Analytical Note
SC/AN/TDP/AG/6
Original: English

SOUTH CENTRE COMMENTS ON THE REVISED DRAFT MODALITIES FOR AGRICULTURE (TN/AG/W/4/REV.2 OF 19 MAY 2008)

SYNOPSIS

This note comments on various specific sections of the Revised Draft Modalities for Agriculture (TN/AG/W/4/Rev.2) of 19 May 2008). It highlights elements that were revised and pending contentious issues. Two tables summarizing the treatment of WTO Members with respect to tariff reduction modalities and proposals regarding remedies for volume-based SSM are also included.

June 2008
Geneva, Switzerland

SOUTH CENTRE COMMENTS ON THE REVISED DRAFT MODALITIES FOR AGRICULTURE (TN/AG/W/4/REV.2 OF 19 MAY 2008)

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SOUTH CENTRE COMMENTS ON THE REVISED DRAFT MODALITIES FOR AGRICULTURE (TN/AG/W/4/REV.2 OF 19 MAY 2008)

INTRODUCTION

1. The Chairman of the Committee on Agriculture, in special session, circulated on May 2008, his revised Draft Modalities for Agriculture. These draft modalities build upon the previous Draft Modalities, circulated in February 2008[1]

2. The importance of modalities lies on the fact that, as a result of their adoption, the Agreement on Agriculture is expected to be modified. Thus, modalities are not binding per se but are key in shaping the future Agreement and the schedules of members, which will be binding.

3. The current text has significantly less brackets than the previous one. Minimal changes can be noted on the domestic support and export competition pillars. No changes have been suggested with respect to reduction targets for Overall Trade Distorting Support (OTDS)

4. In spite of the reduction of brackets, several outstanding issues remain. Most of these are included in the market access section. It is important to highlight the fact that these were drafted in a manner of alternatives for decisions (Option A or B). These alternatives reflect remaining divergent views on areas such tropical products, Special Safeguard Mechanism (SSM) and tariff quotas. In the area liberalization of tropical products and preference erosion, the Chairman indicated that the process seems to have advanced bilaterally but these advancements were not captured in the current text.

5. The next phase seems to entail discussions at the technical level to reduce the brackets further, then a "horizontal process" among high-level officials (to concretize tradeoffs between agriculture, industrial tariffs and other negotiating areas) and a possible Ministerial Meeting in late June or early July. It is not clear at this stage whether the technical discussions will be conducive to narrow down existing divergences with a view to adopt final decisions at the Ministerial level.

[1] Document No. TN/AG/W/4 Rev. 1 of 8th February 2008

I. DOMESTIC SUPPORT

6. This section includes few changes with respect to the previous draft.

7. No changes have been suggested with respect to the contentious issue of reduction targets for Overall Trade Distorting Support (OTDS). Thus, the US would reduce its OTDS to 13 or 16.4 billion USD.

8. Brackets were eliminated in relation to the 25% reduction of AMS on the first day of implementation.

9. Revised provisions include:
- Limit applicable to Blue Box support on new products for developing countries (25% of the overall blue box limit)
- Submission, by developed countries, of data on limits per products, in the form of annexes to the modalities and
- Reference to flexibility for calculation of AMS in case of sudden increases in food prices (para. 20)

10. Brackets remain on: numbers for reduction of OTDS commitments, reference period for AMS, product-specific limits and on a provision on decoupled income support in the Green box.

II. MARKET ACCESS

A. Formula

11. In relation to tariff reduction by developed countries, this revision has eliminated several brackets in relation to overall and percentage reduction in the three lowest bands. The new numbers are equivalent to the mid-point of indicative ranges indicated before. In addition, the overall average reduction (54%) in the previous text was the result of the tariff formula and treatment of Sensitive Products (SePs). In this revision, the overall average reduction also encompasses the treatment related to tariff escalation and tropical products.

12. In the case of tariff reduction by developing countries, this revision has also eliminated several brackets in relation to overall and percentage reduction in the three lowest bands. The new numbers are equivalent to the mid-point of indicative ranges indicated before. In addition, the overall average reduction (36%) in the previous text was the result of the tariff reduction formula. In this revision, the overall average reduction also encompasses the treatment related to SePs.

