect reciprocity for commitments made by them in trade negotiations to reduce or remove tariffs and other barriers to the trade of less-developed contracting parties'. In other words, developing countries should not be

TABLE 1
S&D TREATMENT FOR DEVELOPING COUNTRIES UNDER THE GATT-WTO

I. Allowing Fewer Obligations or the Easing of Rules for Developing Countries	
Pre-Uruguay Round	*Post-Uruguay Round*
▪ The right to protect infant industries and to use trade measures to address BOP difficulties (Article XVIII of the 1947 GATT). ▪ The principle of non-reciprocity (the Part IV Extension of 1965, Article XXXVI:8 and the 1979 Enabling Clause). ▪ The right to establish, outside of Article XXIV, regional or global trade arrangements among developing countries (the 1979 Enabling Clause).	▪ A longer period of transition under the WTO agreements. ▪ Greater flexibility in application of rules and disciplines under the WTO agreements.
II. Requiring Positive Actions in Favour of Developing Countries	
Pre-Uruguay Round	*Post-Uruguay Round*
▪ Preferential access to developed-country markets (the GSP, the Lomé Convention, etc.) under the legal cover of the 1979 Enabling Clause.	▪ Technical assistance to be made available in relevant provisions of the WTO agreements ▪ More favourable treatment for developing countries or their special groups in application of Safeguards, Subsidies/CV measures and Textiles and Clothing by developed countries under the WTO.
III. Meeting the Special Needs of LDCs	
Pre-Uruguay Round	*Post-Uruguay Round*
▪ Special treatment of LDCs (the 1979 Enabling Clause).	▪ Requirement for conducting a periodic review of the special provisions in favour of LDCs and reporting to the General Council for appropriate actions (Article IV:7 of the Marrakesh Agreement Establishing the WTO). ▪ Positive measures to be taken for LDCs in terms of market access, technical assistance and export promotion and diversification (the 1994 Ministerial Decision on 'Measures in favour of Least-developed Countries').

Sources: the same as Annex Table 1.

expected, in the course of trade negotiations, to make contributions that are inconsistent with their individual development, financial and trade needs.

In the years following the introduction of Part IV, there was a growing demand for taking positive actions in favour of developing countries in terms of market access. Such demand led to the authorization of three waivers from Article I (the MFN obligation) of the GATT in association with (a) introduction of tariff preferences in 1966 by Australia on imports of certain products from developing countries, (b) implementation of the Generalized System of Preferences (GSP) in 1971 by a number of developed countries, initially valid for 10 years, and (c) the 1971 Decision on Trade Negotiations among Developing Countries, which allows developing countries to exchange trade concessions among themselves.

It should be noted in this conjunction that the most important area of positive actions undertaken in favour of developing countries was – and has been – the GSP and other non-reciprocal trade preferences.[5] While the aggregate amount of imports covered by GSP appears to be substantial,[6] the schemes suffer from a number of deficiencies and shortcomings, thereby making it difficult for LDCs to utilize such trade preferences. Issues relating to market access for LDCs will be discussed in more detail in Section 6.

Perhaps most significant as S&D treatment prior to the Uruguay Round was the 1979 Decision adopted by the contracting parties on 'Differential and More Favourable Treatment, Reciprocity and Fuller Participation of Developing Countries. This Decision was widely known as the 'Enabling Clause' and provided a legal cover for S&D treatment in respect of the following four areas:

– Preferential tariff treatment for developing countries in accordance with the GSP and other similar schemes, such as the European Commission's Lomé Convention with the ACP States;

---

[5] At present there are 15 GSP schemes in operation offered by 29 preference-giving countries, including the 15 member countries of the European Union. Other non-reciprocal trade preferences are provided by the European Union to the ACP countries, by the United States and Canada to Caribbean and Central American countries, by the United States to Andean countries and by Australia and New Zealand to Pacific island countries (UNCTAD 1998). See also Onguglo (1999).

[6] According to UNCTAD (1998, Statistical Annex Table 1), the aggregate value of GSP imports of the Quad-4 OECD countries (Canada, the European Union, Japan and the United States) amounted to US$ 178 billion in 1996, roughly half of that year's total dutiable imports from all beneficiaries (see Table 3 below).

– Exemption from the Tokyo Round codes on the use of non-tariff measures (technical barriers to trade, government procurement, subsides and countervailing duties, customs valuation, import licensing, and anti-dumping actions);

– Regional or global arrangements among developing countries for the mutual reduction or elimination of tariffs and, subject to the approval of the contracting parties, non-tariff measures on products imported from each other; and

– Special treatment of the LDCs as a distinct group defined by the United Nations in 'making concessions and contributions in view of their special economic situation and their development, financial and trade needs (para.8)'.

In addition, the 1979 Enabling Clause also recognizes the concept of 'graduation' in order for developing countries to participate more fully in the GATT system, as 'their capacity to make contributions or negotiated concessions or take other mutually agreed action … would improve with the progressive development of their economies and improvement in their trade situation (para.7)'.

As early as the 1980s, however, doubt was raised over the effectiveness of S&D treatment as a means of promoting trade and development of developing countries. One of such critiques was the Leutwiler Report (GATT 1985), which was commissioned in November 1983 by the then Director-General of the GATT, Arthur Dunkel. In order to meet the 'present crisis in the trading system' (Ibid: 8), the Report recommended 15 specific, immediate actions, one of which addressed the problem of trade and development.[7] This recommendation reads:

'Developing countries receive special treatment in the GATT rules. But such special treatment is of limited value. Far greater emphasis should be placed on permitting and encouraging developing countries to take advantage of their competitive strengths and on integrating them more fully into the trading system, with all the appropriate rights and responsibilities that this entails' (The Leutwiler Report, GATT 1985: 44).

---

[7] It is interesting to note that much of the ideas and views presented in the Leutwiler Report were actually incorporated into the negotiating agenda of the Uruguay Round trade negotiations.

Underlying this view was the growing recognition that developing countries may have missed the opportunity of gaining effective market access by having failed to participate actively in the Tokyo Round (1973-79) on a reciprocal basis. The tariff rates maintained by developed countries on products of export interest to developing countries, especially agricultural products, textile and clothing and footwear, are much higher than average, and these products are either in whole or in part excluded from the GSP or subject to ceilings and other restrictions. Empirical evidence suggests that the benefits accruing from trade preferences granted to developing countries are very limited (see Section IV for a further discussion). This is why a number of developing countries decided to participate more actively in the Uruguay Round through the exchange of reciprocal tariff concessions, albeit not to the full extent.

Indeed, the Uruguay Round marked a clear departure from the traditional approach to S&D treatment, because all member governments accepted the concept of the 'single undertaking' that required both developed and developing countries to adhere to nearly the same sets of rules and obligations. Nonetheless, the WTO Agreements that resulted from the successful conclusion of the Uruguay Round do contain a variety of S&D provisions for both developing and least-developed countries. Put simply, the Uruguay Round constrained but did not eliminate S&D treatment. Such re-orientation of S&D treatment certainly reflects the underlying change in the perception of trade policy as a development policy. Winters (2000) criticises the traditional approach to S&D treatment as 'one of the derivatives of the IS (import substitution) view which was based on infant industry protection'. Because 'GATT disciplines were seen as a cost to member Governments, waiving them was a simple and cheap way of purchasing developing country participation in the GATT and the Western economic system' (Ibid: 9). From this perspective, the 'single undertaking' approach applied under the Uruguay Round can be seen as a step forward in the right direction. Yet, this begs the question of how significant this step was, given the fact that a variety of S&D provisions are indeed incorporated into the WTO Agreements.

3. POST-URUGUAY ROUND S&D TREATMENT

Now that the infant-industry argument for import substitution policy is discredited,[8] the justification of S&D treatment for developing countries rests primarily on the argument based on 'costs of adjustment' to market opening. As Table 1 indicates, much of S&D provisions are aimed at assisting developing countries in the implementation of the WTO Agreements by providing a longer period of transition, greater flexibility in application of trade rules and technical assistance. A synopsis of main S&D provisions under the WTO Agreements is presented in Annex Table 1. In what follows, we highlight several salient features of these provisions.

