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Committee on Trade and Development

## IMPLEMENTATION OF SPECIAL AND DIFFERENTIAL TREATMENT PROVISIONS IN WTO AGREEMENTS AND DECISIONS

Note by Secretariat

Revision

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## I. INTRODUCTION

1. This Note has been prepared at the request of the Committee on Trade and Development (CTD). The objective of this paper is to provide an overview of the implementation of special and differential treatment provisions of the WTO agreements and decisions. The paper is also intended to facilitate consideration by the Committee of the request made by the Chairman of the General Council on 31 July 2001, in the context of the Implementation Review Mechanism. This request reads: "The Chairman of the General Council requests the Committee on Trade and Development to review all special and differential treatment provisions in the WTO Agreements and report to the General Council by 30 September on how they could be operationalised and further enhanced.". Where available, information relating to the implementation of specific provisions is provided, along with comments and statements made by Members regarding the implementation of specific provisions in the various WTO bodies overseeing the implementation and administration of the different WTO agreements. The paper builds on and updates documents WT/COMTD/W/77 and WT/COMTD/W/85.

2. The structure of the paper is as follows: Section II consists of a general overview of special and differential treatment across the whole range of WTO agreements. A typology is presented, along with an general presentation on how different types of special and differential treatment operate. An illustrative list of questions is presented for the consideration of Members to facilitate their discussions on how to meet the request handed to them by the Chairman of the General Council. Section III consists of a series of tables, which for each WTO agreement, states the special and differential treatment provisions specific to each of them, and records information concerning their implementation along with the statements made by Members. Negotiation proposals containing elements relating to special and differential treatment submitted, respectively, in the context of the Special Session of the Committee on Agriculture and the Special Session of the Council for Trade in Services are also presented. Finally, section IV provides a quick-reference compilation of the different WTO documents cited in this paper, that is those prepared by the secretariat or submitted by delegations in the context of work undertaken by different WTO bodies.<sup>1</sup>

## II. OVERVIEW

### A. SPECIAL AND DIFFERENTIAL TREATMENT: A TYPOLOGY

3. For the purposes of this paper, the various special and differential treatment provisions have been classified according to the following six-fold typology which has been developed by the Secretariat:<sup>2</sup>

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<sup>1</sup> Document WT/COMTD/W/85 entitled "Special and Differential Treatment: Implementation and Proposals" provided information on negotiating proposals regarding special and differential treatment submitted to the Special Session of the Committee on Agriculture. That information is not reproduced in this paper, which deals exclusively with implementation of existing special and differential treatment provisions.

<sup>2</sup> At the 34<sup>th</sup> session of the Committee on Trade and Development, the question was raised as to how provisions relating to technology should be treated in the context of the typology of special and differential treatment provisions, and in particular whether a new category should be created covering provisions relating to technology. Currently, provisions relating to technology transfer are classified under different categories of the existing special and differential treatment typology. For example, GATS Article IV provisions relating to technology come under the category of provisions aimed at increasing the trade opportunities of developing country Members; TRIPS Article 66.2 is classified under provisions relating to least develop countries; while SPS Article 9.1, refers to technology, is classified under the category of technical assistance (in keeping with the designation of that particular provision in the SPS Agreement). This paper continues the practice followed to date, and has not created a separate category for provisions relating to technology.

- (i) provisions aimed at increasing the trade opportunities of developing country Members;
- (ii) provisions under which WTO Members should safeguard the interests of developing country Members;
- (iii) flexibility of commitments, of action, and use of policy instruments;
- (iv) transitional time periods;
- (v) technical assistance;
- (vi) provisions relating to least-developed country Members.

4. Table [1] provides a numerical breakdown of special and differential treatment provisions by type and by agreement. The column on the far left marked "Total by Agreement" gives the total number of special and differential provision by agreement across the different types of category, while the row marked "total by type" gives the total number of special and differential treatment provisions by each of the six types across the different agreements. Provisions under which WTO Members should safeguard the interest of developing country Members (49 in total) are the most numerous in the WTO agreements, followed by flexibility provisions (33 total). Provisions aimed at expanding the trade opportunities of developing country Members are the least common, with twelve such provisions across the range of WTO agreements.

5. The tables in Section III present detailed information on an agreement by agreement basis on the implementation of special and differential treatment provisions, based on information communicated by Members.<sup>3</sup> The information available provides the opportunity to ascertain to what extent the implementation of special and differential treatment provisions can be measured. The precise nature of the data on the basis of which such measurements can be made depends on the type of special and differential treatment provision considered. For instance, in the case of provisions relating to transitional time periods, the relevant data are based on notifications to the secretariat by Members which invoke recourse to such transition time periods. In the case of provisions relating to technical assistance, data used are communications by Members on the delivery of technical assistance activities pursuant to the relevant provisions of the different WTO agreements.

#### B. THE OPERATION OF PROVISIONS FOR SPECIAL AND DIFFERENTIAL TREATMENT

6. In considering how to operationalise and further enhance provisions for special and differential treatment, it is useful to bear in mind that the different types of special and differential treatment provisions operate in different ways. For instance, provisions relating to transition times and flexibility tend to specify exceptions to rules to which developing countries may have recourse if they choose. On the other hand, provisions relating to technical assistance, the safeguarding of interests of developing countries, and measures to increase developing countries' participation in world trade tend to specify positive actions to be undertaken by developed countries in favour of developing countries. In addition, individual WTO Agreements contain different types and combinations of special and differential treatment provision, reflecting, in part at least, their specific characteristics. For instance, agreements which require considerable investments in capacity for their implementation may also include provisions relating to technical assistance and transition time periods.

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<sup>3</sup> Notifications; Formal Communications; Reports by Panels, the Appellate Body, and arbitrators; Reports of the Trade Policy Review Body; and Reports of Formal Meetings.

7. Provisions aimed at increasing the trade opportunities of developing country Members: As shown in table 1, there are fourteen such provisions in total across the following four agreements and one decision, namely:

- (a) GATT 1994: Article XXXVI.2-5, Article XXXVII.1(a) and 4; Article XVIII.2 (c) and 2(e).
- (b) The Enabling Clause, para 2(a).
- (c) Agreement on Agriculture: Preamble.
- (d) Agreement on Textiles and Clothing: **Article 2.18**
- (e) GATS: Preamble, **Article IV:1; and Article IV:2**

8. These provisions all consist of actions to be taken by Members in order to increase the trade opportunities available to developing countries. Such provisions are frequently couched in "best endeavour" language, though not always. Provisions within this group which are mandatory (i.e. using "shall" rather than "should" language) are shown in bold above. Actions taken by members pursuant to some of these provisions are specifically notified to the Membership – this is the case for example with preferences given under the Enabling Clause, or actions taken under Article 2.18 of the Agreement on Textiles and Clothing by restraining Members. Members schedules of commitments under the GATS and concessions in the Agreement on Agriculture contain information relating to the implementation of these provisions. Overall, a broad question that seems to arise in relation to this class of provision concerns the extent to which these provisions have contributed to increasing developing countries' trade opportunities, how this may be assessed, and, if they have not contributed to the increasing developing countries' trade opportunities, what may be done.

9. Provisions under which WTO Members should safeguard the interests of developing country Members: As shown in table 1, there are 47 such provisions across the following 13 WTO agreements and two decisions:

- (a) Part IV of GATT 1994: Article XXXVI.6,7 and 9; Article XXXVII 1(b) and (c), 2 (a)-(c), 3 (a) –(c), and 5; Article XXXVIII.1, 2 (a), (b), (d), (f).
- (b) the Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries: **Paragraphs 3 (i)-(ii); Paragraph 4; and Paragraph 5.**
- (c) Application of SPS Measures: **Article 10.1** and Article 10.4.
- (d) Textiles and Clothing: Article **6.6 (b), 6.6 (c)** and **Annex, paragraph 3(a).**
- (e) Technical Barriers to Trade: **Article 10.6; Article 12.1; Article 12.2; Article 12.3; Article 12.5; Article 12.9; Article 12.10.**
- (f) Implementation of Article VI of GATT 1994: **Article 15.**
- (g) Implementation of Article VII of GATT 1994: **Annex III.5.**
- (h) Decision on texts relating to minimum values and imports by sole agents, sole distributors, and sole concessionaires: **Text 1** and Text 2.

- (i) Import Licensing Procedures: Article 1.2; Article 3.5 (a)(iv); Article 3.5 (j).
- (j) Subsidies and Countervailing Measures: Article 27.1 and **Article 27.15**.
- (k) Agreement on Safeguards: **Article 9.1 and Footnote 2**.
- (l) Understanding on Rules and Procedures Governing the Settlement of Disputes: Article 4.10, **Article 8.10, Article 12.10, Article 12.11**; Article 21.2; **Article 21.7; Article 21.8**.
- (m) GATS: Preamble; Article XII.1, **Article XV.1, and Article XIX.3**.

10. These provisions concern either actions to be taken by Members, or actions to be avoided by Members, so as to safeguard the interests of developing country Members. More than half of these are mandatory (i.e. they use "shall", rather than "should", language), and these are shaded in bold in the list presented above. Questions raised in relation to this category of provisions are similar to those raised in relation to the "trade opportunities" class. They turn around the extent to which they have led to the safeguarding of developing country interests, and whether the actions to be taken can be specified concretely, monitored and their implementation objectively measured or evaluated.

11. Flexibility of commitments, of action, and use of policy instruments: As shown in table 1, there are 50 such provisions across the following ten different WTO agreements:

- (a) GATT 1994: Article XVIII and Article XXXVI, paragraph 8.
- (b) Enabling Clause: Paragraphs (b) and (c).
- (c) the Agreement on Agriculture: Article 6.2; Article 6.4; Article 9.2(b)(iv); Article 9.4; Article 12.2; Article 15.1; Annex 2, para 3, and footnote5; Annex 2, para.4, footnotes 5 and 6; Annex 5, Section B.
- (d) Technical Barriers to Trade: Article 12.4.
- (e) Trade-Related Investment Measures: Article 4.
- (f) Subsidies and Countervailing Measures: Article 27.2 (a) and Annex VII; Article 27.4; Article 27.7; Article 27.8; Article 27.9; Article 27.10; Article 27.11; Article 27.12; Article 27.13.
- (g) Safeguards :Article 9.2.
- (h) GATS: Article III:4;Article V:3; Article xix:2, and Paragraph 5(g) of the Annex on telecommunications.
- (i) Understanding on Rules and Procedures Governing the Settlement of Disputes: Article 3.12.

12. These provisions relate to: actions developing countries may undertake through exemptions from disciplines otherwise applying to the membership in general; exemptions from commitments otherwise applying to Members in general; or a reduced level of commitments developing countries may choose to undertake when compared to Members in general. The majority of these provisions are found in agreements concluded at the end of the Uruguay Round. Their importance may be understood in terms of their actual or potential role in facilitating the integration of trade and trade

policy into the pursuit of wider development policy objectives. This type of provision is especially prominent, and important, in those areas and agreements where WTO rules have extended beyond traditional GATT-type border measures. In almost all cases, flexibility takes the form of individual provisions which Members choose, or not, to exercise. The main exception is the GATS, where in addition to individual provisions, flexibility is built into the overall structure of the agreements which provides for flexibility on an individual- case-by-case basis through negotiated commitments.

13. Transitional Time Periods: As shown in table 1, there are 19 such provisions across the following eight agreements:

- (a) Agriculture: Article 15.2.
- (b) Sanitary and Phyto-Sanitary Measures: Article 10.2 and 10.3.
- (c) Technical Barriers to Trade: Article 12.8.
- (d) Trade-Related Investment Measures: Article 5.2.
- (e) Implementation of Article VII of GATT 1994: Article 20.1; Article 20.2; Annex III.1; and Annex III.2
- (f) Import Licensing Procedures: Article 2.2, footnote 5.
- (g) Subsidies and Countervailing Measures: Article 27.2 (b); Article 27.4; Article 27.14; Article 27.5; Article 27.6; and Article 27.11.
- (h) TRIPS: Article 65.2; and 65.4.

14. These provisions relate to time bound exemptions from disciplines otherwise generally applicable.<sup>4</sup> It is to be noted that some transition time periods in different agreements have elapsed. In some cases, the relevant provision, in addition to specifying a time-period, include modalities through which an extension might be sought. Transition time periods were an innovation of the Uruguay Round. They reflect the recognition that the process of implementation of WTO agreements, and accompanying reforms, could give rise to transitional costs. It is possible to distinguish between two different types of costs: first, those which stem from the fact that the implementation of certain WTO agreements requires significant levels of human and institutional capacity. The second type of cost - the political economy- adjustment type – for example, transitional shifts in output and employment in specific sectors which may result from the phasing out of protection. The type of cost which may arise is specific to individual agreements, and the magnitude of the cost may depend on individual country circumstances.