13. Some changes were introduced to the formula section:

- In the area related to Recently Acceded Members (RAMs), the difference between the tariff reduction per band applicable for developing countries and for RAMs has been changed. In the previous paper there was a 7.5 percentage point difference and in this one, the Chairman proposes a 10 percentage difference for the 2 top bands and 5 percentage points for the two remaining bands.
- A reference to Small Vulnerable Economies (SVEs) that have ceiling bindings and homogenous low bindings was included. Their treatment in terms of tariff reduction formula is expected to be the same as SVEs

14. Implementation period remains the same (5 years for developed countries and 8 years for developing countries). The implementation period of the (Uruguay Round) Agreement on Agriculture (AoA) was 6 years for developed countries and 10 years for developing countries

15. Currently, brackets remain only in the highest band:
    - In the case of developed countries, for tariffs greater than 75 per cent, where the reduction commitment will be either 66 or 73 per cent.
    - In the case of developing countries, for tariffs greater than 130 per cent, where the reduction commitment will be 44 or 48 per cent

16. Annex 1 contains a complete overview of tariff reduction modalities, as per the May 2008 revision.

<u>B. Sensitive products (SePs)</u>

17. No changes were introduced in this revision with regard to the percentage of tariff lines that could be designated as SePs.

Table 1: Designation of Sensitive Products

	General provision	Flexibilities
Developed countries	[4-6%] of tariff lines	1. If more than 30% of tariff lines fall in the highest band of the formula (i.e: are higher than 75%), they can designate 6-8% of tariff lines as SePs 2. In case the methodology imposes a disproportionate constraint on the absolute number of tariff lines (because tariff concessions are scheduled at the 6-digit level), they can designate 6-8% of tariff lines as SePs
Developing countries	One third more - [5.3% or 8%] of tariff lines	

18. However, the expression "dutiable" referring to tariff lines was eliminated.

19. In relation to treatment, the mandate for substantial improvement of market access for SePs will be achieved through combinations of tariff-rate quota (TRQ) commitments and tariff reductions applying to each product. TRQ expansion is to be based on specific rules taking into account deviation from tariff cut formula and is to be measured in terms of domestic consumption.

20. In this sense, the treatment (in terms of ranges for expansion and their correlation to the different deviation levels) is exactly the same as the one proposed in the previous modalities text. A new element related to treatment of SePs in the case of developed countries is highlighted in the latest column of table 2 below.

Table 2: Treatment of SePs – Developed countries

If members deviate from tariff cut (which would apply in the tiered tariff reduction formula)…	… they would have to expand TRQs by:	In case members decide to designate 6-8% of products as SePs (instead of 4-6%), they would have to expand TRQs by:	(NEW) In case existing tariff quota volume represents: (a) 10% or more of domestic consumption (b) 30 % or more of domestic consumption They would have to expand TRQs by:
1/3	3%-5% of domestic consumption	3.5%-5.5% of domestic consumption	(a) 2.5%-4.5% (b) 2%-4%
1/2	3.5%-5.5% of domestic consumption	4-6% of domestic consumption	(a) 3%-5% (b) 2.5%-4.5%
2/3	4%-6% of domestic consumption	4.5-6.5% of domestic consumption	(a) 3.5%-5.5% (b) 3%-5%

21. The section on SePs underwent important changes to reflect progress in the talks with respect to rules for TRQ expansion. Changes introduced contain several annexes referring to a complex methodology for (a) allocation of domestic consumption to the tariff line and (b) calculation of expansion of quotas down to the tariff line. The methodology is not unique but varies based on the product concerned.

22. The root of the problem is somewhat related to the way in which the designation will take place. The proposed methodology (partial designation/suballocation of the TRQ) entails designating some tariff lines (at the 8-digit level) within a tariff sub-heading (at the 6-digit level). Thus, the problem is calculating domestic consumption at 8 digit data (to determine the appropriate tariff quota expansion) given that domestic consumption data and information about bound existing TRQs are available at the 6-digit level. In this context, the new

annexes contain data and procedural requirements to link information at the 6 and 8 digit level.

23. This text also adds new provisions that relate to flexibilities available for developing countries regarding the treatment of SePs. It is worth noting that few developing countries have TRQ commitments.

Table 3: Treatment of SePs – Developing countries

Alternative 1:	• Expansion of TRQ by two thirds of the volume of expansion of developed countries • Exclusion of self-consumption of subsistence production from domestic consumption. • Footnote 13: if a developing member wishes to retain more than 4 percent of tariff lines above 150 % ad valorem, it shall apply a further expansion of 0.5% of domestic consumption.
Alternative 2 (new):	▪ Take full formula cut ▪ Longer implementation period (three more years)
Alternative 3 (new):	▪ Apply less reduction (25% less) than required by the formula ▪ For no more than 2/3 of SeP entitlement ▪ No requirement for tariff quota expansion ▪ Shorter implementation period

24. Brackets remain on the following outstanding issues: numbers (percentage of lines that can be designated as SePs and percentage of domestic consumption by which TRQ will be expanded). In such areas, this text contains two alternatives for decision.

