

Chairman's Reference Paper

SPECIAL PRODUCTS

Background

Paragraph 7 of the Hong Kong Ministerial Declaration states that:

".... We also note that there have been some recent movements on the designation and treatment of Special Products and elements of the Special Safeguard Mechanism. Developing country Members will have the flexibility to self-designate an appropriate number of tariff lines as Special Products guided by indicators based on the criteria of food security, livelihood

Structure for Discussion

Introduction

1. The Hong Kong Ministerial Declaration clarifies that Special Products will be: (a) self-designated by each developing country Member for itself; (b) that an "appropriate number" of products can be designated as Special; and (c) selection of these products will be guided by indicators and based on the criteria of food security, livelihood security and rural development. But translating this guidance into practical and predictable modalities has not been easy.
2. All delegations accept that the designation of a tariff line as a Special Product needs to be linked to the three criteria.
3. However, the reality is that reliable and universal indicators to match a product to these

12. What, therefore, are the realistic options? I suggest we need to find some now. It appears to me there are at least three – not necessarily mutually exclusive.

13. First, if we are going to consider percentages – and consultations to this point indicate to me that Members favour this approach – one clear option is to look at a lower overall percentage. It is, at least to my mind, an obvious line of approach we should test vigorously. But, it would have to be said that, in order to lower the potential size of trade coverage to something closer to an ordinary meaning of "special", the percentage at issue would have to come down significantly from 20%. I perceive this to be a candidate for serious and urgent engagement.

14. Second, there is a question as to whether "treatment" can be incorporated in an approach that might diminish concerns regarding a relatively high absolute percentage of tariff lines number. Clearly, if Special Product status is identical with, or close to identical with, no liberalisation for the tariff lines concerned we have the mismatch identified above at its most extreme. Analytically, presumably these effects are lessened to the extent that treatment is relatively more permissive of trade. It is clear to me that, until this point at least, there has been little readiness on the part of "proponents" of Special Products to interpret the "more flexible treatment" standard in the July Framework in anything other than a firmly import – limiting manner. If that remains the case, it would seem to me that all the emphasis would have to fall on the previous option. This is just a factual observation, not an attempted prescription.

15. I would add, though, that I have heard no dissent, even from those proposing a somewhat more liberal approach to treatment, regarding the view that the treatment should be unambiguously more flexible than would be the case for sensitive products. If, therefore, there was willingness to explore this avenue, we could proceed on that firm and accepted basis if this would help raise confidence levels. It is true that we have no agreement to this point on treatment for sensitive products but, in technical terms alone, it is always possible to shadow the options that are on the table – provided there is a will to do so.

16. Third, we always have, technically, the option of Members generally indicating in advance what their actual intentions are, irrespective of what the actual formal numerical entitlement might be. This idea has been actively on the table since before Hong Kong. But there has been to this point no interest in engaging in an exercise of this sort – at least not in a multilateral forum. Nevertheless, I have detected a variant of this which may be worth exploring. Particular Members could be prepared, or be willing to declare their own preparedness, not to resort to Special Products, or to resort to Special Products to a lesser extent than what might be generally agreed. Any option is worth

stage of the process. Irrespective of the considerations underlying that unease (and they clearly differ from Member to Member), a review at the schedules stage would put huge time-pressure on the later stages of the negotiations. It does not seem to me to be a preferred way to proceed. But, the fact is that absent any decision upfront, the process will drift that way regardless of whether Members are comfortable with that outcome.