15. Technical Assistance: As shown in table 1, there are 14 such provisions across the following six different agreements and one ministerial decision:

- (a) Decision on measures concerning the possible negative effects of the reform programme on least-developed countries and net-food importing developing countries: Paragraph 3 (iii).
- (b) Application of SPS Measures: Articles 9.

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<sup>4</sup> In the case article 10.2 of the SPS agreement, the transition time-period in question relates to longer time-frames for compliance to be accorded to products of interest to developing countries with SPS measures introduced by Members.



- (c) Technical Barriers to Trade: Article 11.1; Article 11.1; Article 11.3; Article 11.4; Article 11.5; Article 11.6; and Article 12.7.
- (d) Implementation of Article VII of GATT 1994: Article 20.3.
- (e) GATS: Article XXV:2 and Paragraph 6 of the Annex on telecommunications.
- (f) TRIPS: Article 67.
- (g) Understanding on Rules and Procedures Governing the Settlement of Disputes: Article 27.2

16. The agreements where provisions relating to technical cooperation feature prominently tend to be those which require significant levels of capacity for their implementation. The provision of technical assistance can thus be closely linked with transition time periods in facilitating the implementation of certain WTO agreements.

17. Provisions relating to least-developed country Members. As shown in table 1, there are 24 such provisions across seven agreements and three decisions:

- (a) Agriculture: Article 15.2, Article 16.1 and Article 16.2 3, 2,2
- (b) Enabling Clause: Paragraph d. 1
- (c) Decision on waiver for preferential tariff treatment of Least-Developed Countries. 1
- (d) Textiles and Clothing: Footnote to Article 1.2, and Article 6.6 (a). 1, 2
- (e) Technical Barriers to Trade: 11.8 5
- (f) Trade-Related Investment Measures Article 5.2 4
- (g) GATS: Article IV:3, and Article XIX:3 2,2
- (h) TRIPS: Article 66.1 and 66.2. 1,4,1
- (i) Understanding on Rules and Procedures Governing the Settlement of Disputes: Article 24.1 and 24.2 2, 2
- (j) Decision on Measures in Favour of Least-Developed Countries: paragraphs 1-3. 4,2,1,2,2,5,1

18. These provisions, whose applicability is limited exclusively to the LDCs, all fall under one of the other five types of provision, as follows:

- (a) Six fall into the category of provisions aimed at increasing trade opportunities:
  - (i) Enabling Clause - paragraph d.
  - (ii) Decision on waiver for preferential tariff treatment of LDCs.
  - (iii) Agreement on Textiles and Clothing - Footnote to Article 1.2.
  - (iv) TRIPS Agreement –Article 66.2.

- (v) Decision on Measures in Favour of Least-Developed Countries – paragraph 2 (ii) and paragraph 3.
- (b) Ten fall into the category of provisions aimed at safeguarding the interests of least-developed countries:
  - (i) Agreement on Agriculture - Article 16.1 and 16.2.
  - (ii) Agreement on Textiles and Clothing – Article 6.6 (a).
  - (iii) GATS – Article IV:3 and XIX:3.
  - (iv) Understanding on Rules and Procedures Governing the Settlement of Disputes: Article 24.1 and 24.
  - (v) Decision on Measures in Favour of Least-Developed Countries: paragraphs, 2(i), 2(iii) and 2(iv).
- (c) one relating to the flexibility of commitments, of action, and use of policy instruments – Article 15.2 of the Agreement on Agriculture.
- (d) three in the category of transition time periods
  - (i) TRIMS – Article 5.2
  - (ii) TRIPS – Article 66.1
  - (iii) Decision on Measures in Favour of Least-Developed Countries –paragraph 1.
- (e) two in the category of technical assistance.:
  - (i) Technical barriers to trade – Article 5.8
  - (ii) Decision on Measures in Favour of Least-Developed Countries – Paragraph 2(v).

#### C. ILLUSTRATIVE LIST OF QUESTIONS FOR CONSIDERATION BY MEMBERS

19. The following list of questions has been prepared in order to facilitate consideration by Members on how provisions relating to special and differential treatment can be operationalised and enhanced. It draws on the remarks made in section B and the information given in part III of this paper. It is without prejudice to other questions Members may wish to raise.

#### 20. General Questions:

- (a) What is the rationale for special and differential treatment?
- (b) How can special and differential treatment facilitate trade policy reforms and the effective integration of trade into national development strategies?
- (c) What could be regarded as effective operationalisation of special and differential provisions in each case?

These general questions form a framework for specific questions relating to different types of special and differential treatment provision as follows:

Specific questions:

- (d) Concerning provisions aimed at increasing the trade opportunities of developing country Members:
  - (i) What actions are or can be taken by Members under these provisions?
  - (ii) How can the effectiveness of such actions be reviewed?
  - (iii) How is the effectiveness of special and differential treatment provisions related to whether they are legally binding or not?
- (e) Concerning provisions under which WTO Members should safeguard the interests of developing country Members.
  - (i) What actions are or can be taken by Members under these provisions?
  - (ii) How can the effectiveness of such actions be reviewed?
  - (iii) How is the effectiveness of special and differential treatment provisions related to whether they are legally binding or not?
- (f) Concerning flexibility of commitments, of action, and use of policy instruments:
  - (i) What types of policy flexibility are appropriate for developing countries, and how do they match existing flexibilities in WTO rules?
  - (ii) To what extent can, or do, developing countries use existing flexibilities?
  - (iii) What would be the systemic impact of increasing levels of flexibility to developing countries as a whole?
- (g) Regarding transition time periods:
  - (i) How can transition time periods suitably reflect implementation costs in order to facilitate the implementation of WTO agreements.
  - (ii) Should transition-time periods reflect country-specific constraints, and if so how?
  - (iii) What assistance measures can be taken during transition time-periods to facilitate implementation.
- (h) Regarding provisions relating to technical assistance:
  - (i) What principles should be followed to enhance the delivery of technical assistance by Members.
  - (ii) How can technical assistance be used in tandem with other types of special and differential treatment provisions?

- (i) Regarding provisions concerning least-developed countries:

As explained earlier, the provisions in this category fall into one of the five other categories, with their distinctive feature being their specificity in relation to least-developed countries. Comments on these provisions could be guided the questions raised under the other five categories.

D. TABLE 1: SPECIAL AND DIFFERENTIAL TREATMENT PROVISIONS BY TYPE AND AGREEMENT

Agreement	(i) Provisions aimed at increasing the trade opportunities of developing country Members	(ii) Provisions that require WTO Members to safeguard the interests of developing country Members	(iii) Flexibility of commitments, of action, and use of policy instruments	(iv) Transitional time periods	(v) Technical assistance	(v) Provisions relating to measures to assist least-developed country Members	Total by Agreement
Agriculture	1		9	1		3	14
Decision on NFIDCs		4			1		5
Application of SPS Measures		2		2	1		5
Textiles and Clothing	1	3				2	6
Technical Barriers to Trade		6	1	1	7	1	16
Trade-Related Investment Measures			1	2		1	4
Implementation of Article VI of GATT 1994		1					1
Implementation of Article VII of GATT 1994		1	2	4	1		8
Decision on Texts Relating to Minimum Values and Imports by Sole Agents, Sole Distributors and Sole Concessionaires		2					2
Preshipment inspection							0
Rules of Origin							0
Import Licensing Procedures		3		1			4
Subsidies and Countervailing Measures		2	8	6			16
Safeguards		1	1				2
GATS	3	4	4		2	2	15
TRIPS				2	1	3	6
Understanding on Rules and Procedures Governing the Settlement of Disputes.		7	1		1	2	11
GATT 1994 Article XVIII			3				3
GATT 1994 Article XXXVI	4	3	1				8
GATT 1994 Article XXXVII	2	6					8
GATT 1994 Article XXXVIII	2	5					7
Enabling Clause	1		2			1	4

<b>Agreement</b>	<b>(i) Provisions aimed at increasing the trade opportunities of developing country Members</b>	<b>(ii) Provisions that require WTO Members to safeguard the interests of developing country Members</b>	<b>(iii) Flexibility of commitments, of action, and use of policy instruments</b>	<b>(iv) Transitional time periods</b>	<b>(v) Technical assistance</b>	<b>(v) Provisions relating to measures to assist least-developed country Members</b>	<b>Total by Agreement</b>
Decision on Measures in Favour of Least-Developed Countries						7	7
Waiver preferential tariff treatment of LDCs.						1	1
<b>Total</b>	14	50	33	19	14	24	155

### III. SPECIAL AND DIFFERENTIAL TREATMENT: INFORMATION BY AGREEMENT

#### A. GENERAL AGREEMENT ON TARIFFS AND TRADE 1994

##### General Comments with Respect to the General Agreement on Tariffs and Trade 1994

*WTO tariff concessions undertaken by developing country Members under Article II of GATT 1994 have generally been implemented over a longer or extended timeframe compared to developed countries. To date, the Secretariat has no information about any WTO Member who has had difficulty in implementing tariff cuts according to their schedules of concessions and there are no statements to that effect in the relevant WTO Committees. Furthermore, Members that have difficulty in implementing WTO tariff concessions can renegotiate these concessions under Article XXVIII procedures which are available to all WTO Members and commonly utilized for various reasons. However, in the TPRM, at least one developing country Member has stated that technical assistance would be needed to renegotiate tariff concessions made prior to the Uruguay Round. (WT/TPR/S/27 3, page 9)*

##### Understanding on Balance-of-Payments Provisions

##### General Comments with Respect to the Understanding on Balance-of-payments Provisions

*The Committee on Balance-of-payments Restrictions agreed to a request from a least-developed country Member for the postponement of full consultations, due before May 1999, to the year 2000, because of problems caused by flood devastation. Simplified consultations took place in May 1999 and full consultations will be held in 2000.*

*In the context of a dispute, a developing country member argued that Article XVIII was the principle expression of special and differential treatment in GATT 1994. In its findings, the Panel ruled that the measures at issue applied by the developing country Member violated – inter alia – Articles XI:1 and XVIII:11 of GATT 1994 and were not justified by Article XVIII:B.<sup>5</sup>*

*Whereas 13 developing country Members were making use of Article XVIII in 1990, two developing country members – including one least-developed country Member – were doing so in 2000.*

*In the TPRM, the view has been expressed that, in implementation, hardly any distinction seemed now to be drawn between Article XII and Article XVIII:B of GATT 1994. (WT/TPR/M/33, paragraph 9). This view has also been expressed in the discussions on implementation*

##### Article XVIII

Provision	Comment
<b>Flexibility of commitments, of action, and use of policy instruments</b>	
<i>Section A</i>	
7. (a) If a contracting party coming within the scope of paragraph 4 (a) of this Article considers it desirable, in order to promote the establishment of a particular industry with a view to raising the general standard of living of its people, to modify or withdraw a concession	The provision has not been invoked by developing country Members since the WTO Agreement came into force.

<sup>5</sup> WT/DS90/R

Provision	Comment
<p>included in the appropriate Schedule annexed to this Agreement, it shall notify the CONTRACTING PARTIES to this effect and enter into negotiations with any contracting party with which such concession was initially negotiated, and with any other contracting party determined by the CONTRACTING PARTIES to have a substantial interest therein. If agreement is reached between such contracting parties concerned, they shall be free to modify or withdraw concessions under the appropriate Schedules to this Agreement in order to give effect to such agreement, including any compensatory adjustments involved.</p>	
<p>(b) If agreement is not reached within 60 days after the notification provided for in subparagraph (a) above, the contracting party which proposes to modify or withdraw the concession may refer the matter to the CONTRACTING PARTIES which shall promptly examine it. If they find that the contracting party which proposes to modify or withdraw the concession has made every effort to reach an agreement and that the compensatory adjustment offered by it is adequate, that contracting party shall be free to modify or withdraw the concession if, at the same time, it gives effect to the compensatory adjustment. If the CONTRACTING PARTIES do not find that the compensation offered by a contracting party proposing to modify or withdraw the concession is adequate, but find that it has made every reasonable effort to offer adequate compensation, that contracting party shall be free to proceed with such modification or withdrawal. If such action is taken, any other contracting party referred to in subparagraph (a) above shall be free to modify or withdraw substantially equivalent concessions initially negotiated with the contracting party which has taken the action.</p>	
<p><i>Section B</i> 8. The contracting parties recognize that contracting parties coming within the scope of paragraph 4 (a) of this Article tend, when they are in rapid process of development, to experience balance of payments difficulties</p>	<p>Since the WTO came into effect, five developing country Members have ceased recourse to Article XVIII:B. Two Members still had recourse to the provisions in 2001. See also section on the Understanding on</p>