C. Tariff escalation

25. With respect to the previous modalities text, the content of this draft text has:
- Quantified the additional reduction for tariffs of processed products that fall within the top band (6 ad valorem points more)
- Eliminated brackets relating to the treatment of processed products that do not fall within the top band (to undergo cut applicable in the next highest band)
- Two exceptions to additional cuts have been included: (a) when the absolute difference between processed and primary products after the application of the formula is 5 ad valorem points and (b) when the product is declared as sensitive.

D. Commodities

26. The figure defining the difference between tariff o primary and processed products has been replaced with "an agreed percentage spread in the event that the effect of tariff reductions (derived from formula, tropical products and tariff escalation) are not sufficient.

E. Tariff simplification

27. Although the revised text has added the option of converting all tariffs in ad valorem terms, this new provision remains in brackets.

F. Tariff-rate quotas (TRQs)

28. The following new elements have been included in these draft modalities:

- Differentiated reduction commitments for in quota and out-of-quota tariffs
- Possibility of having differentiated provisions when some tariff lines within a quota are declared sensitive
- Introduction of obligations (regarding tariff quota administration) vis a vis commercial operators: (1) procedure to examine reasons for under-utilization and (2) consultations to make available unused entitlements

29. The section on bound-in quota tariffs was re-drafted in "option A or B" language:

Table 4: Alternative drafting for provisions related to tariff quotas

	Option A	Option B (more ambitious)
Developed countries	In case of existing TRQ, differentiated reduction for tariff lines within a TRQ if some are declared sensitive: • For those lines not declared sensitive, same rate of reduction applicable under tiered formula • For lines declared sensitive, reduce in-quota tariff by: - 10 percentage points if out of quota tariff is in top tier - 7.5 percentage points if out of quota tariff in 3d tier - by 5 percentage points if out of quota tariff is in 2nd tier. - by 2.5 percentage points if out of quota tariff is in bottom tier	In case of existing TRQ, irrespective of whether they are declared sensitive: • In quota tariffs above 5 % advalorem: (a) to be reduced to 5% or (b) apply same rate of reduction applicable under the formula • In quota tariffs at 5% or less: Reduced to 0
Developing countries	Amounts of reduction increased by one third	• 1/3 of rate of reduction of for out of quota tariff reduction • 2 more years implementation period • LDCs not required to undertake any commitments in this respect
Common provisions	Implementation period and staging aligned with reduction of bund out of quota tariffs	• Creation of new TRQ not allowed • Same implementation period of reduction of out of quota tariffs • Creation of new TRQ not allowed

G. Special Safeguard (SSG)

30. Still two options remain with respect to future provisions on this instrument: (a) elimination and (b) reduction of its scope in terms of product coverage.

31. The following elements were added in this revised text:

- Reducing the scope of SSG for developing countries of 3% of tariff lines
- Elimination of elements contained in previous drafts with respect to: (a) date of elimination of SSG and (b) schedule of implementation for its phaseout.

H. Special Products (SPs)

32. Minor changes were introduced since the last draft. This section was reformulated in option A or B language. Under both options, brackets remain.

Table 5: Alternative drafting for provisions on SPs.

	Option A	Option B (more ambitious)
Designation	• Up to 20% of tariff lines • in this case, 8 % would be a minimum and would not have to be supported by indicators	No more than 8 per cent of tariff lines
Treatment	• 40% of SPs exempted from tariff cut • 60% of SPs subject to: o average reduction of 15% and o tariff reduction per tariff line between 12 or 20%	• No SP is exempted from tariff cut • SPs subject to: o average reduction of 15% and o tariff reduction per tariff line between 12 or 20%

33. In this new text, provisions related to transfer of unused SePs to the SP allowance were redrafted in a clearer manner. The option of exempting such products from tariff reduction is not available.

34. The section still includes brackets in relation to numbers, reflecting that objections remain with respect to figures (tariff lines and tariff cuts).

<u>I. Special Safeguard Mechanism (SSM)</u>

35. This is the section that contains more brackets in the whole modalities. Some areas of divergence in the previous draft have been redrafted but still include the two opposing views (for example the level of triggers before additional duties can be imposed and level of remedies). Other areas remain in the same bracketed form (maximum number of products for which SSM can be invoked, price trigger and possibility of remedies going beyond Uruguay Round rates in cases of price-based SSM).

