

Chair's Reference Paper¹

SENSITIVE PRODUCTS

Background

Paragraph 7 of the Hong Kong Ministerial Declaration (WT/MIN(05)/DEC) states, *inter alia*, that:

"... We recognize the need to agree on treatment of sensitive products, taking into account all the elements involved."

Paragraphs 31-34 of the Agreed Framework (Annex A of WT/L/579) states that:

"Selection

Without undermining the overall objective of the tiered approach, Members may designate an appropriate number, to be negotiated, of tariff lines to be treated as sensitive, taking account of existing commitments for these products.

Treatment

The principle of 'substantial improvement' will apply to each product.

"Substantial improvement" will be achieved through combinations of tariff quota commitments and tariff reductions applying to each product. However, balance in this negotiation will be found only if the final negotiated result also reflects the sensitivity of the product concerned.

Some MFN-based tariff quota expansion will be required for all such products. A base for such an expansion will be established, taking account of coherent and equitable criteria to be developed in the negotiations. In order not to undermine the objective of the tiered approach, for all such products, MFN based tariff quota expansion will be provided under specific rules to be negotiated taking into account deviations from the tariff formula."

¹ The headings used in this reference paper are indicative only.

Structure for Discussion

Introduction

1. The issue of sensitive products is a critical element of the Market Access pillar and hence of the agriculture negotiations. Successful resolution of this issue is essential if complete modalities are to be established, which means resolving the two core components of modalities for sensitive products: selection and treatment. So far, despite intensiv

Treatment

7. The Agreed Framework states that "substantial improvement will be achieved through combinations of tariff quota commitments and tariff reductions applying to each product. However, balance in this negotiation will be found only if the final negotiated result also reflects the sensitivity of the product concerned".

8. I must confess that, it is hard to get away from the plain language of this statement. In particular, I cannot easily see how the word "combination" can be read out of the text. That being so, it seems to me at least a floor to our negotiation that, whatever else one debates about what the extent of commitment and reduction will be, there will have to be at least a certain quantum of *both* tariff quota expansion and tariff reduction for each product. Were it not for one developed Member's demurrals, we could, I feel, at least start going along the operational road to trying to reach certain small steps toward convergence.

Deviation

9. For instance, I would like to suggest that we could start to make practical progress by starting to "top and tail" what the upper and lower limits of tariff deviation should be for any given sensitive product. That one Member at least apart, are we able to say – at least at this point - that the range

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19. There are at least some signs of structural convergence that we need to acknowledge and see if we can work on. It does appear, for instance, that there is - albeit at a general level - an acceptance that "relatively" more should be done to allow for imports where the levels are relatively low. Thus, the "consumption basis" approach is aimed at getting access up to some level (at least 5% for instance). The "tariff deviation/increase imports by a percentage" approach recognizes in its own way that that approach can lead to an artificially low import level at the "bottom end". Hence it has suggested adjustments that, interestingly enough, are in fact connected to a domestic consumption concept. In a parallel manner, the pure consumption expansion proponents do recognize that there can be situations where, with "high" imports already, that this can lead to import levels that are rather difficult to reconcile with any realistic sense of how "sensitive" products would be treated. Thus there is an openness to adopt a more "tapering" methodology in such cases.

20. In process terms it seems to me that it might be worth attending immediately to these "ends of the spectrum" to see how much further convergence might be possible. This reflects my sense at least that we cannot realistically divorce structure entirely from numbers. We all necessarily have specific tonnages for specific products in mind when we deal with this issue. While we cannot decide such matters now, we need to be able to keep them in sight as we go. For instance, by my reckoning there is a range of about 10:1 in the proposals so far in terms of the proposed level of ambition. That is to say that where one proposal would result in additional quotas amounting to 10,000 tonnes for a particular product, another would result in additional quotas amounting to 100,000 tonnes for the same product. There are always going to be differences in view in terms of ambition, but in my view it is in fact valuable to be able to correlate what structures might deliver what outcomes in order to advance on this.

21. Thus, notionally a hypothetical straight 5% of domestic consumption approach gives a rough and ready sense of what imports would be involved at one end of the spectrum. It seems to me, conceptually at least, this can be notionally compared with a tariff deviation/import percentage approach using e.g. the shadow import approach for the "lower end" situation. The variables involved (e.g. the elasticities or the adjustment coefficient) can be varied (hypothetically) to envision how variable the outcomes would be. These can be tabulated in a way that gives a kind of sensitivity analysis in comparison to a "pure consumption" approach. Ditto for the "upper end" situation. It might at least add transparency to the exercise. Based on that transparency, it might even suggest where more tailored supplementary or hybrid elements could be introduced to bridge differences.

Tariff Quota Creation

22. Given the Framework language regarding "combinations of tariff quota commitments and tariff reductions" the question has been raised regarding how to handle situations where no tariff quota exists for products designated as sensitive. Many Members have made it clear that they do not support the idea of tariff quota creation and that any such creation would be a step backwards in the liberalization process. At this stage, while other Members remain open to the possibility of creating new tariff quotas, they have indicated a willingness to look at other possible options which may avoid the need for such creation. Of course, it depends on what the alternatives to tariff quota creation are. Suggestions have been put forward for handling such situations, such as achieving tariff cuts in shorter implementation periods or providing longer implementation periods for the full tariff cut required by the tiered formula. More consideration needs to be given to this issue and to what may be an acceptable alternative to creating tariff quotas. At the very least, I do not have the sense that any Member wishes to see a plethora of new tariff quotas.

Special and Differential Treatment

23. Discussions have also noted the need to take into account special and differential provisions for sensitive products. Some suggestions have included the "two-thirds rule" for the treatment elements for developing countries as well as the possibility that they be allowed to designate 50 percent more tariff lines than the absolute number designated by the developed country Member with the highest

number of such tariff lines. While special and differential treatment is of course an integral element