Provision	Comment
<p>arising mainly from efforts to expand their internal markets as well as from the instability in their terms of trade.</p> <p>9. In order to safeguard its external financial position and to ensure a level of reserves adequate for the implementation of its programme of economic development, a contracting party coming within the scope of paragraph 4 (a) of this Article may, subject to the provisions of paragraphs 10 to 12, control the general level of its imports by restricting the quantity or value of merchandise permitted to be imported; <i>Provided</i> that the import restrictions instituted, maintained or intensified shall not exceed those necessary: (a) to forestall the threat of, or to stop, a serious decline in its monetary reserves, or (b) in the case of a contracting party with inadequate monetary reserves, to achieve a reasonable rate of increase in its reserves.</p> <p>Due regard shall be paid in either case to any special factors which may be affecting the reserves of the contracting party or its need for reserves, including, where special external credits or other resources are available to it, the need to provide for the appropriate use of such credits or resources.</p> <p>10. In applying these restrictions, the contracting party may determine their incidence on imports of different products or classes of products in such a way as to give priority to the importation of those products which are more essential in the light of its policy of economic development; <i>Provided</i> that the restrictions are so applied as to avoid unnecessary damage to the commercial or economic interests of any other contracting party and not to prevent unreasonably the importation of any description of goods in minimum commercial quantities the exclusion of which would impair regular channels of trade; and <i>Provided</i> further that the restrictions are not so applied as to prevent the importation of commercial samples or to prevent compliance with patent, trade mark, copyright or similar procedures.</p> <p>11. In carrying out its domestic policies, the</p>	<p>Balance-of-Payments Provisions of GATT 1994.</p>

Provision	Comment
<p>contracting party concerned shall pay due regard to the need for restoring equilibrium in its balance of payments on a sound and lasting basis and to the desirability of assuring an economic employment of productive resources. It shall progressively relax any restrictions applied under this Section as conditions improve, maintaining them only to the extent necessary under the terms of paragraph 9 of this Article and shall eliminate them when conditions no longer justify such maintenance; Provided that no contracting party shall be required to withdraw or modify restrictions on the ground that a change in its development policy would render unnecessary the restrictions which it is applying under this Section.</p>	
<p><i>Section C</i> 13. If a contracting party coming within the scope of paragraph 4 (a) of this Article finds that governmental assistance is required to promote the establishment of a particular industry with a view to raising the general standard of living of its people, but that no measure consistent with the other provisions of this Agreement is practicable to achieve that objective, it may have recourse to the provisions and procedures set out in this Section.</p>	<p>Since the WTO Agreement entered into force, one developing country Member cited this provision during a dispute.</p>

### **Article XXXVI**

Provision	Comment
<b>Provisions aimed at increasing the trade opportunities of developing country Members</b>	
<p>2. There is need for a rapid and sustained expansion of the earnings of the less-developed contracting parties.</p>	<p>The current US Dollar value of developing country merchandise export earnings increased by a factor of nearly 69 between 1948, at the time of the inception of the GATT, and the establishment of the WTO in 1995.</p> <p>Over the period 1980-2000 the average annualised growth of trade of developing countries as a whole was faster than that of both world trade and the trade of developed countries. But differences between and within</p>

Provision	Comment
	<p>developing country regions are very pronounced. For instance, Asian trade grew on average per year 12 time faster than the trade of Africa (excluding south Africa). Within Africa, annual average growth in trade for 1990-2000 ranged from a high of 12 percent to a low of minus 21 per cent.</p> <p>(see also WT/COMTD/W/65 – this document contains more detailed data on long and short term trends in trade of developing country Members).</p>
<p>3. There is need for positive efforts designed to ensure that less-developed contracting parties secure a share in the growth in international trade commensurate with the needs of their economic development.</p>	<p>The average trade weighted tariff on industrial imports from developing Members fell by 37 per cent after the cuts are completed following the conclusion of the Uruguay Round.</p> <p>A response to the provisions of paragraphs 3, 4 and 5 may be found in the maintenance of preferential tariff and other market access arrangements maintained under Members' GSP schemes, the GSTP, and other non-reciprocal preferential arrangements. (some of which have been notified in the WT/COMTD/N/--series). See also the reference to improved preferential market access measures for least-developed countries under Section 7.1 above (Decision on Measures in Favour of Least-Developed Countries).</p>
<p>4. Given the continued dependence of many less-developed contracting parties on the exportation of a limited range of primary products, there is need to provide in the largest possible measure more favourable and acceptable conditions of access to world markets for these products, and wherever appropriate to devise measures designed to stabilize and improve conditions of world markets in these products, including in particular measures designed to attain stable, equitable and remunerative prices, thus permitting an expansion of world trade and demand and a dynamic and steady growth of the real export earnings of these countries so as to provide them with expanding resources for their economic development.</p>	<p>See also under section on the agreement on agriculture.</p> <p>The value of exports of agricultural products from developing countries increased from US Dollars 114 billion in 1990 to US Dollars 172 Billion in 2000.</p>

Provision	Comment
<p>5. The rapid expansion of the economies of the less-developed contracting parties will be facilitated by a diversification of the structure of their economies and the avoidance of an excessive dependence on the export of primary products. There is, therefore, need for increased access in the largest possible measure to markets under favourable conditions for processed and manufactured products currently or potentially of particular export interest to less-developed contracting parties.</p>	<p>See above.</p> <p>The share of manufactures in developing country exports rose from 52.1 percent in 1990 to 66 per cent in 2001, though the share varies widely across regions.</p>

Provision	Comment
<p><b>Provisions under which WTO Members should safeguard the interests of developing country Members</b></p>	
<p>6. Because of the chronic deficiency in the export proceeds and other foreign exchange earnings of less-developed contracting parties, there are important inter-relationships between trade and financial assistance to development. There is, therefore, need for close and continuing collaboration between the CONTRACTING PARTIES and the international lending agencies so that they can contribute most effectively to alleviating the burdens these less-developed contracting parties assume in the interest of their economic development.</p>	<p>Ministers adopted the Declaration on the Contribution of the World Trade Organisation to Achieving Greater Coherence in Global Economic Policy-making, which recognise, <i>inter alia</i> that difficulties the origins of which lie outside the trade field cannot be addressed through measures taken in the trade field alone.</p> <p>In November 1996 the General Council approved WTO agreements with the IMF and the World Bank. The agreements aimed to strengthen inter-agency relations.</p> <p>The High-Level Meeting for Least-Developed Countries' Trade Development in October 1997 endorsed the participation of six inter-governmental agencies including the IMF and World Bank in the Integrated Framework for Trade-Related Technical Cooperation for least-developed countries. In July 2000, the six core agencies agreed to make every effort to support the integration of trade, trade-related technical assistance, and capacity-building into the national development strategies and plans of LDCs. This would be ensured principally through such instrument as Poverty Reduction Strategy Papers (PRSPs) and would influence other development frameworks such as the United Nations Development Assistance Framework (UNDAF). In doing so, these efforts will ensure dynamic interaction and dialogue among LDCs, donors and agencies, fully respecting country ownership. (WT/LDC/SWG/IF/2)</p>
<p>7. There is need for appropriate collaboration between the CONTRACTING PARTIES, other intergovernmental bodies and the organs and agencies of the United Nations system, whose activities relate to the trade and economic development of less-developed countries.</p>	<p>A global arrangement for cooperation between WTO and the United Nations was concluded on 29 September 1995 by an exchange of letters between the Director-General and the UN Secretary General (WT/GC/W/10).</p> <p>See above</p>

Provision	Comment
9. The adoption of measures to give effect to these principles and objectives shall be a matter of conscious and purposeful effort on the part of the contracting parties both individually and jointly.	See above
<b>Flexibility of commitments, of action, and use of policy instruments</b>	
8. The 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.	See above under paragraphs 3, 4 and 5. In addition, this provision was taken into account during the negotiations in the Uruguay Round. This is reflected both in the extent of bindings on industrial products and the average level of tariffs of the developing country Members.

**Article XXXVII**

<b>Provisions aimed at increasing the trade opportunities of developing country Members</b>	
<p>1. The developed contracting parties shall to the fullest extent possible - that is, except when compelling reasons, which may include legal reasons, make it impossible give effect to the following provisions:</p> <p>(a) Accord high priority to the reduction and elimination of barriers to products currently or potentially of particular export interest to less-developed contracting parties, including customs duties and other restrictions which differentiate unreasonably between such products in their primary and in their processed forms;</p>	A similar provision has been taken into account in the reduction of tariffs on tropical products during the Uruguay Round. See under Section 2.1 below (Agreement on Agriculture).
4. Less-developed contracting parties agree to take appropriate action in implementation of the provisions of Part IV for the benefit of the trade of other less-developed contracting parties, in so far as such action is consistent with their individual present and future development, financial and trade needs taking into account past trade developments as well as the trade interests of less-developed contracting parties as a whole.	(Refer to section on lest-developed countries)
<b>Provisions under which WTO Members should safeguard the interests of developing country Members</b>	
(b) refrain from introducing, or increasing the incidence of, customs duties or non-tariff	

import barriers on products currently or potentially of particular export interest to less-developed contracting parties; and

(c) (i) refrain from imposing new fiscal measures, and (ii) in any adjustments of fiscal policy accord high priority to the reduction and elimination of fiscal measures, which would hamper, or which hamper, significantly the growth of consumption of primary products, in raw or processed form, wholly or mainly produced in the territories of less-developed contracting parties, and which are applied specifically to those products.

2. (a) Whenever it is considered that effect is not being given to any of the provisions of subparagraph (a), (b) or (c) of paragraph 1, the matter shall be reported to the CONTRACTING PARTIES either by the contracting party not so giving effect to the relevant provisions or by any other interested contracting party. (b) (i) The CONTRACTING PARTIES shall, if requested so to do by any interested contracting party, and without prejudice to any bilateral consultations that may be undertaken, consult with the contracting party concerned and all interested contracting parties with respect to the matter with a view to reaching solutions satisfactory to all contracting parties concerned in order to further the objectives set forth in Article XXXVI. In the course of these consultations, the reasons given in cases where effect was not being given to the provisions of subparagraph (a), (b) or (c) of paragraph 1 shall be examined. (ii) As the implementation of the provisions of subparagraph (a), (b) or (c) of paragraph 1 by individual contracting parties may in some cases be more readily achieved where action is taken jointly with other developed contracting parties, such consultation might, where appropriate, be directed towards this end. (iii) The consultations by the CONTRACTING PARTIES might also, in appropriate cases, be directed towards agreement on joint action designed to further the objectives of this Agreement as envisaged in paragraph 1 of Article XXV.

No request for consultations has been made either by a Member giving effect to the provisions of sub-paragraphs a, b and c of paragraph 1 or by any other interested Member.

<p>3. The developed contracting parties shall:</p> <p>(a) Make every effort, in cases where a government directly or indirectly determines the resale price of products wholly or mainly produced in the territories of less-developed contracting parties, to maintain trade margins at equitable levels.</p> <p>(b) Give active consideration to the adoption of other measures designed to provide greater scope for the development of imports from less-developed contracting parties and collaborate in appropriate international action to this end.</p>	
<p>(c) Have special regard to the trade interests of less-developed contracting parties when considering the application of other measures permitted under this Agreement to meet particular problems and explore all possibilities of constructive remedies before applying such measures where they would affect essential interests of those contracting parties.</p>	<p>This provision has been incorporated into the Anti-dumping Agreement.</p>
<p>5. In the implementation of the commitments set forth in paragraph 1 to 4 each contracting party shall afford to any other interested contracting party or contracting parties full and prompt opportunity for consultations under the normal procedures of this Agreement with respect to any matter or difficulty which may arise.</p>	



**Article XXXVIII**

Provision	Comment
<b>Provisions aimed at increasing the trade opportunities of developing country Members</b>	
<p>(c) Collaborate in analysing the development plans and policies of individual less-developed contracting parties and in examining trade and aid relationships with a view to devising concrete measures to promote the development of export potential and to facilitate access to export markets for the products of the industries thus developed and, in this connection, seek appropriate collaboration with governments and international organizations, and in particular with organizations having competence in relation to financial assistance for economic development, in systematic studies of trade and aid relationships in individual less-developed contracting parties aimed at obtaining a clear analysis of export potential, market prospects and any further action that may be required;</p>	<p>The High-Level Meeting on Integrated Initiatives for Least-Developed Countries' Trade Development was in part a response to this provision. (please refer to section on LDCs for further detail)</p>
<p>(e) Collaborate in seeking feasible methods to expand trade for the purpose of economic development, through international harmonization and adjustment of national policies and regulations, through technical and commercial standards affecting production, transportation and marketing, and through export promotion by the establishment of facilities for the increased flow of trade information and the development of market research;</p>	<p>The work of the WTO/UNCTAD International Trade Centre is oriented towards meeting the objectives of this provision.</p> <p>The WTO Reference Centre Programme has contributed to the enhancing the flow of trade-related information to governments and business communities. To date, 103 reference centres have been established. ).</p>
<b>Provisions under which WTO Members should safeguard the interests of developing country Members</b>	
<p>1. The contracting parties shall collaborate jointly, with the framework of this Agreement and elsewhere, as appropriate, to further the objectives set forth in Article XXXVI.</p> <p>2. In particular, the CONTRACTING PARTIES shall:</p> <p>(a) where appropriate, take action, including action through international arrangements, to provide improved and acceptable conditions of access to world markets for primary products of particular interest to less-developed</p>	<p>The Committee on Trade and Development provides a forum for Members to collaborate jointly in this regard.</p> <p>This matter has generally been considered in UNCTAD from the inception.</p>

Provision	Comment
contracting parties and to devise measures designed to stabilize and improve conditions of world markets in these products including measures designed to attain stable, equitable and remunerative prices for exports of such products;	
(b) seek appropriate collaboration in matters of trade and development policy with the United Nations and its organs and agencies, including any institutions that may be created on the basis of recommendations by the United Nations Conference on Trade and Development;	See comment in relation to (Article XXXVI:7).
(d) keep under continuous review the development of world trade with special reference to the rate of growth of the trade of less-developed contracting parties and make such recommendations to contracting parties as may, in the circumstances, be deemed appropriate;	The Committee on Trade and Development conducts regular reviews of the participation of developing countries in world trade. (see WT/COMTD/W/65, and forthcoming September 2001)
(f) establish such institutional arrangements as may be necessary to further the objectives set forth in Article XXXVI and to give effect to the provision of this Part.	The WTO Committee on Trade and Development, was established in 1995. (see WT/L/46 for terms of reference).