36. The Chairman has redrafted the section on triggers and remedies for volume-based using "option A or B" type of language. The two options currently displayed correspond to the APU proposal and the G33 proposal, the APU proposal being more restrictive in terms of higher triggers, reduced remedy and impossibility to go beyond the UR rates. A graphic representation of drafting alternatives for SSM provisions is included in Annex 2.

37. New elements proposed in this draft also refer to contentious issues on which divergences persist:

38. ***Inclusion of preferential trade***. This revised text provide for exclusion of preferential trade. The previous modalities text included preferential trade in

calculation of volume and price triggers, provided that remedies were also applied on preferential trade

39. ***Cross-check mechanism***. These modalities provide for: prohibition of taking recourse to price-based SSM where (a) volume of imports of the product concerned is declining or (b) volume of imports is at a manifestly negligible level incapable of undermining the domestic price level.

40. ***Flexibilities for LDCs***. Previous modalities provided for flexibilities for LDCs in terms of exceeding pre-Doha bound levels. The current revision (a) makes this option available only under the APU proposal option (the more restrictive one), (b) defines that this flexibility is only 25 percentage points and (c) includes new conditions for the use of this flexibility. In addition, a similar flexibility that was available for SVE was eliminated.

41. New elements have also been introduced with respect to transparency and notification procedures and maximum application of SSM for "seasonal products" (6 months instead of 12).

J. Liberalization of tropical products / Preference erosion

42. In these two areas, the Chairman indicated that the process seems to have advanced bilaterally but these advancements were not captured in the text.

III. EXPORT COMPETITION

43. This new text contains few revised provisions on: Export credit, guarantees and insurance (maximum repayment term) and international food aid (permissibilty of monetisation under certain circumstances).

44. At this stage, brackets remain on the following issues:

- Elimination of export subsidies in terms of quantity commitment levels
- Export credits: number of years to be used to determine whether a programme is self financing (Annex J/para. 3a)
- Expiry of monopoly powers of STEs by 2013
- Prohibition of monetization of in-kind food aid

IV. MONITORING AND SURVEILLANCE

45. The legal drafting concerning monitoring and surveillance commitments (that will replace the current article 18 of the Agreement on Agriculture) has been more developed. New provisions relate to review mandates and procedures, for the

Committee on Agriculture, in connection with market access, domestic support and export competition commitments

Annex 1: Chairman's Proposal for reduction of agricultural tariffs[2]

Developed countries		**Developing countries-general**		**Recently Acceded Members (RAMs)**		**Small and Vulnerable Economies (SVEs)[3], including those with ceiling bindings and homogenous low bindings**		**Least Developed Countries (LDCs)**
Thresholds	*Reduction*	*Thresholds*	*Reduction*	*Thresholds*	*Reduction*	*Thresholds*	*Reduction*	
> 75%	[66%-73%]	> 130%	[44%-48%]	> 130%	[34%-38%]	> 130%	[34%-38%]	
75% ≥ X > 50%	64%	130% ≥ X > 80%	43%	130% ≥ X > 80%	33%	130% ≥ X > 80%	33%	
50% ≥ X > 20%	57%	80% ≥ X > 30%	38%	80% ≥ X > 30%	33%	80% ≥ X > 30%	28%	
20% ≥ X > 0%	50%	30% ≥ X > 0%	33%	30% ≥ X > 10%	29%	30% ≥ X > 0%	23%	
– Minimum average cut: 54 % – If overall average reduction (*resulting from application of the tiered formula + treatment of Sensitive Products + additional cuts made as provided in modalities relating to tariff escalation and tropical products*) result in cut below 54 %, an additional should be made proportionately across all bands to reach that target – Implementation period: 5 years		– Maximum average reduction: 36% – If overall average reduction (*resulting from application of this formula + treatment of Sensitive Products*) is higher than 36%, members would apply lesser reductions, in a proportionate manner across tiers to keep within such an average level – Implementation period: 8 years		– Bound duties below 10% shall be exempt from tariff reduction – Implementation of Doha Round commitments start 1 year after implementation of accession commitments, in case of overlap – Implementation period: 2 more years – "Very" RAMs[4] and small-income RAMs[5] with economies in transition shall not be required to undertake reductions in final bound tariffs		– If overall average cut is higher than 24 %, members may self-designate as Special Products any such number of tariff lines that it determines would be sufficient to attain an overall maximum 24 % average cut. – No minimum cut or guidance with indicators is required on SPs in this scenario		No tariff reduction