First, developing country members are granted a longer time frame for implementation of the WTO Agreements than developed country members. The length of an initial period of transition, however, varies considerably from 2 years (SPS and Import Licensing), 5 years (TRIMs, Customs Valuation, and TRIPS), 10 years (Agriculture) even up to an undetermined time (GATS).[9] In the case of the Agreement on Subsidies and Countervailing Measures, there are specific conditions attached to the granting of a longer transition period, depending on both the specificity of countries and the nature of subsidies (see Annex Table 1.) On the other hand, in the case of the Agreement on Technical Barriers to Trade, there is no specific provision for a longer transition period for developing

---

[8] It may be worth recalling here the essential point stressed by the infant-industry argument for import protection. That is that it is socially desirable to provide an infant industry with temporary border protection at an early stage of industrialization when domestic costs in such an industry are higher than import prices of similar products. This argument rests crucially on the presence of technological externalities often associated with the learning process under which no individual domestic producers find it profitable to start production. The argument raises a number of questions, however. First, it fails to provide any practical guidance of what is an infant industry. Second, the political economy of protection suggests that once temporary protection is granted, it is very difficult to revoke it in practice. Third, there is nothing in the infant-industry argument to indicate what level of protection is warranted. Fourth, the likely magnitude of externalities is hardly known to policy makers. Fifth, even if such case exists, a first-best solution would be to grant a subsidy for technology acquisition or human capital investment. *A priori*, granting a tariff *per se* provides little incentive for domestic firms to do so. See Baldwin (1969), Krueger (1997) and Bora *et al*. (2000) for further discussion.

[9] Under GATS Article III (Transparency), each member is required to establish enquiry points within 2 years (from 1995) to provide other members, upon request, legal, regulatory and administrative advice. But, such deadline will be applied with 'appropriate flexibility' agreed upon by individual developing country members [Article III.4].

countries, perhaps due to 'generous' flexibility clauses contained in the Agreement.

Second, developing country members are accorded greater flexibility in application of most of the WTO rules and procedures. For example, both the Agreement on Agriculture and the Agreement on Subsidies and Countervailing Measures include flexibility provisions defined in a very specific manner in terms of scope and extent. On the other hand, the Agreement on TRIMs include S&D provisions of the blanket nature by providing for a further extension of an initial transition period under certain conditions. In between, developing country members may be granted 'specified, time-limited exceptions in whole or in part' from the obligations, provided that meeting these obligations is considered as inappropriate to their development, financial and trade needs (SPS and TBT) or to their administrative or financial capacities (Customs Valuation).

Third, the provision of technical assistance to developing countries has become part and parcel of S&D treatment under the WTO Agreements. It aims to assist developing country governments in their efforts to build institutional capacity needed to implement the Agreements and participate more fully in the multilateral trading system. This seems particularly important for implementation of SPS, TBT, Customs Valuation, GATS and TRIPS. Annex Table 1 makes no attempt to judge whether individual S&D provisions are to be legally enforceable or regarded simply as 'best endeavour' clauses, but the issue of binding might become an important agenda for future negotiations in the next trade round (see below). According to Kessie (2000), however, 'much of the WTO provisions dealing with S&D treatment could be said to be unenforceable, as they are expressed in imprecise and hortatory language (p. 15)'.

Fourth, the WTO Agreements include special provisions for the LDCs. The preamble to the 1994 Marrakesh Agreement Establishing the World Trade Organization recognizes that:

'[T]here is need for positive efforts designed to ensure that developing countries, and especially the least developed among them, secure a share in the growth in international trade commensurate with the needs of their economic development'.

Moreover, Article IV:7 of this Agreement requests the Committee on Trade and Development to review periodically the special provisions for LDCs and report to the General Council for appropriate action. There is also a clear recognition of safeguarding the general interests of developing

countries, especially LDCs, in relevant paragraphs of the preambles to individual agreements and related accords, though these paragraphs are not mentioned in Annex Table 1. More specifically, the special provisions for LDCs include (a) complete or partial exemptions from commitments and obligations (Agriculture, Subsidies and Countervailing Measures, and TRIPS), (b) a further extension of transition periods (SPS, and TRIMs), and (c) differential and more favourable treatment (Textiles and Clothing, TBT, Import Licensing, GATS, TRIPS and Dispute Settlement).

Last but not least, the 1994 Ministerial Decision on Measures in Favour of Least-Developed Countries recognizes the special needs of LDCs in the area of market access through the continuation of trade preferences. At the same time, the 1994 Ministerial Decision states:

'Least-developed countries shall be accorded substantially increased technical assistance in the development, strengthening and diversification of their production and export bases including those of services, as well as in trade promotion, to enable them to maximize the benefits from liberalized access to markets (para.2 (v))'.

From the above review it would be safe to make two general observations. One is that the poor understanding of the adjustment process of the developing countries, especially that of the LDCs, has led to the ad hoc nature of S&D provisions that allow a longer period of transition and greater flexibility in application of rules. A priori, there is little reason to believe that these countries can manage to build institutional capacity sufficiently rapidly to comply fully with WTO obligations within the agreed time frame. In other words, there is a serious risk that as was the case in the past, many poor countries would be kept outside the normal rules of the WTO, which would undermine their own initiatives to liberalize trade regimes and sustain domestic policy reforms.

Another observation is that the non-binding nature of S&D provisions that demand positive actions in terms of market access and technical assistance makes it difficult to implement these provisions in a coherent and effective manner. Both the Committee on Trade and Development and the Sub-Committee on Least-Developed Countries have recently reviewed problems relating to implementation of the WTO Agreements and relevant S&D provisions (WTO 2000b and 2000c). These reviews have uncovered a wide range of problems, many of which are closely linked to their own capacity to implement WTO obligations, and their concerns can be boiled down to three basic questions from the LDCs' point of view: (a) Has S&D

treatment in terms of market access resulted in increasing trade opportunities for LDCs?; (b) Has S&D treatment addressed squarely the LDCs' limited capacity for trade?; and (c) Has technical assistance been effectively delivered to tackle the specific needs of LDCs? In the next section we will discuss these questions in more detail.

4. ISSUES RELATING TO THE FUTURE OF S&D TREATMENT

4.1 Market access

Four market access problems are of direct concern for the LDCs. First, even after the full implementation of Uruguay Round tariff concessions, tariff peaks (say, exceeding 12 per cent ad valorem) maintained by developed country members in such sectors as textiles and clothing and footwear continue to affect LDC exports, due to a high concentration of their manufactured exports in these sectors. In the case of agriculture, border measures such as quotas and variable levies have been converted to tariffs following the Uruguay Round Agreement on Agriculture. In most cases, such 'tariffication' process has resulted in the establishment of tariff rate quotas, involving very high rates (OECD 1999).

Second, the post-Uruguay Round bound tariff rates in major developing countries stay at high levels. OECD (1999) shows that the overall mean bound rate in the 13 non-OECD countries remain as high as 43 per cent, compared with 5 per cent in Quad-4 countries and 19 per cent in other OECD countries (Table 2). The level of applied rates maintained by developing member countries against LDC exports is also generally high in all major product groups other than fuels and minerals (WTO 2000a).

Third, the practice of tariff escalation – sharply rising tariffs from low or zero duties on raw materials to higher duties on intermediate products and in some cases to peak tariffs on finished products – remains prevalent in such sectors as metals, textiles and clothing, and leather rubber and wood products. And its impact varies considerably by both product and market (OECD 1997).