**1979 Decision of the Contracting Parties on Differential and More Favourable Treatment, Reciprocity and Fuller Participation of Developing Countries: "The Enabling Clause"**

Provision	Comment
1. Notwithstanding the provisions of Article I of the General Agreement, contracting parties may accord differential and more favourable treatment to developing countries, <sup>6</sup> without according such treatment to other contracting parties.	
2. The provisions of paragraph 1 apply to the following: <sup>7</sup>	
<b>Provisions aimed at increasing trade opportunities</b>	
(a) Preferential tariff treatment accorded by developed contracting parties to products	Implementation of this provision has been through GSP schemes as notified to the COMTD.

<sup>6</sup> <sup>11</sup>The words "developing countries" as used in this text are to be understood to refer also to developing territories.

<sup>7</sup> It would remain open for the CONTRACTING PARTIES to consider on an *ad hoc* basis under the GATT provisions for joint action any proposals for differential and more favourable treatment not falling within the scope of this paragraph.

originating in developing countries in accordance with the Generalized System of Preferences. <sup>8</sup>	
<b>Flexibility of commitments, of action, and use of policy instruments</b>	
(b) Differential and more favourable treatment with respect to the provisions of the General Agreement concerning non-tariff measures governed by the provisions of instruments multilaterally negotiated under the auspices of the GATT.	
(c) Regional or global arrangements entered into amongst less-developed contracting parties for the mutual reduction or elimination of tariffs and, in accordance with criteria or conditions which may be prescribed by the CONTRACTING PARTIES, for the mutual reduction or elimination of non-tariff measures, on products imported from one another	To date, 17 regional arrangements have been notified under the Enabling Clause
<b>Provisions relating to least-developed country Members</b>	
(d) Special treatment of the least developed among the developing countries in the context of any general or specific measures in favour of developing countries.	A number of GSP schemes provide for enhanced market access for least developed countries. Documents WT/COMTD/LDC/W/16 and WT/COMTD/W/17 and WT/LDC/SWG/IF/14 provide data on market access for the 29 least-developed country members of the WTO.

General comments with respect to the enabling clause

*The use of the Generalized System of Preferences (GSP) is frequently referred to in the TPRM process without stating any difficulties. However, specific concerns raised in TPRM discussions with respect to (GSP) include the following:*

- *That items of particular export interest for developing countries are not eligible for GSP benefits, or only partially included in the schemes, such as agricultural and textiles and clothing items;<sup>9</sup> (WT/TPR/M/13, page 11, WT/TPR/M/30, page 9, WT/TPR/S/32-2, pages 7,8, WT/TPR/M/32 25)*
- *That some GSP schemes ignore the factor-intensity of production in developing countries as certain labour-intensive chemical and textile products have been removed from the schemes; (WT/TPR/M/3, page 20)*
- *That certain schemes contain binding ceiling quotas on certain products;<sup>10</sup> (WT/TPR/S/32-2, pages.7-8)*

<sup>8</sup> As described in the Decision of the CONTRACTING PARTIES of 25 June 1971, relating to the establishment of "generalized, non-reciprocal and non-discriminatory preferences beneficial to the developing countries."

<sup>9</sup> The following items were explicitly mentioned; walnuts, raw coffee, meat, dairy products, vegetables, cereals, cigars, silk, cotton, woven fabrics of cotton, footwear.

<sup>10</sup> The following items were explicitly mentioned: wood and articles thereof, leather articles, footwear, electrical machinery and equipment.

- *That not all exports of GSP-eligible goods from developing countries to preference giving countries actually benefit from preferential access; (WT/TPR/S/52-2, pages 22-23)*
- *That some GSP schemes in reality only benefit a few developing countries exporters of the few products covered by the scheme and that the benefits of the scheme therefore are highly skewed both in terms of the number of main beneficiaries and the range of products; (WT/TPR/M/32, pages 24,25)*
- *That imports under contractual or unilateral preferences, subject to emergency safeguards or zero-duty quotas have negative effects on preference schemes; (WT/TPR/M/3, page 15)*
- *That developing country exports have been progressively excluded from a number of GSP schemes as such exports have reached the competitiveness criteria defined by GSP-granting countries. The negative effects on the market position of certain developing country products have been magnified by the maintenance of benefits to competing countries; (WT/TPR/S/21-2, page 10)*
- *That specialization and development indices can lead to discrimination between developing countries competing for the same market. Such indices favour producers of raw materials and low-processed goods while penalizing more advanced suppliers; (WT/TPR/M/3, pages 6,7)*
- *That sector and country graduation are contrary to principles of non-discrimination and non-reciprocity that underpin the GSP and therefore alien to the original intentions underlying the GSP concept; (WT/TPR/M/3, page 19, WT/TPR/M/30, pages 9,10)*
- *That the withdrawal, or the threat of withdrawal of preferences is used as leverage to obtain non-trade objectives. As recipient countries can not rely on the preferences, they have become less useful. The consequent uncertainty of access is a major concern to countries affected; (WT/TPR/M/16, page 9) and*
- *That linking the benefits to non-trade issues, such as environmental and social (labour) standards as well as intellectual property rights and the fight against drugs curtail the benefits under the scheme and introduce elements of discrimination and reciprocity into the GSP scheme. These aspects go against the fundamental principles of the GSP. (WT/TPR/M/3, pages 6, 7, 11, 15, 19, 20, WT/TPR/M/16 pages 16, 25, 29, WT/TPR/M/30, pages 6, 9, 10, 11, 15, 16, 17, 26)*

### **1999 Decision on waiver for preferential tariff treatment of Least Developed Countries**

Provision	Comment
<b><u>Provisions relating to measures to assist least-developed country Members.</u></b>	
Subject to the terms and conditions set out hereunder, the provisions of paragraph 1 of Article I of the GATT 1994 shall be waived until 30 June 2009, to the extent necessary to allow developing country Members to provide preferential tariff treatment to products of least-developed countries, designated as such by	To date, 2 notifications have been submitted under this decision (WT/COMTD/N/12/Rev.1; and G/C/6 And WT/LDC/SWG/IF/18.

Provision	Comment
the United Nations, without being required to extend the same tariff rates to like products of any other Member.	

## B. AGREEMENT ON AGRICULTURE:

1. Provisions aimed at increasing trade opportunities for developing countries:  
One provision (the Preamble to the agreement).
2. Transition time periods:  
One provision (Article 15.2).
3. Flexibility of commitments, of action, and use of policy instruments:  
Nine provisions (Article 6.2; Article 6.4; Article 9.2(b)(iv); Article 9.4; Article 12.2; Article 15.1; Annex 2, para 3 and footnote 5; Domestic food aid: Annex 2, para. 4, footnotes 5 & 6; Annex 5, Section B).
4. Provisions relating to measures to least-developed country Members:  
Two provisions (Article 16.1 and Article 16.2).

The Agreement on Agriculture together with the Decision on Members Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries, contain 18 special and differential treatment provisions. The special and differential treatment provisions of the Agreement and the Decisions jointly cover all six types of special and differential treatment provisions.

Provisions falling in categories 1 and 4 listed above cover positive actions to be taken by Members with respect to developing country Members, including least developed countries. The right hand column of the table below provides information on their implementation. Provisions falling under categories 2 and 3 cover actions developing countries may take as a result of exemptions, time-bound or otherwise provided for in the Agreement. With the exception of Article 12.2, available data show that developing countries made use of all provisions available in these two categories.

It may be noted that no specific implementation concerns regarding special and differential treatment provisions have been raised during the formal regular meetings of the Committee on Agriculture.

Special and differential treatment for developing countries is an integral part of the mandated negotiations on agriculture under Article 20 of the Agreement. A large number of developing and developed countries have submitted negotiating proposals concerning S&D treatment for developing countries to the Special Session of the Committee on Agriculture. These proposals have been circulated in the G/AG/NG/W-series. Proposals pertaining to S&D in Agriculture are presented below.

Under the notification requirements adopted by the Committee on Agriculture (G/AG/2), least-developed countries are to make notifications on domestic support only every two years; developing countries are to notify annually but the Committee on Agriculture may, upon request, set aside parts of the notification requirements. To date, there has been no such request.

Provision	Comment
<b>Provisions aimed at increasing trade opportunities</b>	
<i>Preamble</i>	
<i>Having agreed that in implementing their commitments on market access, developed country Members would take fully into account the particular needs and conditions of developing</i>	Schedules of developed country Members show greater-than-average reductions in tariffs on a range of products of particular interest to developing countries (e.g. average tariff reduction

Provision	Comment
<p><i>country Members by providing for a greater improvement of opportunities and terms of access for agricultural products of particular interest to these Members, including the fullest liberalization of trade in tropical agricultural products as agreed at the Mid-Term Review, and for products of particular importance to the diversification of production from the growing of illicit narcotic crops;</i></p>	<p>of 43 per cent for tropical agricultural products) and often their accelerated implementation. Document G/AG/NG/S/10 dated 10 June 2000 gives an overview of tariff information on a range of agricultural products that were identified by developing countries as being of particular interest to them.</p>
<b>Transition time periods</b>	
<p>Article 15.2 <i>Developing country Members shall have the flexibility to implement reduction commitments over a period of up to 10 years. Least-developed country Members shall not be required to undertake reduction commitments.</i></p>	<p>Used by developing and least-developed countries in the establishment of Schedules</p>
<b>Flexibility</b>	
<p>Article 6.2 <i>(Domestic Support Commitments). In accordance with the Mid-Term Review Agreement that government measures of assistance, whether direct or indirect, to encourage agricultural and rural development are an integral part of the development programmes of developing countries, investment subsidies which are generally available to agriculture in developing country Members and agricultural input subsidies generally available to low-income or resource-poor producers in developing country Members shall be exempt from domestic support reduction commitments that would otherwise be applicable to such measures, as shall domestic support to producers in developing country Members to encourage diversification from growing illicit narcotic crops. Domestic support meeting the criteria of this paragraph shall not be required to be included in a Member's calculation of its Current Total AMS.</i></p>	<p>Developing countries took account of the provision in the establishment of their Schedules. Documents G/AG/NG/S/1 and Corr. 1 (dated 13 and 25 April 2000), G/AG/NG/S/2 (dated 19 April 2000) and G/AG/NG/S/12 show the extent to which Members have actually taken recourse to this exemption from domestic support reduction commitments.</p> <p>In 1998, 16 developing countries notified subsidies benefiting from this exemption, totalling 1 billion US Dollars. This represented, on average, 7 per cent of their total notified domestic support.</p>
<p>Article 6.4 (b) <i>(Domestic Support Commitments- calculation of current total AMS) For developing country Members, the de minimis percentage under this paragraph shall be 10 per cent</i></p>	<p>Developing countries took account of the provision in the establishment of their Schedules. Actual use of this provision is reflected in document G/AG/NG/S/2 and G/AG/NG/S/12Rev1.</p> <p>In 1998, total notified support benefiting from the <i>de minimis</i> exemption amounted to 3.3 billion US Dollars, or 24 per cent of the total notified domestic support by the 12 developing countries in question.</p>