[2] As contained in Draft Modalities for Agriculture (TN/AG/W/4/Rev. 2, dated 19 May 2008)

[3] Defined (in Annex I of Draft Modalities for Agriculture - TN/AG/W/4/Rev. 2, dated 19 May 2008-) as members "*whose average share for the period 1999-2004 (a) of world merchandise trade does not exceed 0.16 per cent and (b) of world NAMA trade does not exceed 0.10 per cent and (c) of world agricultural trade does not exceed 0.40 per cent*". Republic of Congo, Cote d'Ivoire and Nigeria (plus other Members that can provide data that show they meet the criteria above) are considered eligible for this treatment as, according the Chairman, the SVE treatment is considered being "*comparably appropriate*".

[4] Saudi Arabia, The Former Yugoslav Republic of Macedonia, Vietnam and Tonga

[5] Albania, Armenia, Georgia, Kyrgyz Republic and Moldova

Chairman's Proposal for reduction of agricultural tariffs (cont'd)

	Developing countries-general	Recently Acceded Members (RAMs)	Small and Vulnerable Economies (SVEs)	Least Developed Countries (LDCs)
Examples:	Argentina, Brazil, India, Indonesia, Malaisia, Philippines, Thailand, Venezuela	China, Chinese Taipei, Croatia, Jordan, Lithuania, Oman, Saudi Arabia, The Former Yugoslav Republic of Macedonia, Vietnam, Tonga, Albania, Armenia, Georgia, Kyrgyz Republic and Moldova	Albania, Antigua and Barbuda, Armenia, Barbados, Belize, Bolivia, Botswana, Brunei Darussalam, Cameroon, Cote d'Ivoire, Cuba, Dominica, Dominican Republic, Ecuador, El Salvador, Fiji, FYR Macedonia, Gabon, Georgia, Ghana, Grenada, Guatemala, Guyana, Honduras, Jamaica, Jordan, Kenya, Kyrgyzstan, Macao – China, Mauritius, Moldova, Mongolia, Namibia, Nicaragua, Nigeria, Panama, Papua New Guinea, Paraguay, Republic of Congo, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Sri Lanka, Suriname, Swaziland, Trinidad and Tobago, Uruguay and Zimbabwe.	Angola, Bangladesh, Benin, Burkina Faso, Burundi, Cambodia, Central African Republic, Chad, Congo (Democratic Republic), Djibouti, Gambia, Guinea, Guinea Bissau, Haiti, Lesotho, Madagascar, Malawi, Maldives, Mali, Mauritania, Mozambique, Myanmar, Nepal, Niger, Rwanda, Senegal, Sierra Leone, Solomon Islands, Tanzania, Togo, Uganda, Zambia

Annex 2: Alternative scenarios for volume-based Special Safeguard Mechanism (SSM)

	Case 1		Case 2		Case 3 (most severe import surge)	
	Option A (G-33)	Option B (APU)	Option A	Option B	Option A	Option B
Trigger:						
Where the volume of imports during any year exceeds…	105 % of base imports	130 of base imports	110 of base imports	135 of base imports	130 of base imports	155 of base imports
…but does not exceeded	110% of base imports	135 of base imports	130 of base imports	155 of base imports	- - -	- - -
Maximum additional duty (to be imposed on applied tariff):	– 50 % of current bound tariff or – 40 percentage points – whichever is higher	– 20 per cent of current bound tariff or – 20 ad valorem points – Whichever is lower	– 75 % of current bound tariff or – 50 percentage points – whichever is higher	– 25 % of current bound tariff or – 25 percentage points – Whichever is lower	– 100 % of current bound tariff or – 60 percentage points – whichever is higher	– 30 % of current bound tariff – 30 percentage points – Whichever is lower
Caps / ceilings Final duty (after imposition of additional duty) shall not exceed:	No caps/ceilings	Current bound tariff (Doha bound rates)	No caps/ceilings	Mid-point between pre-Doha bound tariff and current bound tariff	No caps/ceilings	Pre-Doha bound tariff

- Additional requirement (Option B-only): remedies would only be applied when triggers are met and absolute level of imports in relation to domestic production and consumption is not negligible.
- LDC provision (Option B-only): they can exceed their pre-Doha bound tariffs by a maximum of 25 ad valorem percentage points

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South Centre Analytical Note

South Centre comments on the Revised
Draft Modalities for Agriculture (TN/AG/W/4 Rev. 2 of 19 May 2008)

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