TABLE 2
POST-URUGUAY ROUND SIMPLE BOUND MEAN TARIFF RATES
(in per cent)

	All lines	Agriculture	Industry
Quad-4 OECD Countries[a]	5	10	4
Other OECD Countries[b]	19	40	18
13 non-OECD Countries[c]	43	63	39

a. Canada, EU-15, Japan and United States.

b. Australia, Czech Rep., Hungary, Iceland, Korea, Mexico, New Zealand, Norway, Poland, Switzerland and Turkey.

c. Argentina, Bangladesh, Brazil, Colombia, India, Indonesia, Malaysia, Romania, Sri Lanka, Thailand, the Philippines, Tunisia, and Venezuela.

Source: *D*essus *et al.* (1999) Table 1.

Fourth, the benefit of trade preferences for LDCs under the GSPs and other non-reciprocal schemes has declined significantly as a result of continuing trade liberalization on a MFN basis. For instance, Amjadi *et al*. (1996) show that pre-Uruguay Round MFN tariff rates in three major OECD markets (the European Union, Japan and the United States) on the imports of non-oil products from sub-Saharan African countries averaged 4.56 per cent and the margin of preferences was estimated at 4.25 percentage points. As a result of the Uruguay Round, these figures fell to 2.68 and 2.47, respectively. Therefore, the Uruguay Round resulted in a reduction of preference margins by 1.78 percentage points, some 40 per cent decline from the pre-Uruguay Round situation. Since multilateral tariff liberalization in industrial and agricultural products is most likely to continue in the next trade round, the margin of preferences will be further squeezed.

Table 3 presents a summary of GSP operations during the period of 1976-96 with regard to Quad-4 countries. It shows that the GSP schemes cover roughly half of dutiable imports into these markets and that the average utilization ratio of GSP remained at a low range of 50-55 per cent in the 1990s. It also highlights that the GSP imports from LDC beneficiaries accounted for less than 2 per cent of total GSP imports from all

TABLE 3
IMPORTS OF QUAD-4 OECD COUNTRIES FROM BENEFICIARIES OF THEIR GSP SCHEMES 1976-1996
(Million dollars and percentages)

	Total imports [1]	MFN dutiable imports [2]	GSP imports (covered) [3]	GSP imports (received) [4]	Coverage ratio (%) [3]/[2] [5]	Utilization ratio (%) [4]/[3] [6]
Quad-4 (a)						
1976	126,152	47,266	21,364	9,277	45	43
1981	206,440	100,105	50,593	33,519	51	66
1991	376,278	255,421	120,528	58,637	47	49
1996	584,654	350,605	178,254	99,821	51	56
Memo item						
Imports from LDCs only:						
1996	9,956	7,451	2,985	1,518	40	51
(% Share of total)	1.7	2.1	1.7	1.5	n.a.	n.a.

Note: (a) Quad-4 OECD Countries: Canada, the European Union, Japan and the United States.

n.a. – not applicable.

Sources: Compiled from OECD 1997 (Table 6) and UNCTAD 1998 (Statistical Annex, Tables 1 and 2).

beneficiaries in 1996. It has been well documented that the operation of these preferential schemes suffers from a number of deficiencies:[10]

– The benefits of privileged market access have been concentrated in only a few countries and a few products;

[10] See for example, OECD 1997, Onguglo 1999, UNCTAD 1998 and Wang and Winters 1998.

– These schemes suffer from many complex procedural requirements with respect to the rules of origin, quotas and ceilings; and

– There are mismatches between the exports of beneficiaries and the coverage of preferences, due to the exclusion of many sensitive products.[11]

Some efforts have been made to improve the current schemes of non-reciprocal preferences. For instance, recent revisions in the GSP schemes in the Quad-4 countries include duty-free access for a large number of industrial products and tariff reductions on agricultural products.[12] Thus, the non-reciprocal preference schemes may still play a role for some time in promoting exports from LDCs in those sectors in which import protection in developed-country markets remains high even after the implementation of Uruguay Round tariff concessions. These include, in particular, a number of politically sensitive sectors, such as certain agricultural products, processed food and textiles and clothing. However, the perceived benefits from trade preferences must be weighted against the potential costs arising from uncertainties in market access conditions inherent to the non-reciprocal nature of such schemes and disincentives for seeking MFN-based trade liberalization in the longer term.

In addition, the granting of non-reciprocal trade preferences to developing countries other than the LDCs has become less attractive as a policy option for the preference-giving countries. Because the tightening of the WTO rules and procedures on waivers provides a strong incentive for developed member countries to take a dual-track approach to their trade relations with developing countries, with trade preferences being reserved only for the LDCs in the long run.[13] The recent experience of the European Union negotiating a successor agreement to the Lomé IV Convention vis-à-vis the ACP States is testimony to this point.

---

[11] One might add to this list the problem of non-economic conditionalities attached to these schemes.

[12] Moreover, a number of developing countries, such as Egypt, Malaysia, and Thailand, announced in October 1997 offers on non-reciprocal trade preferences to LDCs in the context of the Global System of Trade Preferences among Developing Countries (GSTP) – South-South preferences (Onguglo 1999).

[13] The new rules and procedures on waivers are specified by the Understanding in Respect of Waivers of Obligation under GATT 1994 and Article IX: 2 and 4 of the Agreement Establishing the WTO.

More recently, the Quad-4 and several other member countries of the WTO have tabled a joint proposal for granting duty- and quota-free access to 'essentially all' goods from the LDCs as part of the preparatory steps to the next trade round (see Financial Times, 4 May 2000). If this proposal is to cover genuinely all sensitive products without any restrictions or conditions, then it will make existing non-reciprocal trade preferences redundant for the LDCs.

4.2 Trade capacity building

In order to reap the full benefits of further trade liberalization on a global scale, LDCs are increasingly aware of the importance of trade capacity building in their own economies. While the concept of trade capacity building is a very complex one, this can be thought of as comprising three dimensions:

– Capacity to negotiate with their trading and investment partners;

– Capacity to implement trade and investment rules; and

– Capacity to compete in the international market.[14]

On the first point, Blackhurst *et al*. (1999) point to generally poor capacity of African members dealing with WTO issues in Geneva. But, they argue that net increases in government expenditures to build up their delegations are not a prerequisite for increasing their participation in the WTO. What is more important is to have proper knowledge about what is at stake in WTO negotiations and give a priority to trade rather than political diplomacy in budget allocation. On the second point, Finger and Schuler (1999) highlight the high costs of implementing the reform programmes necessary to make domestic regulations in conformity with WTO rules. While the actual costs of implementing certain WTO Agreements, such as Customs Valuation, SPS and TRIPS, may differ considerably across countries, the bottom line of their arguments is that it will cost LDCs dear – in some cases a full year's development budget.

From the analytical point of view, the third dimension of trade capacity building is probably most problematic. In the context of sub-Saharan Africa's dismal economic performance over the past decade (Table 4), there is a growing body of literature on why Africa has failed to export and grow

[14] A similar idea has been developed and analysed by Ohiorhenuan 1998.

TABLE 4
GROWTH AND EXPORT PERFORMANCE IN DEVELOPING REGIONS

	1989 – 1998	
	Real GDP growth per capita	Export volume growth[(a)] per capita
Sub-Saharan Africa	-0.3	1.5
East Asia and Pacific	6.1	10.6
South Asia	3.5	7.9
Latin America and the Caribbean	1.1	6.2
Middle East and North Africa	0.6	2.1

(a) Goods and non-factor services (export volume growth minus population growth).

Source: The World Bank, *Global Economic Prospects and the Developing Countries 2000* (Appendix 1)

as much as Asia or Latin America, despite more than a decade of macroeconomic and structural reforms.[15] It should be noted, however, that such aggregate picture masks wide divergences among countries in sub-Saharan Africa in terms of population size, relative factor endowment, per capita income, trade openness and growth performance. As seen in Annex Table 2, some have been doing far better than other countries in the 1990s.[16]

One of the main concerns for policy makers in this region has been a heavy dependence on exports of a few commodities (mostly, agricultural and mineral products) and services as the principal earner of hard currencies (Annex Table 3). In a recent study of growth performance in six African

[15] See among others Amjadi *et al*. 1996, Berthélemy and Söderling 2000, Bloom and Sachs 1998, Gugerty and Stern 1996, Oyejide 1998, OECD 1997, UNCTAD 1999, Rodrik 1998, Wang and Winters 1998, and Wood and Mayer 1998.