Provision	Comment
<p><i>Article 9.2(b)(iv)</i>  <i>(Budgetary outlays for export subsidies)</i>  <i>The Member's budgetary outlays for export subsidies and the quantities benefiting from such subsidies, at the conclusion of the implementation period, are no greater than 64 per cent and 79 per cent of the 1986-1990 base period levels, respectively. For developing country Members these percentages shall be 76 and 86 per cent, respectively.</i></p>	<p>Developing countries took account of the provision in the establishment of their Schedules. All 10 developing country Members which have export subsidy reduction commitments (Brazil, Colombia, Cyprus, Indonesia, Israel, Mexico, Romania, Turkey, Uruguay and Venezuela) have used the flexibility to apply a lower rate of reduction</p>
<p><i>Article 9.4</i>  <i>During the implementation period, developing country Members shall not be required to undertake commitments in respect of the export subsidies listed below, provided that these are not applied in a manner that would circumvent reduction commitments:</i></p> <p><i>subsidies to reduce the costs of marketing exports of agricultural products, including handling, upgrading and other processing costs, and the costs of international transport and freight; and providing internal transport charges on export shipments terms more favourable than those for domestic shipment.</i></p>	<p>Developing countries took account of the provision in the establishment of their Schedules. In 1998, four developing countries (Korea, Morocco, Pakistan and Tunisia) notified the use of export subsidies under this provision, totalling 12 million US Dollars. Document G/AG/S/5/Rev.1 (dated 19 July 2001) refers.</p>
<p><i>Article 12.2</i>  <i>(Diversification of export prohibitions and restrictions)</i>  <i>The provisions of [Article 12.1] shall not apply to any developing country Member, unless the measure is taken by a developing country Member which is a net-food exporter of the specific foodstuff concerned.</i></p>	<p>No developing country has notified the introduction of such a measure.</p>
<p><i>Article 15.1</i>  <i>In keeping with the recognition that differential and more favourable treatment for developing country Members is an integral part of the negotiation, special and differential treatment in respect of commitments shall be provided as set out in the relevant provisions of this Agreement and embodied in the Schedules of concessions and commitments.</i></p>	<p>The Schedules of developing countries and least-developed countries reflect the flexibility on ceiling bindings, longer implementation period and lower reduction commitments in tariffs, domestic support and export subsidies.</p>
<p><i>Annex 2, para. 3, footnote 5</i>  <i>(Public stockholding for food security purposes)</i>  <i>For the purposes of paragraph 3 of Annex 2, governmental stockholding programmes for food security purposes in developing countries whose operation is transparent and conducted in accordance with officially published objective criteria or guidelines shall be considered to be in conformity with the provisions of this paragraph,</i></p>	<p>Developing countries took account of the provision in the establishment of the Schedules. Document G/AG/NG/S/2 shows that this particular category of government assistance has been implemented by several developing countries.</p>



Provision	Comment
<p><i>including programmes under which stocks of foodstuffs for food security purposes are acquired and released at administered prices, provided that the difference between the acquisition price and the external reference price is accounted for in the AMS.</i></p>	
<p><i>Annex 2, para. 4, footnotes 5 &amp; 6 (Domestic food aid) For the purposes of paragraphs 3 and 4 of Annex 2, the provision of foodstuffs at subsidized prices with the objective of meeting food requirement of urban and rural poor in developing countries on a regular basis at reasonable prices shall be considered to be in conformity with the provisions of this paragraph.</i></p>	<p>Developing countries took account of this provision in the establishment of the Schedules. Document G/AG/NG/S/2 shows how this particular category of government assistance has been implemented by several developing countries.</p>
<p><i>Annex 5, Section B The provisions of Article 4.2 shall also not apply with effect from the entry into force of the WTO Agreement to a primary agricultural product that is the predominant staple in the traditional diet of a developing country Member and in respect of which the following conditions, in addition to those specified in paragraph 1(a) through 1(d), as they apply to the products concerned, are complied with: (a) minimum access opportunities in respect of the products concerned, as specified in Section I-B of Part I of the Schedule of the developing country Member concerned, correspond to 1 per cent of base period domestic consumption of the products concerned from the beginning of the first year of the implementation period and are increased in equal annual instalments to 2 per cent of corresponding domestic consumption in the base period at the beginning of the fifth year of the implementation period. From the beginning of the sixth year of the implementation period, minimum access opportunities in respect of the products concerned correspond to 2 per cent of corresponding domestic consumption in the base period and are increased in equal annual instalments to 4 per cent of corresponding domestic consumption in the base period until the beginning of the 10th year. Thereafter, the level of minimum access opportunities resulting from this formula in the 10th year shall be maintained in the Schedule of the developing country Member concerned; (b) appropriate market access opportunities have been provided for in other products under this Agreement. In the event that special treatment under paragraph 7 is not</i></p>	<p>The Schedules of Korea and the Philippines reflect recourse to this provision.</p>

Provision	Comment
<p><i>to be continued beyond the 10th year following the beginning of the implementation period, the products concerned shall be subject to ordinary customs duties, established on the basis of a tariff equivalent to be calculated in accordance with the guidelines prescribed in the attachment hereto, which shall be bound in the Schedule of the Member concerned. In other respects, the provisions of paragraph 6 shall apply as modified by the relevant special and differential treatment accorded to developing country Members under this Agreement.</i></p>	
<b>Provisions relating to least-developed country Members</b>	
<p><i>Article 16.1 Developed country Members shall take such action as is 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.</i></p>	<p>Information on actions undertaken within the framework of the decision is to be found in the following section</p>
<p><i>Article 16.2 The Committee on Agriculture shall monitor, as appropriate, the follow-up to this Decision.</i></p>	<p>The Decision has been on the agenda of virtually every meeting of the Committee. Please see the following section on the Decision for further information.</p>

- C. DECISION ON MEASURES CONCERNING THE POSSIBLE NEGATIVE EFFECTS OF THE REFORM PROGRAMME ON LEAST-DEVELOPED AND NET FOOD-IMPORTING DEVELOPING COUNTRIES:<sup>11</sup>
1. Provisions under which WTO Members should safeguard the interests of developing country Members:  
Four provisions: (the Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries, paragraphs 3(i) and paragraph 3 (ii); 4 and 5.
  2. Technical assistance:  
One provision (the Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries, paragraph 3(iii).

All the provisions of the Decision cover positive actions to be taken by members with respect to developing country Members, including least developed countries. The right hand column provides information on their implementation.

#### General comments

The follow-up of the Decision has represented an important part of the work of the Committee on Agriculture. The Decision has been on the agenda of virtually each meeting. At an early stage, the Committee agreed on various practical arrangements: (i) an annual review of the implementation of the Decision; (ii) notification requirements, notably for developed country Members, for actions taken under the Decision; (iii) the establishment of a WTO list of net-food importers, which comprises currently all least-developed countries as defined by the United Nations and 19 developing country Members. In addition to the annual reviews of the Decision in the Committee on Agriculture, the Committee made specific recommendations to the Singapore Ministerial Conference (SMC) which were adopted. The relevant provisions of the Decision as well as the recommendations and their follow-up are set out below.

In the course of the work of the Committee on Agriculture related to the implementation of the Decision, several Members intervened, with developing countries raising the following issues and concerns: the critical importance of food security; recognition of the crucial role played by international trade in achieving national food security objectives; recognition of the successful conclusion of the new Food Aid Convention (FAC); the desirability for more Members to join the FAC as this would be a concrete way to assist LDCs and NFIDCs to honour the commitments made by Ministers at Marrakesh and Singapore; concern over declining levels of cereal and non-cereal food aid; the reduction of trade-distorting protection and support would help many developing countries to improve their export performance and thus their ability to finance their food security needs; the lack of progress with negotiations on export credits in the framework of the OECD. Some net food-importing developing countries expressed concern that their expectations have not been met in areas like concessional finance, since access to existing facilities remains subject to certain conditions or continues to be linked to balance-of-payment difficulties.

At its meeting on 15 December 2000, the Special Session of the General Council requested the Committee on Agriculture to examine possible means of improving the effectiveness of the

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<sup>11</sup> The WTO list of net food-importing developing countries as it currently stands: Barbados, Botswana, Côte d'Ivoire, Cuba, Dominican Republic, Egypt, Honduras, Jamaica, Kenya, Mauritius, Morocco, Pakistan, Peru, Saint Lucia, Senegal, Sri Lanka, Trinidad and Tobago, Tunisia and Venezuela (G/AG/5/Rev.3, dated 28 June 1999, refers).

implementation of the Decision and to report back to the Council (WT/L/384 refers). The reports by the Vice-Chairman of the Committee to the General Council are contained in documents G/AG/7 (dated 25 April 2001) and G/AG/10 (dated 6 July 2001).

In this context, a group of seventeen WTO net food-importing developing countries have submitted proposals to the Committee on Agriculture to which call, amongst other things, for the establishment of an Inter-Agency Revolving Fund (documents G/AG/W/49 dated 19 March 2001 and G/AG/W/49/Add.1 dated 23 May 2001 refer).

In the formal and informal discussions that were held regarding the issue of access to the resources of the international financial institutions and the proposed Revolving Fund, it was noted by some of the NFIDCs that the NFIDCs and LDCs were faced with higher cereal import bills as the result of Uruguay Round reform programme, that in spite of this the Decision had not been implemented, that the provisions of the Decision lacked clarity with respect to timing and mechanisms to operationalize it, and that the existing financing facilities available from the IMF and World Bank were inadequate and did not meet the requirements of the Decision. Some of the donor Members questioned the justification of the proposals and argued that food import prices were currently lower than before the end of the Uruguay Round, that the proposals went beyond implementation of the Decision, and raised doubts whether the proposed Revolving Fund was the best solution to address short-term difficulties in financing imports of basic foodstuffs.

In a WTO Roundtable discussion that was held regarding the issue of short-term concessional financing, the IMF representative stated that the IMF could consider the proposal only if it was related to balance-of-payments difficulties. Since the proposed Revolving Fund fell outside its authority, the IMF could not make a contribution. The World Bank representative stated that the World Bank would not be in a position to contribute to the proposed new fund.

The Vice-Chairman undertook to continue his informal consultations in September and the Decision will also be on the agenda of the regular meeting of the Committee on Agriculture on 27 September 2001.

Provision	Comment
<b>Provisions under which WTO Members should safeguard the interests of developing country Members</b>	
<p><i>Paragraph 3(i)</i>  <i>To review the level of food aid established periodically by the Committee on Food Aid under the Food Aid Convention 1986 and to initiate negotiations in the appropriate forum to establish a level of food aid commitments sufficient to meet the legitimate needs of developing countries during the reform programme.</i></p>	<p>In anticipation of the expiry of the Food Aid Convention, 1995 ("FAC"), Ministers at the Singapore Ministerial Conference agreed that, in preparation of the re-negotiation of the Food Aid Convention, action be initiated in 1997 within the framework of the Convention, to develop recommendations with a view towards establishing a level of food aid commitments, covering as wide a range of donors and donable products as is possible, which is sufficient to meet the legitimate needs of developing countries during the reform programme (G/L/125, paragraph 18(i) refers). In December 1997 the FAC Food Aid Committee decided to open the Convention for renegotiation taking into account, amongst other things, the food security and trade liberalization objectives under the WTO and the World Food Summit Action Plan. The negotiations on the Food Aid Convention 1999 were completed on 24 March 1999 and the new Convention provisionally entered into force on 1 July 1999 for an initial duration of three years. The Food Aid Convention 1999 contains a number of new features. They include that the list of eligible products which may be supplied has been broadened significantly beyond cereals. There are also new provisions designed to improve the effectiveness and the impact of food aid. When allocating their food aid, FAC members undertake to give priority to the least-developed countries and Low-Income Countries, many of which are on the present WTO list of net food-importing developing countries. Other eligible food aid recipients include Lower Middle-Income Countries and all other countries included in the WTO list of net food-importing developing countries at the time of negotiation of the new Convention.</p> <p>Although food aid shipments of grain fell from 10.4 million tonnes in 1992/93 to 5.8 million tonnes in 1996/97, shipments exceeded, except in 1994/95, FAC members' combined minimum annual commitments in this period. In 1998/99, food aid shipments by FAC donors reached an estimated 8.1 million tonnes, 2 million tonnes more than in 1997/98 and 2.8 million tonnes more than the aggregate annual minimum commitment under the FAC 1995. Preliminary data for 1999/2000 indicate that FAC donors</p>

Provision	Comment
	collectively supplied 8.3 million tonnes (wheat equivalent) to eligible recipients, with a further €150 million supplied against commitments expressed in value terms. Document G/AG/NG/S/3, dated 25 April 2000, pp. 2-8, refer. and Document G/AG/W/42/Rev.3 refers
<p><i>Paragraph 3(ii)</i>  <i>To adopt guidelines to ensure that an increasing proportion of basic foodstuffs is provided to least-developed and net food-importing developing countries in fully grant form and/or on appropriate concessional terms in line with Article IV of the Food Aid Convention 1986.</i></p>	<p>The SMC agreed that the recommendations referred to above should include guidelines to ensure that an increasing proportion of food aid is provided to least-developed and net food-importing developing countries in fully grant form and/or on appropriate concessional terms in line with Article IV of the current FAC, as well as means to improve the effectiveness and positive impact of food aid. Table 6 of document G/AG/W/42/Rev.3 (dated 31 October 2000) show that this recommendation is followed by all Food Aid Convention donors (Argentina, Australia, Canada, EC, Japan, Norway, Switzerland; and United States).</p>
<p><i>Paragraph 4</i>  <i>Ensure that any agreement relating to agricultural export credits makes appropriate provision for differential treatment in favour of least-developed and net food-importing developing countries.</i></p>	<p>Ministers reaffirmed the commitment at the SMC. In the negotiations on an understanding regarding agricultural export credits currently undertaken within the framework of the OECD, consideration is given to this commitment. See also paragraph 33, document G/AG/NG/S/3.</p> <p>At its meeting on 18 October 2000, the Special Session of the General Council referred to the Committee on Agriculture implementation related issues which had been identified in the report presented by the Director-General and the Chairman of the General Council on their consultations on implementation issues and concerns as being appropriate for such action.</p> <p>The relevant part of this report, which constitutes the Committee's mandate in this matter, is as follows:</p> <p>"On tirit 6, regarding the development of internationally agreed disciplines to govern the provision of export credits, export credit guarantees or insurance programmes pursuant to Article 10.2 of the Agreement, I propose, on the basis of our discussions, that the General Council instruct the Committee on Agriculture to include in the agenda of its regular meetings an item on the implementation of Article 10.2 and to report back on the Committee's progress on this issue to the General Council at its last regular meeting of this year.</p>