[16] It is beyond the scope of this paper to make a comparative analysis of trade and growth performance in sub-Saharan Africa. See, for example, Berthélemy and Söderling 2000 and Rodrik 1998 for further discussion.

countries,[17] Berthélemy and Söderling (2000) argue that the promotion of a greater degree of diversification is necessary to sustain long-term growth. This is because diversification can increase productivity by constantly introducing new, higher quality goods in an economy on the one hand and by spreading investment risks over a wider portfolio on the other. In Africa there are cases in which diversification based on dirigiste economic policies led to stagnation rather than growth (e.g. Algeria, Côte d'Ivoire and Senegal). On the other hand, one of the best-known counter-examples is Mauritius, which has achieved a significant degree of diversification so as to withstand terms of trade shocks, encourage foreign investment, increase employment and accelerate the pace of growth. Another interesting example is Botswana, which has demonstrated that with a right set of policies the development of non-traditional exports can be compatible with the exploitation of a rich endowment in natural resources. There is thus a need for clarification regarding what is exactly meant by export diversification as a development strategy, since broadening the range of exportable goods and services would appear to contradict the notion of trade specialization based on comparative advantage (Mayer 1996). The question of diversification thus remains open to many resource-rich, skill-poor African countries.

In this conjunction it is important to stress that direct state intervention to promote exports has been increasingly restricted by the WTO Agreements. For instance, the use of subsidies for export promotion of industrial products has been brought under multilateral disciplines and surveillance under the Agreement on Subsidies and Countervailing Measures. While it is recognized that subsidies may play an important role in the economic development programmes of developing country members (Article 27.1), the WTO rules on export subsidies for industrial products leave little room for manoeuvre for many developing-country members. Only the LDCs and certain developing countries whose per capita income is below US$ 1,000 – the so-called Annex VII countries – are exempted from the obligation to phase out export subsidies in 8 years from 1995 (Article 27.2(a)). Given the small size of their exports in world trade, this exemption can be understood to be an attractive option for getting these countries on board in trade negotiations. Yet, the use of subsidies for export diversification is a costly instrument that poor countries can hardly afford. Besides, the case for export subsidies is empirically dubious (Panagariya 2000). S&D treatment

[17] These six countries are Burkina Faso, Côte d'Ivoire, Ghana, Mali, Tanzania and Uganda.

of this sort provides little incentive for LDCs' policy makers to reform their own subsidy programmes and might help to lock them in the status quo. With respect to measures for export promotion and diversification, focus should be shifted away from sector-specific policies towards more generic policies, such as infrastructure development, human capital formation and customs and other administrative reforms (including concessional tax and duty provisions and export processing zones) aimed at trade facilitation and promotion.

4.3 Technical assistance

Technical assistance has come to play an important role as an instrument for meeting the special needs of the LDCs.[18] The first major effort to this end was undertaken in 1996 when the first WTO Ministerial Conference was held in Singapore. On this occasion, WTO Ministers adopted an Integrated Plan of Action for the Least-Developed Countries with the aim of improving the overall capacity of these economies to respond to the challenges and opportunities offered by the multilateral trading system. Pursuant to the Plan of Action, it was agreed by the WTO and 5 other international agencies (IMF, ITC, UNCTAD, UNDP and the World Bank) to establish an Integrated Framework for providing trade-related technical assistance to LDCs, including human and institutional capacity-building. The inventory of existing trade-related projects suggests a wide rage of activities such as efforts to overcome supply constraints, trade promotion and trade support services, improving product quality standards and technical assistance towards the compliance with WTO Agreements.[19]

The Integrated Framework has been applied on a case-by-case basis to meet the development needs identified by individual LDCs through round-table meetings with donors and international agencies. This approach was endorsed by the High-Level Meeting on Integrated Initiatives for Least-Developed Countries' Trade Development, organized by the WTO in October 1997 and extended beyond the six original organizations to involve 16 other multilateral and regional agencies and 22 bilateral donors.

At present, the mandated review of the Integrated Framework is being undertaken by the six core agencies. According to a recent review

---

[18] It should be noted, however, that since 1955 the GATT Secretariat (and its successor, the WTO) have been providing regular trade-policy courses to government officials from developing member countries.

[19] See the Internet site of the Integrated Framework: http://www.ldcs.org.

conducted by the WTO (2000d), concerns have been raised over the slow pace of implementation of the Integrated Framework. One of the main reasons behind this is the co-ordination problem (e.g., Who plays what role at which costs?) that stems from 'diverging perceptions regarding the role and objective of the Integrated Framework' (Ibid: 3). Donors tend to seek the synergies and realize the efficiency gains from avoidance of duplication and streamlined operations in technical co-operation, while LDCs' key concern is first and foremost about money: how to secure new financial resources needed to design and implement their multi-year programmes for trade-related technical assistance.

Another reason for concerns is simply the lack of operational funds necessary to carry forward individual activities already identified. Since S&D provisions on technical assistance are not binding commitments under the WTO Agreements, it does not appear that a sufficient amount of additional funds is forthcoming voluntarily. These considerations have led some commentators to argue that 'as other negotiated commitments are binding, technical assistance commitments should be binding too' (Wang and Winters 2000: 16). The five years' experience of implementing the WTO Agreements suggests that effective implementation and compliance require a fair amount of investment in capacity building and technical assistance. Thus, the question of binding technical assistance commitments must be addressed together with the question of funding arrangements for such programmes.

5. CONCLUSIONS

There is a fairly broad consensus that the past approach to S&D treatment based on the concept of non-reciprocity was disappointing, as it legitimized the 'free riding' on the part of developing countries and provided little incentive for them to participate more fully in the multilateral trading system. The 'single-undertaking' approach adopted at the Uruguay Round has rectified this problem to a certain extent but largely ignored the problem of domestic capacity constraints facing many developing countries in implementing the WTO Agreements. There is a serious risk that a large number of developing countries will be left out of the normal rules and procedures of the WTO.

The problem of capacity constraints is most conspicuous in LDCs, and their economies are most vulnerable to external shocks. The joint initiative taken in 1996 by WTO member countries at its first Ministerial Conference in Singapore and its follow ups have been considered as a major step forward to meeting the special needs of the LDCs. Four years later such international efforts have achieved very little, however.

Does S&D treatment help those who help themselves? The review and discussion of this paper suggests that there is a urgent need for positive actions in the areas of both market access and technical assistance in the context of the next trade round. Without such actions, S&D treatment would be hardly relevant for the trade development of LDCs. More specifically, the following three points are worth noting:

- Granting duty- and quota-free access to all products from LDCs remains a top priority for international policy action, as the benefit of non-reciprocal trade preferences is very limited for them.

- The implementation of the WTO Agreements needs to be re-assessed country by country, taking into account LDCs' development needs and the administrative and financial constraints.

- Binding technical assistance commitments is necessary to make S&D provisions more responsive to the specific needs of LDCs.

Recently it has been argued that S&D treatment should be extended beyond the UN-sanctioned classification of Least-Developed Countries to various groups of developing countries, such as small, island or land-locked developing countries. Given the ad hoc nature of some of the criteria for eligibility of S&D treatment, more discussions and negotiations would be required to identify what factors make a country a 'special case' for S&D treatment.[20]

Finally, despite design flaws and deficiencies involved in various S&D provisions under the WTO Agreements, there is little reason to believe that the move back to the past approach would be desirable for both developing and least-developed countries. The central message emerging from this paper is that future negotiations on S&D provisions must take the question of trade capacity building seriously and make them binding commitments.

---

[20] See Read (2000) for further discussion on this point.

ANNEX TABLE 1
S&D TREATMENT UNDER THE WTO AGREEMENT

Areas of the UR Agreements	S&D Provisions for Developing Country Members
Agriculture	
▪ Longer time-frame for implementation	▪ 10 years' implementation period (6 years for developed) [Article 15.2].
▪ Flexibility on:	
▪ Tariff reduction	▪ Lower levels of tariff reduction: average 24% and minimum 10% (36 and 15% for developed) [Article 15.1, and *Modalities for the Establishment of Specific Binding Commitments*, para.15].
▪ Domestic support	▪ Developing country members do not have the commitment to reduce certain domestic support measures that are an integral part of their development programmes [Article 6.2]. Lower levels of reduction in total Aggregate Measurement of Support (AMS): 13.3% (20% for developed); *de minimis* provision of 10% (5% for developed), and exemptions for investment and input subsides to agricultural and rural development [Article 6.4(b)].
▪ Export subsidy	▪ Lower levels of reduction: average 14% in terms of subsidised export volume and 24% in terms of budgetary outlets (21 and 36% for developed); and exemptions for government subsidies to reduce the costs of export marketing and internal transport and freight charges on export shipments [Article 9.4].
▪ Other provisions	▪ Developed country members shall take action as provided for within the framework of the *Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net-Food Importing Developing Countries* [Article 16.1]. Exemption from Article 12 provisions on export bans [Article 12.2], and S&D treatment in the continuation of the reform process [Article 20(c)]. S&D treatment concerning public stockholding for food security purposes and domestic food aid [Annex 2, para.3 and 4]. S&D treatment concerning a primary agricultural product that is the predominant staple in the traditional diet of developing countries [Annex 5, Section B].

▪ Special provisions for LDCs	▪ LDCs are not required to undertake reduction commitments in agricultural market access, domestic support or export subsidies [Article 15.2].
Sanitary and Phytosanitary Restrictions (SPS)	
▪ Longer time-frame for implementation	▪ Granting longer time-frames for compliance on products of interest to developing countries [Article 10.2]. Developing countries (other than LDCs) may delay for 2 years the application of most of the provisions where such application is prevented by a lack of technical expertise, technical infrastructure or resources [Article 14].
▪ Flexibility	▪ Granting specified, time-limited exceptions in whole or in part from the obligations under this Agreement [Article 10.3].
▪ Technical assistance	▪ Providing technical assistance to developing country members [Article 9.1]. Where substantial investments are required in order for an exporting developing country to fulfil the SPS requirements of an importing country, the latter shall consider providing such technical assistance as will permit the developing country to maintain and expand its market access opportunities [Article 9.2].
▪ Special provisions for LDCs	▪ LDCs may delay for a period of 5 years the application of all provisions of this Agreement with respect to measures affecting imports [Article 14].
Textiles and Clothing	
▪ Flexibility	▪ Permitting meaningful increases in access possibilities for small suppliers and the development of commercially significant trading opportunities for new entrants [Article 1.2].
▪ Special provisions for LDCs	▪ LDCs shall be accorded treatment significantly more favourable than that provided to the other groups of Members in the application of the transitional safeguard [Article 6.6(a)].

Technical Barriers to Trade (TBT)	
▪ Flexibility	▪ Developing countries should not be expected to use international standards as a basis for their technical regulations or standards, including test methods, which are not appropriate to their development, financial and trade needs [Article 12.4]. The Committee on TBT may grant, upon request, specified, time-limited exceptions in whole or in part from obligations under this Agreement [Article 12.8].
▪ Technical assistance	▪ Members to advise other Members, especially developing countries, on request, on the preparation of technical regulations [Article 11]. Members to provide technical assistance to developing countries to ensure that the preparation and application of technical regulations, standards and conformity assessment procedures do not create unnecessary obstacles to the expansion and diversification of exports from developing countries [Article12.7].
▪ Special provisions for LDCs	▪ The terms and conditions of the technical assistance will be determined in light of the stage of development of the requesting Members, particularly in the case of LDCs [Article 12.7]. Taking account of the special problems of LDCs in the preparation and application of technical regulations, standards and conformity assessment procedures [Article 12.8].
Trade-related Investment Measures (TRIMs)	
▪ Longer time-frame for implementation	▪ Developing countries (other than LDCs) have a 5-year transition period to eliminate all TRIMS that are not in conformity with the provisions of this Agreement (2 years for developed) [Article 5.2].
▪ Flexibility	▪ Permission is given to developing countries to deviate temporarily from requirement to eliminate TRIMS inconsistent with Article III (national treatment) or Article XI (general elimination of quantitative restrictions), in accordance with the GATT rules on the protection of infant industries (Article XVIII:C) and BOP safeguard measures (GATT Article XVIII:B and the 1979 Declaration on Trade Measures Taken for Balance-of-Payments Purposes) [Article 4]. On request, the transition period may also be extended

	for developing countries (including LDCs) that demonstrate particular difficulties in implementing the provisions of this Agreement [Article 5.3].
▪ Special provisions for LDCs	▪ LDCs have a 7-year transition period [Article 5.2].
Implementation of Article VI (Anti-Dumping)	▪ No specific provisions except for recognition of general interests in the situation of developing countries [Article 15].
Implementation of Article VII (Customs Valuation)	
▪ Longer time-frame for implementation	▪ Developing country members that were not party to the Tokyo Round Agreement on Implementation of GATT Article VII may delay application of the provisions of this Agreement for up to 5 years [Article 20.1].
▪ Flexibility	▪ Developing county members that were not party to the Tokyo Round Agreement on Implementation of GATT Article VII have the possibility of an extra 3 year extension of the application of articles relating to the computed value methodology (Article 1.2(b)(iii) and Article 6), following application of all other provisions [Article 20.2]. Developing country members may request an extension before the end of the 5 years' transition period [Annex III:1] and make an reservation with respect to the use of the computed value methodology [Annex III:2 to 5].
▪ Technical assistance	▪ Developed members shall furnish, on mutually agreed terms, technical assistance to developing country members that so request [Article 20.3].
Preshipment Inspection (PSI)	
▪ Technical assistance	▪ Upon request, exporter members shall provide technical assistance to user members (i.e., developing countries) on mutually agreed terms and on a bilateral, plurilateral or multilateral basis.
Import Licensing Procedures	
▪ Longer time-frame for implementation	▪ Developing country members that were not party to the Tokyo Round Agreement on Import Licensing Procedures may delay for up to 2 years, following notification, the

	application of automatic import licensing with respect to Article 2.2 (a) (ii) and (iii) [Article 2.2, footnote 5].
▪ Flexibility	▪ Developing country members would not be expected to take additional administrative or financial burdens in order to provide import statistics with respect to the products subject to non-automatic import licensing [Article 3.5 (a) (iv)].
▪ Special provisions for LDCs	▪ In allocating licenses, special consideration should be given to those importers importing products originating in developing countries, and in particular, LDCs [Article 3.5 (j)].
Subsidies and Countervailing Measures	
▪ Longer time-frame for implementation	▪ Non-Annex VII developing countries (see below) have a transition period of 8 years to phase out export subsidies, preferably in a progressive manner [Article 27.2(b) and 27.4]. Developing countries (other than LDCs) have a transition period of 5 years to phase out 'local content' subsidies [Article 27.3]. During these transition periods, the relevant provisions for dispute resolution are those relating to actionable subsidies (Article 7) and not those relating to prohibited subsidies (Article 4) [Article 27.7]. The transition period for export subsidies may be extended year by year if necessary and agreed to by the Committee, but if an extension is not granted, then export subsidies must be phased out within 2 years [Article 27.4]. Developing country members (other than the Annex VII countries) which has attained export competitiveness for particular products have 2 years to phase out export subsidies on such products, while the Annex VII countries have 8 years [Article 27.5]. 'Export competitiveness' in a product is defined as attaining a share of at least 3.25% of world trade in that product (HS Section) for two consecutive calendar years [Article 27.6].
▪ Flexibility on:	
▪ Prohibited subsidies	▪ Developing countries listed in Annex VII of this Agreement (i.e., LDCs and certain other developing countries with per capita income below US$ 1000) are exempted from prohibition on export subsidies [Article 27.2(a)].
▪ Actionable subsidies	▪ The burden of proof on serious prejudice caused by actionable subsidies (Article 6.1) is shifted to the complaining member if such a complaint is brought against a developing