Provision	Comment
	<p>It is my understanding that in pursuing their work on export credits in accordance with Article 10.2, Members will of course take into account the provisions of paragraph 4 of the Marrakesh Decision on net food-importing countries, in which Ministers agreed that any agreement on export credits should ensure appropriate provision for differential treatment in favour of least-developed and net food-importing developing countries."</p> <p>Documents G/AG/6 and G/AG/8 refer</p>
<p><i>Paragraph 5</i> <i>As a result of the Uruguay Round certain developing countries may experience short-term difficulties in financing normal levels of commercial imports and that these countries may be eligible to draw on the resources of international financial institutions under existing facilities, or such facilities as may be established, in the context of adjustment programmes, in order to address such financing difficulties. In this regard, Ministers take note of paragraph 37 of the report of the Director-General to the CONTRACTING PARTIES to GATT 1947 on his consultations with the Managing Director of the International Monetary Fund and the President of the World Bank (MTN.GNG/NG14/W/35).</i></p>	<p>At the SMC it was agreed that WTO Members, in their individual capacity as members of relevant international financial institutions, take appropriate steps to encourage the institutions concerned, through their respective governing bodies, to further consider the scope for establishing new facilities or enhancing existing facilities for developing countries experiencing Uruguay Round-related difficulties in financing normal levels of commercial imports of basic foodstuffs.</p> <p>At the annual monitoring exercise regarding implementation of the Decision held by the Committee on Agriculture in November of each year, the IMF has consistently stated that had it sufficient resources and saw no need to establish special UR-related facilities to address the financing needs of the net food-importer in times of high world market prices for food. The World Bank stated that the impact of the UR on food prices was small and that it did not consider necessary to establish a special UR adjustment facility. See document G/AG/W/42/Rev.3, pp. 14-15.</p>
<b>Technical assistance</b>	
<p><i>Paragraph 3(iii)</i> <i>To give full consideration in the context of their aid programmes to requests for the provision of technical and financial assistance to least-developed and net food-importing developing countries to improve their agricultural productivity and infrastructure.</i></p>	<p>The SMC called on developed country WTO Members to continue to give full consideration in the context of their aid programmes to requests for the provision of technical and financial assistance in this light. This recommendation reflects the fact that technical and financial assistance is essentially a bilateral matter between donors and recipients based on requests made by recipient countries. The Secretariat has no information whether least-developed and net food-importing developing countries made requests pursuant to paragraph 3(iii) of the</p>

Provision	Comment
	Decision. Document G/AG/W/42/Rev.3 (Attachment 6) summarizes the financial and technical assistance provided to least-developed and net food importing developing countries since 1995, as notified by donor Members.



D. NEGOTIATING PROPOSALS RELATING TO SPECIAL AND DIFFERENTIAL TREATMENT SUBMITTED TO THE SPECIAL SESSION OF THE COMMITTEE ON AGRICULTURE.

1. This information draws on material contained in the proposals submitted to date in the context of the negotiations on agriculture. Elements of the different proposals have been classified using the typology of special and differential treatment employed elsewhere in this document. Most proposals contained elements of special and differential treatment in more than one of the six categories of the typology. By far the most frequent types of proposal relating to special and differential treatment were those coming under the category of provisions relating to flexibility of commitments, of action, and use of policy instruments. At the other end of the scale, only one provision related specifically to least-developed countries.

2. In addition to specific negotiating proposals recorded and classified below, many Members have made formal statements to the Special Session of the Committee on Agriculture. The contents of these statements are not reproduced below. They can be found in the document series G/AG/NG/W/--.

**1. Specific Proposals relating to Provisions aimed at increasing the trade opportunities of developing country Members**

Proposal	Contents
G/AG/NG/W/13 Cuba, Dominican Republic, Honduras, Pakistan, Haiti, Nicaragua, Kenya, Uganda, Zimbabwe, Sri Lanka and El Salvador	- The OECD countries which continue to have very high tariff peaks and escalations should drastically reduce these tariff levels, specially for products of interest to developing countries.
G/AG/NG/W/15 United States	- All WTO members consider products of interest to developing countries, in particular least-developed countries, when making tariff reductions; [and] give special consideration to least developed countries when they implement tariff reduction commitments.

<p>G/AG/NG/W/36rev1 Barbados, Burundi, Cyprus, Czech Republic, Dominica, Estonia, the European Communities, Fiji, Iceland, Israel, Japan, Korea, Latvia, Liechtenstein, Madagascar, Malta, Mauritania, Mauritius, Mongolia, Norway, Poland, Romania, Saint Lucia, Slovak Republic, Slovenia, Switzerland, and Trinidad and Tobago</p>	<ul style="list-style-type: none"> <li>- The problem and needs of developing countries should be duly taken into consideration in the negotiations and properly reflected in the outcome, inter alia; helping developing countries, especially LDCs, to participate in the world market and the WTO system, taking duly into account their exporting interests.</li> <li>- Developing countries, in particular least-developed and net-food importing, should be granted improved market access, not only to markets of developed countries, but possibly also to markets of other developing countries, in particular of those that are somewhat more developed. Of course, tariff concessions granted to developing countries must be considered in conjunction with overall tariff concessions.</li> <li>- Many of these developing countries rely on agricultural exports, often as part of preferential market access schemes. It is therefore of particular importance to ensure continued and improved market access for products originating in these countries, especially the least-developed and net food-importing of them.</li> </ul>
<p>G/AG/NG/W/37 +Corr.1 Cuba, Dominican Republic, El Salvador, Haiti, Honduras, Kenya, India, Nigeria, Pakistan, Sri Lanka, Uganda and Zimbabwe</p>	<ul style="list-style-type: none"> <li>- Variable tariffs used by developed countries such as price band schemes, as well as seasonal tariffs, should be eliminated. Variable tariffs should only be allowed as a Special and Differential Treatment for developing countries.</li> <li>- Appropriate arrangements to ensure that new suppliers from developing countries should have equal access to allotment within the tariff rate quotas (TRQs).</li> <li>- Regular enhancement of the TRQs administered by developed countries so as to improve market access for developing countries.</li> </ul>
<p>G/AG/NG/W/54 Cairns Group</p>	<ul style="list-style-type: none"> <li>- Faster and deeper cuts in, or elimination of, tariffs on all agricultural products, including value added products, produced in and exported by developing countries;</li> <li>- Tariff quota administration rules which provide improved opportunities for exports from developing countries;</li> <li>- Differential treatment and related modalities as appropriate in the area of market access.</li> </ul>
<p>G/AG/NG/W/55 ASEAN</p>	<ul style="list-style-type: none"> <li>- The next round must result in the elimination of tariff disparities, with developed countries committing to greater tariff reductions. (...)The next reform programme must therefore pursue the fullest liberalization of trade in tropical products, by among others, applying further tariff reductions and eliminating tariff peaks and tariff escalation on these products.</li> <li>- The GSP principles already encapsulated in the Enabling Clause should be elaborated and maintained in the framework of the Agreement, with an explicit commitment by developed countries to conform to the principles of non-discrimination and non-reciprocity.</li> </ul>

G/AG/NG/W/90 EC	<ul style="list-style-type: none"> <li>- It is proposed that, in addition to multilateral liberalisation and in order to increase market access to products originating in developing countries, that developed countries and the wealthiest developing countries provide significant trade preferences to developing countries, and in particular the least-developed.</li> <li>- It is proposed that an examination is undertaken on ways to ensure that these trade preferences are rendered stable and predictable, in order to create the appropriate conditions for further investment in, and development of, the agricultural and agri-food sectors in developing countries.</li> </ul>
G/AG/NG/W/94 Switzerland	<ul style="list-style-type: none"> <li>- In the market access area, for example, instruments should be introduced that would enable the small emerging economies that depend heavily on exports of a few specific goods to face the increasing competition resulting from tariff reductions agreed multilaterally, and to protect themselves against the consequent erosion of preferential margins.</li> </ul>
G/AG/NG/W/95 Swaziland	<ul style="list-style-type: none"> <li>- The current preferential market access arrangements enjoyed by small Developing Countries should be protected under the current round of negotiations for agricultural trade reform. The period of protection should be sufficiently long to enable the small DCs improve their welfare by significant measurable margins. The margins can be negotiated in the context of the criteria listed above. One important area of the protection being recommended herein is guaranteed market access at guaranteed prices for sensitive products from small DCs over an agreed period of time. The period should be long enough for meaningful development and adjustment to occur.</li> <li>- Tariff escalations should be reduced so as to enable the small DCs move from the exportation of raw materials to that of processed products.</li> </ul>
G/AG/NG/W/96 Mauritius	<p>Special and Differential Treatment should seek to achieve security of access for SIDS and smaller producers, in particular those that are unable to take advantage of any increase in <i>de minimis</i> levels or greater flexibility in providing domestic support measures.</p>
G/AG/NG/W/97+Corr.1 Commonwealth of Dominica, Jamaica, Mauritius, St. Kitts and Nevis, Saint Lucia, St. Vincent and the Grenadines & Trinidad and Tobago	<ul style="list-style-type: none"> <li>- Small Island Development States (SIDS) should be provided with security of access for the one or two commodities which they are able to produce on a commercial basis.</li> <li>- Non-reciprocal preferential tariff rates provided to developing countries, in particular SIDS, in the agricultural sector should be improved and bound under the framework of the AoA while the reform process is underway, with a view to ensuring that existing access conditions are not undermined by the continuation of the reform process.</li> <li>- Market access opportunities under the AoA should ensure that certain percentage increases in minimum access tariff rate quotas (TRQs) will be allocated with 0 per cent within-quota rate to SIDS. Specific duty-free TRQs outside minimum access quotas should also be provided to SIDS.</li> </ul>
G/AG/NG/W/100 CARICOM	<ul style="list-style-type: none"> <li>- Members examine options aimed at rendering the market access concessions offered to developing countries through trade preferences, under the auspices of the Generalized System of Preferences (GSP), reciprocal or non-reciprocal arrangements, stable, transparent and predictable. This will facilitate the adjustments which these economies will be required to undertake in transitioning to more liberalized trade in agricultural markets. Binding preferential schemes and arrangements within the framework of the AoA should be accorded considered attention.</li> <li>- Stricter disciplines and improved transparency in the administration of tariff rate quotas (TRQs). In its manifestation, TRQ reforms should not result in the diminution of market access opportunities, particularly for small developing economies.</li> <li>- Developed countries should explore ways of ensuring that "non-substantial" suppliers from small developing economies are provided with meaningful access to market opportunities within TRQs.</li> </ul>

<p>G/AG/NG/W/101 Norway</p>	<ul style="list-style-type: none"> <li>- When considering further MFN tariff reductions, special attention should be paid to products of particular interest to developing countries.</li> <li>- Market access for products originating in LDCs should be improved in terms of predictability and product coverage. Both developed countries and the more developed of the developing countries should as a first step grant duty-free and quota-free market access on a preferential basis for essentially all products from LDCs.</li> <li>- Tariff quotas should be administered in ways that are transparent, equitable and do not place developing countries at a disadvantage.</li> <li>- Developing countries, in particular the least developed, should be given the opportunity to benefit from a preferential allocation of existing tariff quotas, for instance through preferential in-quota tariff rates.</li> </ul>
<p>G/AG/NG/W/143 Namibia</p>	<p>Countries that benefit from trade preferences be accorded a period of time to adjust and make the required structural changes.</p>

**2. Specific proposals relating to Provisions under which WTO Members should safeguard the interests of developing country Members**