	country [Article 27.8]. Subsidies are actionable only if they nullify or impair another member's benefits under the GATT 1994 or if they cause injury to an industry in the complaint's market [Article 27.9]. Countervailing duty investigation shall be terminated if the volume of subsidised imports from individual developing countries represent less than 4% of the total imports in the importer's market, unless collectively the total share of all these developing country members accounts for more than 9% [Article 27.10(b)]. The *de minimis* level of subsidization requiring the termination of countervailing duty investigation is 2% of the per unit value of the product (1% for developed countries) or 3% if export subsidies are eliminated before the expiry of the period of 8 years [Article 27.10(a) and 11]. Certain subsidies granted in the context of privatization programmes are not actionable [Article 27.13].
▪ Special provisions for LDCs (other than noted above)	▪ Prohibition of 'local content' subsidies does not apply to LDCs for a period of 8 years [Article 27.3].
Safeguards	
▪ Flexibility	▪ Safeguard measures shall not be applied against products originating in developing country members if their individual share does not exceed 3% and if developing country members with less than 3% share collectively account for no more than 9% of total imports [Article 9.1]. Safeguard measures taken by developing country members may be extended for up to 10 years, i.e., 4 year initial period plus 6 year extension (8 years, i.e., 4+4 years for developed countries) [Article 9.2]. Safeguard measures of more than 180 days in duration may be re-imposed after the lapse of a period equal to half the time that they were in place, subject to a minimum non-application period of 2 years (the lapse of a full period is required for developed countries) [Article 9.2].
Trade in Services (GATS)	
▪ Longer time-frame for implementation	▪ Appropriate flexibility with respect to the time limit for establishing enquiry points may be agreed upon for individual developing countries (2 years for developed country members) [Article III.4].
▪ Flexibility	▪ Where developing countries are parties to an economic integration agreement that

	liberalizes trade in services among the parties to such an agreement, flexibility in application of Article V:1 requirements is allowed in accordance with the level of development of the countries concerned, both overall and in individual sectors and subsectors [Article V:3(a)]. Provision for flexibility in use of subsidies in relation to the development programmes of developing countries [Article XV:1]. Appropriate flexibility for individual developing country members for opening fewer sectors, liberalising fewer types of transactions, progressively extending market access in line with their development situation. When providing market access to foreign service suppliers, appropriate flexibility is also given for developing countries to attach conditions aimed at achieving their increasing participation in world trade [Article XIX:2]. A developing country member may place reasonable conditions on access to and use of public telecoms networks and services necessary to strengthen its domestic telecoms infrastructure and service capacity and to increase its participation in international trade in telecoms services [Annex on Telecommunications, para.5(g)].
▪ Technical assistance	▪ Technical assistance to developing countries is to be provided at the multilateral level by the WTO Secretariat [Article XXV:2]. Provision for encouraging the fullest participation of developed and developing counties and their suppliers in the development programmes of international and regional organizations [Annex on Telecommunications, para.6(a)]. Provision for encouraging telecoms co-operation among developing countries at the international, regional and sub-regional levels [Annex on Telecommunications, para.6(b)]. Members shall make available, where practicable, to developing countries information on telecoms services and developments in telecoms and information technology to assist in strengthening their domestic telecoms services sector [Annex on Telecommunications, para.6(c)].
▪ Special provisions for LDCs	▪ Special priority to be given to LDCs in implementation of Article IV:1 and 2 (Increasing Participation of Developing Countries). Particular account to be taken of LDCs' difficulties in accepting negotiated specific commitments [Article IV:3]. Special consideration will be given to opportunities for LDCs to encourage foreign suppliers to assist in the transfer of technology, training and other activities for developing their telecom infrastructure and expanding trade in telecoms services [Annex on Telecommunications, para.6(d)].

Trade-related Aspects of Intellectual Property Rights (TRIPS)	
▪ Longer time-frame for implementation	▪ Developing country members have a transition period of 5 years (1 year for developed countries) with respect to the provisions of this Agreement other than Articles 3 (national treatment), 4 (MFN treatment) and 5 (multilateral agreements concluded under the auspices of WIPO) [Article 65.1 and 2].
▪ Flexibility	▪ A further delay of 5 years is allowed for a developing country member that do not yet extend product patent protection to areas of technology not so protectable in its territory [Article 65.4].
▪ Technical assistance	▪ Developed country members shall provide, on request and on mutually agreed terms and conditions, technical and financial co-operation in favour of developing countries and LDCs [Article 67].
▪ Special provisions for LDCs	▪ LDC members are not required to apply the provisions of this Agreement, other than Articles 3, 4 and 5, for a period of 11 years, and upon duly motivated request, further extensions may be accorded by the Council for TRIPS [Article 66.1]. Developed country members shall provide incentives to enterprises and institutions in their territories to help promote technology transfer to LDCs [Article 66.2].
Understanding on Rules and Procedures Governing the Settlement of Disputes	
▪ Flexibility	▪ If a developing country member has a complaint against a developed country member, it has the right to invoke, as an alternative, the corresponding provisions of the 1966 Decision, which implies that this entitles developing countries to the good offices of the Director-General and a shorter panel procedure [Article 3.12]. During consultations, special attention should be given to the particular problems and interests of developing country members [Article 4.10]. When a dispute is between a developing country member and a developed country member, the developing country member may request

	to include at least one panelist from a developing country member [Article 8.10]. In the context of consultations involving a measure taken by a developing country member the parties may agree to extend the length of time-limit for resolution, and the panel shall accord sufficient time for the developing country member to prepare and present its argumentation [Article 12.10].
▪ Technical assistance	▪ The WTO Secretariat shall make available a qualified legal expert from the WTO technical co-operation services to any developing country member.
▪ Special provisions for LDCs	▪ Particular consideration shall be given to the special situation of LDCs at all stages of the determination of the causes of a dispute and of dispute settlement procedures [Article 24.1]. If consultations involving a LDC fail to find a satisfactory solution, the LDC may ask the Director-General or the Chairman of the DSB to offer their good offices before a formal request for a panel is made [Article 24.2].
Trade Policy Review Mechanism (TPRM)	
▪ Flexibility	▪ Most developing countries will be reviewed only once every 6 years, except that a longer period may be fixed for LDCs (once every 2 years for the first 4 trading entities (counting the EC as one), and once every 4 years for the next 16) [Section C(ii)].
▪ Technical assistance	▪ The WTO Secretariat shall make available technical assistance on request to developing countries, and in particular to LDCs [Section D].
Marrakesh Agreement Establishing the World Trade Organization	
▪ Special provisions for LDCs	▪ The Committee on Trade and Development to review periodically the special provisions in favour of LDCs and report to the General Council for appropriate action [Article IV.7]. For LDCs (as recognized by the UN) to become original members, they are only required to undertake commitments and concessions to the extent consistent with their individual development, financial and trade needs or their administrative and institutional capacities [Article XI.2].

Understanding on the Balance-of – Payments Provisions of GATT 1994	
▪ Flexibility	▪ As agreed in 1972, simplified consultation procedures may be used by LDCs and by other developing country members that are pursuing liberalization efforts in conformity with the schedules presented to the BOP Committee in previous consultations. Simplified consultation procedures may also be used for developing country members that are scheduled for a trade policy review in the same year. However, the use of more than two successive consultations under simplified procedures is not allowed except in the case of LDCs [Para.8].
▪ Technical assistance	▪ Technical assistance is made available at the request of any developing country member [Para.12].
Decision on Measures in Favour of Least-Developed Countries	▪ The 1994 Ministerial Decision recognizes the specific needs of the LDCs in the area of market access. It is decided that they will only be required to undertake individual commitments and concessions to the extent consistent with their individual development, financial and trade needs or their administrative and institutional capacities their obligations. It is agreed that LDCs shall be accorded substantially increased technical assistance in the development, strengthening and diversification of their production and export bases, including those of services, as well as in trade promotion, to enable them to maximize the benefits from liberalized access to markets. The specific needs of LDCs will be kept under review, and efforts will be made to adopt positive measures which facilitate the expansion of trading opportunities in favour of these countries.

Sources: Compiled by the author based on GATT (1994), *Final Act Embodying the Results of the Uruguay Round of Multilateral Trade Negotiations*, Marrakesh 15 April 1994; WTO (1999a), 'Developing Countries and the Multilateral Trading System: Past and Present', background document prepared for WTO High-Level Symposium on Trade and Development, Geneva, 17-18 March 1999 (Annex II); and WTO (1999b), *Guide to the Uruguay Round Agreements*, Kluwer Law International; the Hague (Part V).

ANNEX TABLE 2

NATIONAL CHARACTERISTICS OF DEVELOPING COUNTRIES IN SUB-SAHARAN AFRICA

Country Name	1 Population 1997 (Million)	2 Population density 1997 (per Sq km)	3 GNP per capita 1997 (US $)	4 Exports per capita 1997 (US $)	5 Trade openness 1997 (%)	6 Growth rates of GDP p.c. 1990-97 (%)
* Angola	11.7	8	376	453	65	-3.5
* Benin	5.8	51	364	91	29	1.7
Botswana	1.5	3	3,191	*1,553*	*42*	2.4
* Burkina Faso	10.5	38	228	32	22	1.6
* Burundi	6.4	247	147	15	12	-5.0
Cameroon	13.9	29	610	175	25	-2.7
* *Cape Verde*	0.4	100	1,045	334	49	1.2
* Central African Republic	3.4	5	294	62	22	-1.1
* Chad	7.2	6	220	38	27	2.5
* *Comoros*	0.5	259	374	84	36	-3.1
* Congo, Dem. Rep.	46.7	137	114	31	23	-9.1
Congo, Rep.	2.7	1	673	665	69	-1.9
Côte d'Ivoire	14.2	44	664	347	42	0.1
* Djibouti	0.6	29	781	365	52	n.a.
* *Equatorial Guinea*	0.4	15	1,165	1,025	116	15.0
* *Eritrea*	3.8	32	220	53	60	n.a.
* *Ethiopia*	59.8	54	106	17	21	1.2
Gabon	1.2	4	3,885	2,859	53	0.7
* Gambia	1.2	107	338	194	63	-1.0
Ghana	18.0	75	376	92	31	1.5
* Guinea	6.9	28	534	107	20	2.0
* Guinea-Bissau	1.1	32	221	49	31	1.4
Kenya	28.6	49	350	105	33	-0.8
* Lesotho	2.0	67	631	153	80	4.8
* *Liberia*	2.9	26	n.a.	n.a.	n.a.	n.a.

* Madagascar	14.1	24	243	55	26	-2.2
* Malawi	10.3	86	241	60	35	1.3
* Mali	10.3	8	240	63	30	0.6
* Mauritania	2.5	2	425	188	39	1.2
Mauritius	1.1	574	3,800	2,215	60	3.8
* Mozambique	16.6	21	155	30	27	2.7
Namibia	1.6	2	2,055	1,064	55	1.4
* Niger	9.8	8	187	31	20	-1.9
Nigeria	117.9	128	319	136	38	0.2
* Rwanda	7.9	304	234	19	17	-4.7
* *Sao Tome and Principe*	0.1	138	280	79	59	-1.2
Senegal	8.8	45	504	168	35	-0.1
Seychelles	0.1	259	6,818	4,591	72	1.8
* Sierra Leone	4.7	66	171	19	14	-8.3
* *Somalia*	8.8	14	n.a.	n.a.	n.a.	n.a.
South Africa	40.6	33	3,098	873	27	-0.8
* *Sudan*	27.7	11	323	22	11	5.0
Swaziland	1.0	56	1,510	1,120	94	-0.2
* Tanzania	31.3	33	236	38	23	-0.3
* Togo	4.3	76	333	145	46	-1.2
* Uganda	20.3	86	323	41	19	3.8
* Zambia	9.4	13	388	135	36	-1.5
Zimbabwe	11.5	29	740	266	39	-0.4

Notes:

All figures in columns 1 to 5 are for 1997, except for those in *italics* which stand for 1996. * Least-developed countries defined by UN. The country name expressed in italics is not a member of the WTO (as of April 2000). Exports per capita – Total exports of goods and services (BOP basis) divided by population. Trade Openness – 2*(Exports + Imports)/GDP Growth rates of GDP p.c. – Average annual percentage change in real GDP per capita between 1990 and 1997.

Sources: World Bank, World Development Indicators 1999 (CD-ROM), except for column 2 which is computed from African Development Bank, African Development Report 1999 (Table 1.1 on Area).

ANNEX TABLE 3
EXPORT PROFILES OF LEAST-DEVELOPED COUNTRIES IN SUB-SAHARAN AFRICA

Country Name	1995-97 Average: 1st Export Product (% of merchandise exports)	2nd Export Product	1st Export Service (% of service exports)	Export Ratio of Goods to Services
Type 1: Predominantly merchandise exporters (Exports of goods are larger than exports of services)				
Type 1A: Highly dependent on agricultural exports				
Sao Tome and Principe	Cocoa (96.4)	Copra (..)	Travel (56.7)	2.0
Guinea-Bissau	Cashew nuts (85.8)	Wood (6.3)	–	–
Burundi	Coffee (80.7)	Tea (7.8)	Transport (18.4)	9.7
Rwanda	Coffee (74.4)	Tea (10.0)	Travel (16.8)	1.6
Uganda	Coffee (69.0)	Cotton (2.2)	Travel (82.0)	3.5
Ethiopia	Coffee (63.5)	Hides (13.2)	Air transport (45.5)	1.4
Malawi	Tobacco (63.2)	Tea (6.7)	Transport (58.6)	16.5
Chad	Cotton (59.4)	Live cattle (10.9)	Travel (21.9)	2.5
Mauritania	Fish (56.3)	Iron ore (41.8)	Travel (40.1)	17.0
Mali	Cotton fibre (55.5)	Live animals (19.8)	Travel (32.2)	6.9
Benin	Cotton (49.6)	Petroleum (2.9)	Transport (56.8)	2.9
Burkina Faso	Cotton (42.2)	Live animals (18.9)	Travel (32.7)	3.9
Somalia	Live animals (40.0)	Bananas (6.9)	–	–
Togo	Cotton (29.8)	Phosphates (23.8)	Business services (32.5)	3.0
Sudan	Cotton (18.7)	Ovine (14.0)	Construction (66.3)	18.6
Madagascar	Coffee (18.0)	Vanilla (16.7)	Business services (33.4)	1.7
Tanzania	Coffee (17.7)	Cotton (16.3)	Travel (70.0)	1.5

Type 1B: Highly dependent on mineral exports				
Angola	Petroleum (74.6)	Diamonds (2.5)	Business services (39.0)	19.0
Guinea	Bauxite & alumina (59.9)	–	Transport (42.7)	5.7
Liberia	Iron ore (55.1)	Rubber (28.0)	–	7.1
Zambia	Copper (52.0)	Cobalt (11.3)	–	14.1
Niger	Uranium (51.9)	Livestock (…)	Travel (21.0)	8.7
Central African Republic	Diamonds (49.7)	Coffee (15.7)	Transport (18.1)	4.4
Equatorial Guinea	Petroleum (44.6)	Wood products (41.6)	–	35.0
Congo, Dem. Rep.	Diamonds (17.2)	Petroleum (11.4)	–	–
Type 1C: Highly dependent on manufactured exports				
Lesotho	Clothing (54.8)	–	Travel (45.9)	3.8
Type 2: Predominantly service exporters (Exports of goods are smaller than exports of services)				
Gambia	Groundnuts (54.1)	–	Travel (68.8)	0.2
Sierra Leone	Diamonds (50.6)	Titanium (5.7)	Travel (65.9)	0.5
Mozambique	Shrimps (43.3)	Cotton (11.7)	Business services (76.7)	0.9
Comoros	Vanilla (42.5)	Ylang-ylang (26.5)	Travel (61.8)	0.3
Cape Verde	Fish products (62.6)	Bananas (11.7)	Air transport (38.5)	0.5

Notes:

The country name expressed in *italics* is not a member of the WTO (as of April 2000).
Djibouti and Eritrea are not included here due to the lack of data.