Proposal	Contents
<p>G/AG/NG/W/13 Cuba, Dominican Republic, Honduras, Pakistan, Haiti, Nicaragua, Kenya, Uganda, Zimbabwe, Sri Lanka and El Salvador.</p>	<ul style="list-style-type: none"> <li>- Prohibit developed countries from the use of the Special Safeguard Clause. This Clause instead should be opened up to all developing countries. Developing countries should be allowed to invoke this based on low prices or excess volume.</li> <li>- Dumping in any form must be prohibited. All forms of export subsidies (direct or indirect) by developed countries must be eliminated immediately.</li> <li>- Competition policy in agriculture must be addressed in [the review of the Agreement on Agriculture]. Developing countries must be given an easily accessible mechanism to protect themselves against the abuse of monopoly power and to seek compensation.</li> </ul>
<p>G/AG/NG/W/14 Cuba, Dominican Republic, Honduras, Pakistan, Haiti, Nicaragua, Kenya, Uganda, Zimbabwe, Sri Lanka and El Salvador</p>	<ul style="list-style-type: none"> <li>- The Due Restraint Clause should be a special and differential treatment provision that will protect only developing countries in the "General Supports" box and the "Development" box. The purpose of the Due Restraint Clause should be to protect developing countries in their efforts to increase food security (food accessibility and availability to all), ensure rural employment and to increase domestic production capacity.</li> </ul>

<p>G/AG/NG/W/15 United States</p>	<ul style="list-style-type: none"> <li>- Renew the commitment to food aid as expressed in the Uruguay Round's "Decision on Measures Concerning the Possible Negative Effects of the Reform Program on Least Developed and Net Food-Importing Developing Countries";</li> <li>- Continue the WTO disciplines on food aid contained in Article 10.4 of the Uruguay Round Agreement on Agriculture, which have proven to be appropriate;</li> <li>- The disciplines to be developed at the Organization of Economic Cooperation and Development for agricultural export credits and credit guarantees should not prevent WTO members from using such programs to improve the food security status of other members;</li> <li>- To establish export reporting systems in all members to increase information on the level and direction of international grain and oilseed transactions; and</li> <li>- To strengthen substantially WTO disciplines on export restrictions to increase the reliability of global food supply.</li> </ul>
<p>G/AG/NG/W/36rev1 Barbados, Burundi, Cyprus, Czech Republic, Dominica, Estonia, the European Communities, Fiji, Iceland, Israel, Japan, Korea, Latvia, Liechtenstein, Madagascar, Malta, Mauritania, Mauritius, Mongolia, Norway, Poland, Romania, Saint Lucia, Slovak Republic, Slovenia, Switzerland, and Trinidad and Tobago</p>	<ul style="list-style-type: none"> <li>- The problem and needs of developing countries should be duly taken into consideration in the negotiations and properly reflected in the outcome; inter alia adequate food aid for countries in need (especially NFIDCs), avoiding negative impacts on the enhancement of their domestic production.</li> </ul>
<p>G/AG/NG/W/54 Cairns Group</p>	<ul style="list-style-type: none"> <li>- The preservation of the current special safeguard for developing countries to assist with domestic and international agricultural reform efforts and in countering subsidised competition.</li> </ul>
<p>G/AG/NG/W/90 EC</p>	<ul style="list-style-type: none"> <li>- The provision of food aid to the least developed countries and to net-food import developing countries only in fully grant form and in ways which do not damage local food production and marketing capacities of the recipient countries, is another important means to contribute to food security in the recipient countries. Providing food aid under credit terms increases the debt burden of these countries, and is therefore detrimental to their long-term interests.</li> </ul>
<p>G/AG/NG/W/91 Japan</p>	<ul style="list-style-type: none"> <li>- The idea of a possible framework for international food stockholding should be examined, in order to complement existing bilateral and multilateral food aid schemes and to enable loan of food in the case of temporary shortage.</li> </ul>
<p>G/AG/NG/W/93 Cairns</p>	<ul style="list-style-type: none"> <li>- The agriculture negotiations should: preserve Article 12.2 of the Agreement on Agriculture and provide additional special and differential treatment provisions to address the legitimate needs of developing countries, including least developed and net food-importing developing countries.</li> </ul>

G/AG/NG/W/95 Swaziland	<ul style="list-style-type: none"> <li>- The reduction of support measures in more developed countries should be approached with flexibility, imagination and innovation so that the progress of small Developing Countries is not stunted.</li> <li>- In general, no small Developing Countries should be disadvantaged in the wake of giving Special and Differential Treatment to other Developing Countries. In particular, the existing preferential arrangements are one of the main avenues for meaningful human development in the Developing Countries involved.</li> </ul>
G/AG/NG/W/97+Corr.1 Dominica, Jamaica, Mauritius, St. Kitts and Nevis, Saint Lucia, St. Vincent and the Grenadines & Trinidad and Tobago	<ul style="list-style-type: none"> <li>- Where a free-trade area or a customs union involving SIDS and developed countries is established, the "substantially all the trade" provision given in the GATT Article XXIV should not apply.</li> <li>- Given the very small size and fragility of the productive sectors of SIDS, which are invariably NFIDCs, they should not be obliged to provide reciprocal access for their agricultural exports under preferential trading arrangements with developed countries.</li> <li>- Small farmers in LDCs, NFIDCs and other developing countries, including SIDS, need to be protected against import surges particularly when the latter affect the production of key staples of the domestic diet and negatively impact on rural development and poverty alleviation. To meet this need, use of the special safeguard provision should be allowed.</li> <li>- With regard to actions under the Ministerial Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries, separate mechanisms should be formulated for operationalizing the provision of financial and technical assistance, including the transfer of relevant agricultural technology (for example, the accessing of new seed varieties), to LDCs and NFIDCs to improve agricultural productivity in those countries, as well as for short-term mitigation programmes to address negative effects of the liberalization process.</li> <li>- Whenever agricultural production is severely damaged through natural disasters, which occur frequently in SIDS, the latter's obligations under the AoA should be waived until recovery is achieved.</li> </ul>
G/AG/NG/W/98 Korea	<ul style="list-style-type: none"> <li>- Increase of food aid, financial and technical assistance.</li> </ul>
G/AG/NG/W/101 Norway	<ul style="list-style-type: none"> <li>- The <i>Ministerial Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries</i> should be reviewed in order to ensure its effective implementation.</li> </ul>
G/AG/NG/W/107 Egypt	<ul style="list-style-type: none"> <li>- A further effort is needed on the part of developed country Members to enhance their capital and technical investment in the agriculture sectors of developing country Members, with a view to support rural development and incomes.</li> <li>- An urgent review of the Decision on NFIDCs (in accordance with paragraph 6) to strengthen the language and make it more mandatory.</li> <li>- An increased level of technical and financial assistance should be afforded to NFIDC's and LDC's. Such assistance should have the aim of improving the capability of the beneficiaries to produce their food requirements locally, through the amelioration of the technologies used and basic agricultural infrastructure available. Special mention should be made of the need for improving the export marketing capabilities of NFIDC's and LDC's, to allow them to move from being net food-importers into the category of self-sufficiency (and at a later stage, to potentially become net agricultural-exporters).</li> <li>- The creation of a Fund for the Support of NFIDC and LDC's, whereby the beneficiaries would obtain a rebate on their food import bills after they have purchased their requirements on the open market at unsubsidized prices. The Fund would be financed from a number of sources, prominent amongst which would be international financial organizations, specialized UN agencies, developed country donors, and major exporters.</li> </ul>

G/AG/NG/W/136 Kenya	- The S&D provisions should target at filling the gaps between developed countries and developing countries in terms of supply capacity, economic development, and financial resources, so as to enable developing countries to face multilateral trade rules and disciplines without further burdening the domestic population in terms of, among others, food insecurity and perpetuation of poverty.
G/AG/NG/W/139 MERCOSUR (Argentina, Brazil, Paraguay and Uruguay), Bolivia, Chile, Costa Rica, Guatemala, India and Malaysia	In recognition of the "Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries", adopted in Marrakech, the disciplines to be adopted must include appropriate provisions for differential treatment in favour of least-developed and net food-importing developing countries. These provisions should include longer repayment periods and should be consistent with the exemptions already provided in the Agreement on Agriculture for developing countries and with the modifications resulting from the negotiations to the general rules and disciplines applicable to export subsidies.
G/AG/NG/W/142 AFRICAN GROUP	- In the context of current negotiations, the following issues should be fully addressed to ensure the urgent resolution of both the short- and long-term food security problems of LDCs and NFIDCs: - Create an inter-agency revolving fund to assist LDCs and NFIDCs with their food import bills in accordance with future price increases above a certain threshold, on condition that imports are from open and competitive markets; - Regularly monitor and evaluate the impact of the reform programme on LDCs and NFIDCs, and elaborate appropriate instruments to address concerns of those countries within a specified timeframe. Food Aid should be in fully grant form; - Establish a mechanism to ensure that food aid would not disrupt domestic production in recipient countries; - Provide further technical and financial cooperation especially in regard to: enhancing agricultural productivity; infrastructure building; product diversification; transfer of new technology; market information dissemination; and export development; - Ensure that the implementation of the Marrakesh Decision is a binding commitment under Article 16 of the AoA.

### 3. Provisions relating to Flexibility of commitments, of action, and use of policy instruments

Proposal	Contents
G/AG/NG/W/13 Cuba, Dominican Republic, Honduras, Pakistan, Haiti, Nicaragua, Kenya, Uganda, Zimbabwe, Sri Lanka and El Salvador	- All developing countries should be able to use a positive list approach to declare which agricultural products or sectors they would like disciplined under AoA provisions. - Allow developing countries to re-evaluate and adjust their tariff levels. Where it has been established that cheap imports are destroying or threatening domestic producers, developing countries should be allowed to raise their tariff bindings on key products to protect food security. - Flexibility in levels of domestic supports. Developing countries should be allowed an additional 10 per cent on their de minimis support level, i.e. bringing the level from 10 to 20 per cent.
G/AG/NG/W/14 Cuba, Dominican Republic, Honduras, Pakistan, Haiti, Nicaragua, Kenya, Uganda, Zimbabwe, Sri Lanka and El Salvador	- A common level of supports should be allowed eg. 10 per cent of production for all countries. This level of subsidies should be non-actionable. Subsidies of 5 per cent above this 10 per cent level will be 'actionable' for developed countries. (Developing countries should be protected under the Due Restraint Clause). Subsidies beyond this level should be treated as prohibited. Developing countries, however, will be allowed additional flexibility under a "Development" box. - The Development box should provide developing countries with flexibility of import controls, tariffs barriers and domestic supports for items which are already being produced in sufficient quantities or which countries would like produced in sufficient quantities locally, until such time they are exporters of these products.

G/AG/NG/W/15 United States	- Create additional criteria for exempt support measures deemed essential to the development and food security objectives of developing countries to facilitate the development of targeted programs to increase investment and improve infrastructure, enhance domestic marketing systems, help farmers manage risk, provide access to new technologies promoting sustainability and resource conservation and increase productivity of subsistence producers.
G/AG/NG/W/16 United States	- The unique development challenges facing developing and least developed countries [are recognised], and supports the exemption of additional criteria-based support measures deemed essential to the development objectives of these countries.
G/AG/NG/W/35 Cairns Group	<ul style="list-style-type: none"> <li>- S&amp;D provisions relating to domestic support should build on the existing WTO provisions and include:</li> <li>- Enhanced green box provisions for developing countries which would address their specific concerns regarding food security, rural development and poverty eradication;</li> <li>- Differentiated AMS formula and commitments for developing countries, including preserving de minimis provisions and exceptions for investment and input subsidies, and domestic support to encourage diversification from growing illicit narcotic crops;</li> </ul>
G/AG/NG/W/36/Rev.1 Barbados, Burundi, Cyprus, Czech Republic, Dominica, Estonia, the European Communities, Fiji, Iceland, Israel, Japan, Korea, Latvia, Liechtenstein, Madagascar, Malta, Mauritania, Mauritius, Mongolia, Norway, Poland, Romania, Saint Lucia, Slovak Republic, Slovenia, Switzerland, and Trinidad and Tobago	<ul style="list-style-type: none"> <li>- Developing countries may need continued protection of their own agricultural markets, in order to safeguard food security and other non-trade concerns and foster economic development. One may therefore consider whether tariff reductions undertaken by developing countries should be undertaken in a different manner compared to other Members. One may also consider to what extent the least-developed countries should continue to be exempt from tariff reductions. Furthermore, in cases in which present rules and commitments do not provide sufficient leeway and protection against sudden import surges one may consider extending the right to have recourse to the special safeguard provisions of the Agreement on Agriculture to net-food importing developing countries and least-developed countries not having this possibility at present.</li> <li>- As regards domestic support, an increase of the De Minimis levels and the inclusion into the Green Box of additional measures adapted to the specific situation in developing countries could be considered.</li> </ul>