Source: Compiled from UNCTAD (1999, Table 18).

REFERENCES

Amjadi, A., U. Reincke and A. J. Yeats (1996) Did External Barriers Cause the Marginalisation of Sub-Saharan Africa in World Trade?, World Bank Discussion Paper No. 348, Washington, DC.

Amsden, Alice H. (2000) 'Industrialisation under New WTO Law', Paper prepared for High-Level Round Table on Trade and Development: Directions for the Twenty-first Century, UNCTAD X, Bangkok, 12 February.

Baldwin, Robert E. (1969) 'The Case Against Infant-Industry Tariff Protection', Journal of Political Economy, Vol. 77, No. 3, pp. 295-305.

Berthélemy, J-C. and L. Söderling (2000) 'Emerging Africa: Is It Possible?', Paper presented at the 1st International Forum on African Perspectives, jointly organized by African Development Bank and the OECD Development Centre, Paris, 3-4 February.

Blackhurst, Richard, Bill Lyakurwa and Ademola Oyejide (1999) 'Improving African Participation in the WTO', Paper commissioned by the Work Bank for a Conference at the WTO on 20-21 September.

Bloom, David and Jeffrey D. Sachs (1998) 'Geography, Demography, and Economic Growth in Africa', Brookings Papers on Economic Activity No. 2, pp. 207-295.

Bora, Bijit, Peter J. Lloyd and Mari Pangestu (2000) 'Industrial Policy and the WTO', The World Economy, Vol. 23, April, 543-59.

Dessus, Sébastien, Kiichiro Fukasaku and Raed Safadi (1999) 'Multilateral Tariff Liberalisation and the Developing Countries', Policy Brief No. 18, OECD Development Centre, Paris.

Finger, J. Michael and Philip Schuler (1999) 'Implementation of Uruguay Round Commitments: the Development Challenge', Policy Research Working Paper No. 2215, the World Bank, Washington, DC.

GATT (1985) 'Trade Policies for a Better Future' (the Leutwiler Report), March, Geneva.

Gugerty, Mary K. and Joseph Stern (1996) 'Structural Barriers to Trade in Africa', HIID Development Discussion Paper, No. 561.

Kessie, Edwini (2000) 'Enforceability of the Legal Provisions Relating to Special and Differential Treatment under the WTO Agreements', Paper prepared for WTO seminar on Special and Differential Treatment for Developing Countries, 7 March, Geneva.

Krueger, Anne O. (1997) 'Trade Policy and Economic Development: How We Learn', American Economic Review, Vol. 87 (1), March, pp. 1-22.

Langhammer, R. J. (1999) 'The WTO and the Millennium Round: Between Standstill and Leapfrog', Kiel Discussion Paper No. 352, Kiel Institute for World Economy.

Mayer, Jörg (1996) 'Learning Sequences and Structural Diversification in Developing Countries', The Journal of Development Studies, Vol. 33, December, pp. 210-229.

Michalopoulos, Constantine (1999) 'Developing Country Goals and Strategies for the Millennium Round', Policy Research Working Paper No. 2147, the World Bank, Washington, DC.

Michalopoulos, Constantine (2000) 'Trade and Development in the GATT and WTO: the Role of Special and Differential Treatment for Developing Countries', Paper prepared for WTO seminar on Special and Differential Treatment for Developing Countries, 7 March, Geneva.

OECD (1997) 'Market Access for the Least Developed Countries: Where are the Obstacles?', OCDE/GD(97)174, Paris.

OECD (1999) Post-Uruguay Round Tariff Regimes: Achievements and Outlook, Paris.

Ohiorhenuan, J. F. E. (1998) 'Capacity Building Implications of Enhanced African Participation in Global Trading Rules-Making and Arrangements', Paper prepared for the AERC Collaborative Research Project on Africa and the World Trading System, Nairobi.

Onguglo, Bonapas F. (1999) 'Developing Countries and Unilateral Trade Preferences in the New International Trading System', in M. R. Mendonza, P. Low and B. Kotchwar (eds), Trade Rules in the Making: Challenges in Regional and Multilateral Negotiations, Brookings Institution and Organisation of American States, Washington, DC.

Oyejide, T. Ademola (1998) 'Costs and Benefits of 'Special and Differential' Treatment for Developing Countries in GATT/WTO: An African Perspective', AERC Collaborative Research Project on Africa and the World Trading System, revised draft, February.

Panagariya, Arvind (2000) 'Evaluating the Case for Export Subsidies', Policy Research Working Paper No. 2276, the World Bank, Washington, DC.

Read, Robert (2000) 'The Case for Special & Differential Treatment of Small Island Developing Countries (SIDS) under the WTO' (mimeo).

Rodrik, Dani (1998) 'Trade Policy and Economic Performance in Sub-Saharan Africa', NBER Working Paper No. 6562, May.

Srinivasan, T. N. (1999) 'Developing Countries in the World Trading System: From GATT 1947 to the Third Ministerial Meeting of WTO 1999', The World Economy, Vol. 22, No. 8, pp. 1047-1064.

UNCTAD (1998) 'Ways and Means of Enhancing the Utilisation of Trade Preferences by Developing Countries, in particular LDCs, as well as Further Ways of Expanding Preferences', TD/B/COM.1/20 and TD/B/COM.1/20/Add.1, Geneva.

UNCTAD (1999) The Least Developed Countries: 1999 Report, United Nations, New York.

Wang Zhen K. and L. Allan Winters (1998) 'Africa's Role in Multilateral Trade Negotiations: Past and Future', Journal of African Economies, Vol. 7 (Supplement 1), pp. 37-69.

Wang Zhen K. and L. Allan Winters (2000) 'Putting 'Humpty' Together Again: Including Developing Countries in a Consensus for the WTO', CEPR Policy Paper No. 4, London.

Whalley, J. (1999) 'Special and Differential Treatment in the Millennium Round', The World Economy, Vol. 22, No. 8, pp. 1065-1093.

Winters, L. Alan (2000) 'Trade Policy as Development Policy: Building on Fifty Year's Experience', Paper prepared for High-Level Round Table on Trade and Development: Directions for the Twenty-first Century, UNCTAD X, Bangkok, 12 February.

Wood, Adrian and Jörg Mayer (1998) 'Africa's Export Structure in a Comparative Perspective', Study No. 4: African Development in a Comparative Perspective, UNCTAD, Geneva.

WTO (1999a) 'Developing Countries and the Multilateral Trading System: Past and Present', background document prepared for High-Level Symposium on Trade and Development, Geneva, 17-18 March.

WTO (1999b) Guide to the Uruguay Round Agreements, Kluwer Law International, The Hague.

WTO (2000a) 'Market Access for Least-Developed Countries WTO Members', WT/COMTD/LDC/W/17, 25 January, Geneva.

WTO (2000b) 'Implementation of WTO Agreements: Possible Assistance to Least-Developed Countries', WT/COMTD/LDC/W/19, 26 January, Geneva.

WTO (2000c) 'Concerns Regarding Special and Differential Treatment Provisions in WTO Agreements and Decisions', WT/COMTD/W/66, 16 February, Geneva.

WTO (2000d) 'Integrated Framework for Trade-Related Assistance to Least-Developed Countries', WT/COMTD/LDC/7, 23 February, Geneva.