<p>G/AG/NG/W/55 ASEAN</p>	<ul style="list-style-type: none"> <li>- The Agreement must therefore afford developing countries to adopt reforms in a differential and more gradual basis. As such, flexibility in terms of longer timeframe for the implementation of commitments, which must continue to be given to developing countries, will not suffice. The nature, depth and substance of commitments must also be different.</li> <li>- As a first general obligation, developed countries must immediately eliminate all forms of export subsidies and commit to their unconditional prohibition. Developing countries, on the other hand, must be able to continue using existing flexibility with respect to export subsidies (i.e. Article 9.4).</li> <li>- Furthermore, disciplines in export credits, export credit guarantee or insurance programmes should be developed and concluded before the end of the implementation period. The development of these disciplines should provide adequate flexibility for developing countries.</li> <li>- Direct or indirect measures that are an integral part of the development programmes of developing countries, including investment and input subsidies, as identified in Article 6.2 of the present Agreement, must remain exempt from reduction commitments during the next phase of the reform programme.</li> <li>- Measures intended to promote agricultural diversification must be exempt from reduction commitments.</li> <li>- The existing <i>de minimis</i> concept and threshold must be continued to be applied but only to developing countries.</li> <li>- Developing countries must be given an effective and meaningful degree of autonomy on policy instruments to address food security concerns.</li> <li>- In addition, the Agreement must be able to make an appropriate differentiation between domestic measures which result in overproduction and the ability to carve out a niche in the international market, and those measures designed to face the challenges of food security of developing countries.</li> <li>- Developing countries must have differential commitments and modalities as appropriate, in the area of market access. In addition, developing countries must be allowed the flexibility to continue the application of special safeguards.</li> </ul>
<p>G/AG/NG/W/56 Albania, Bulgaria, Croatia, the Czech Republic, Georgia, Hungary, the Kyrgyz Republic, Latvia, Lithuania, Mongolia, Slovak Republic and Slovenia</p>	<p>- [Transition economies] propose to include a specific provision into the Agreement on Agriculture which would address the particular needs of Members that are in the difficult process of transformation to a fully-fledged market system or consolidating the results of such a deep-going economic process in the agricultural sector. This provision would exempt investment subsidies and input subsidies generally available to agriculture, interest subsidies to reduce the costs of financing as well as grants to cover debt repayment from domestic support reduction commitments that would otherwise be applicable to such measures. It would also increase the <i>de minimis</i> threshold applicable to the transition economies. The provision could be invoked by individual countries only until the problems in the agricultural sector described above do persist.</p>
<p>G/AG/NG/W/57 Bulgaria, Czech Republic, Estonia, Georgia, Hungary, Kyrgyz Republic, Latvia, Slovak Republic, Slovenia, Croatia and Lithuania</p>	<p>- It is a strong expectation of these countries that in the course of the negotiations, the high level of trade liberalization and market opening and extreme vulnerability resulting from the difficult and painful process of transformation to a fully-fledged market economy will be fully recognized. These countries therefore propose that a specific flexibility provision be included in any negotiating guidelines and modalities to be agreed for the purpose of future tariff reductions and other market access commitments. Such a provision would, inter alia, exempt low tariffs from further reduction commitments for these countries, as well as would allow for selective reduction commitments.</p>

G/AG/NG/W/88 Argentina	- Non-trade concerns should be pursued consistently with the objective of these negotiations, not at the expense of other trading partners. Argentina, just as every other Member, is committed to achieve substantial and progressive reductions in support and protection in the agricultural sector. This is the frame in which we all should explore the consistent ways and means to take into account legitimate "non- trade concerns" while being mindful of consequences for developing countries.
G/AG/NG/W/90 EC	- Domestic support measures that promote the sustainable vitality of rural areas and the food security concerns of developing countries as a means of poverty alleviation are of great importance. The EC propose that these measures where appropriate be exempted from any reduction commitments. - [It is proposed] that other ways are examined in order to provide the necessary flexibility to developing countries to address these concerns, notably through a revision of the <i>de minimis</i> clause for developing countries.
G/AG/NG/W/91 Japan	- A wide range of flexibility should be given to developing countries with regard to the rules and disciplines on border measures and their application, in order to ensure their food security. - Flexibility should also be given to developing countries concerning the rules and disciplines on domestic support and their application, in order not to affect the support necessary to increase food production for domestic consumption. - When strengthening the rules and disciplines on exports and state trading, measures to exempt or ease obligations should be taken so as not to cause an excessive burden on developing countries.
G/AG/NG/W/95 Swaziland	- Provisions must be allowed for small Developing Countries to protect their local agricultural production from imports that threaten the existence of the local industry.
G/AG/NG/W/96 Mauritius	- Special and Differential Treatment could include the elaboration of instruments that would: exempt from reduction commitments any measures aimed at poverty alleviation; make available appropriate technology with a view to enhancing competitiveness.
G/AG/NG/W/97+Corr.1 Commonwealth of Dominica, Jamaica, Mauritius, St. Kitts and Nevis, Saint Lucia, St. Vincent and the Grenadines & Trinidad and Tobago	- Small Island Development States which undertook unilateral deregulation and liberalization in the agricultural sector should be exempted from further reduction commitments on support and protection. Whilst the financial constraints of SIDS make it difficult for them to provide support measures currently, this possibility should not be excluded as revenue through agriculture increases. Those SIDS which entered into the commitments under the AoA during Structural Adjustment Programmes should be allowed to receive a higher <i>de minimis</i> level on domestic support and to renegotiate the AoA commitments on market access, such that the commitments reflect the long-term development policy objective of those countries rather than their short-term financial circumstances.
G/AG/NG/W/98 Korea	- Special consideration for key staple crops, and greater flexibility in reducing border protection measures, such as alleviation of tariff reduction commitments, especially on products related to non-trade concerns. - Alleviation of reduction commitment, additional flexibility to Green Box (especially for measures to improve food security and rural employment even if they have possible impact on trade), and specific criteria that can reflect the scarcity of financial resources in developing countries. - Expansion of export subsidies exempt from reduction commitments for developing countries, alleviation of export subsidy reduction commitments, establishment of rules and disciplines on export-related measures for developing countries so that they may be able to compete in the global market.

G/AG/NG/W/100 CARICOM	- Small developing economies must have differential commitments and modalities as appropriate, including the possibility of exemption from further tariff reductions, particularly in circumstances where substantial liberalization has already been undertaken.
G/AG/NG/W/101 Norway	-The right to have recourse to the SSG provisions should be extended to all developing countries that do not have this right today. - <i>De minimis</i> levels should be increased for developing countries. - S&D domestic support provisions adapted to the specific situation of developing countries should be expanded as a supplement to the existing Green Box measures.
G/AG/NW/W/102 India	- All existing provisions of Annex 2 of AoA except paras. 5, 6 & 7 should be continued, being an integral part of the food security measures required to be taken by developing countries; - All measures taken by the developing countries for poverty alleviation, rural development, rural employment and diversification of agriculture should be exempted from any form of reduction commitments; - Flexibility to be given to developing countries in the manner of providing subsidies to key farm inputs, which nevertheless should continue to be accounted for in the Non-product specific support AMS calculations; - In addition to the provisions contained in Article 6.2 of Agreement on Agriculture, relating to agricultural investment and input subsidies, Product specific support given to low income and resource poor farmers should also be excluded for AMS calculations; - Negative Product specific support to be permitted to be adjusted against positive Non-product specific support; - Appropriate level of tariff bindings to be allowed to be maintained by developing countries as a special and differential measure, keeping in mind their developmental needs and high distortions prevalent in the international markets so as to protect the livelihood of their very large percentage of population dependent on agriculture. The appropriate levels of tariff bindings will have to necessarily relate to the trade distortions in the areas of market access, domestic support and export competition being practised by the developed countries; - Low tariff bindings in developing countries, as could not be rationalised in the earlier negotiations, should be allowed to be raised to the ceiling bindings for similar category of products, committed during the Uruguay Round; - A separate safeguard mechanism on the lines of the Special Safeguard provisions (Article 5 of AoA) including a provision for imposition of Quantitative Restrictions under specified circumstances, should be made available to all developing countries irrespective of tariffication in the event of a surge in the imports or decline in prices and to ensure food and livelihood security of their people; - Developing country members should be exempt from any obligation to provide any minimum market access; - The product coverage of the Agreement on Agriculture requires rationalisation by including primary agricultural commodities such as rubber, primary forest produce, jute, coir, abaca and sisal etc. which are much more agricultural than hides and skins which are already covered under AoA.
G/AG/NW/W/103 Poland	- It is essential to provide an opportunity for the least developed and many developing countries to apply a flexible approach while undertaking new commitments and to benefit from preferential treatment in the market access arrangements in other countries at the same time.
G/AG/NW/W/105 Morocco	[It is proposed] for the developing countries, a more marked asymmetry between the developed and the developing countries than during the first stage of dismantling; greater flexibility in the preconditions for introducing a safeguard clause.

G/AG/NW/W/106 Turkey	<ul style="list-style-type: none"> <li>- The "<i>de minimis</i>" level for developing countries should be increased to a mutually agreed level.</li> <li>- Developing countries should be granted the flexibility to apply "de minimis" on an aggregate basis, instead of product basis, taking into consideration the changing production conditions.</li> <li>- Special and Differential Treatment granted for developing countries under Article 6.2 of the Agreement on Agriculture, which stipulates the use of investment and input subsidies with the aim of encouraging agricultural and rural development, should be continued to be exempted from reduction commitments.</li> </ul>
G/AG/NW/W/107 Egypt	<ul style="list-style-type: none"> <li>- Developing countries should be afforded greater flexibility to re-evaluate and adjust their tariff schedules, with a view to overcome the negative effects of cheap subsidized agricultural imports.</li> <li>- All tariff reductions made by developing country Members should be made from the basis of their bound, rather than applied, rates.</li> <li>- Greater flexibility should be granted to developing country Members to increase their levels of domestic support within the framework of Green Box (Annex II) measures.</li> </ul>
G/AG/NG/W/130 Nigeria	<ul style="list-style-type: none"> <li>- The negotiations should recognize the need for flexibility for developing countries in the following areas: <ul style="list-style-type: none"> <li>(i) flexibility in reducing tariffs, particularly on sensitive products;</li> <li>(ii) flexibility on domestic support measures to be able to address the concerns of the rural population in this sector for the sustenance of their livelihood and employment; and</li> <li>(iii) flexibility on attainment of certain degree of food self sufficiency to ensure that all/any measures aimed at enhancing domestic production is exempt from reduction commitments.</li> </ul> </li> </ul>
G/AG/NW/W/135 Democratic Republic of Congo	Improvement of the Amber Box: possibility for the least-developed countries to go beyond their base level AMS.
G/AG/NW/W/136 Kenya	<ul style="list-style-type: none"> <li>- A Development Box should be designed with a view to consolidating, strengthening and operationalizing the special and differential treatment for developing countries. This should allow for policy flexibility in applying urgent safeguard measures and domestic support measures that are closely linked to policy measures to meet developmental concerns of developing countries. Such concerns should include; high dependency on food imports, the need to increase agricultural productivity, food security, and the need to protect small farmers and poverty alleviation.</li> <li>- WTO members should identify those border measures and domestic support measures that are pertinent to those developmental concerns, with a view to starting concrete negotiations on what type of flexibility should be provided to those measures in developing countries during the continuation of the reform process.</li> </ul>
G/AG/NW/W/137 Senegal	- Give developing countries with low agricultural production flexibility in all instruments relating to agricultural production, to enable them to undertake reforms necessary for maintaining their level of food production in the short term and significantly improving agricultural productivity in the long term.

G/AG/NW/W/139 MERCOSUR (Argentina, Brazil, Paraguay and Uruguay), Bolivia, Chile, Costa Rica, Guatemala, India and Malaysia	- Appropriate minimum interest rates, <i>inter alia</i> , shall be established to address the interests of exporting developing countries.
G/AG/NW/W/140 Jordan	- All measures taken by developing countries for poverty alleviation, rural development, rural employment, desert reclamation and diversification of agriculture should be exempted from any reduction commitments. - Direct or indirect measures that are an integral part of the development programs of developing countries, including investment and input subsidies, as identified in Article 6.2 of the present Agreement, must remain exempt from reduction commitments during the next phase of the reform program. - The existing <i>de minimis</i> concept and threshold must be continued to be applied only to developing countries.
G/AG/NW/W/142 African Group	- The Agreement on Agriculture should be reviewed so as to: (a) increase flexibility in the use by developing countries of the <i>de minimis</i> measures; (b) allow developing countries with zero AMS to provide such support if required under their development programmes; and (c) provide that input and investment subsidies available to low-income farmers and to resource-poor farmers will be non-actionable; - The expansion of the scope of S&D treatment in the area of domestic support should allow developing countries to employ policy measures which target the viability of small-scale and subsistence farmers, rural poverty alleviation, food security, as well as product diversification. Such elements should take into account the need to strengthen vulnerable producers and to improve their export competitiveness.
G/AG/NW/W/143 Namibia	- Countries with low bound tariff rates be exempted from making further reductions until such a time that other countries catch up.

#### 4. Specific proposals relating to Transitional time periods

Proposal	Contents
G/AG/NG/W/11 Cairns Group	- Commitments on export subsidies could include concrete special and differential treatment provisions: (...)These could include: A longer implementation timeframe for developing countries; and-extension of existing special and differential treatment for developing countries under Article 9.4 of the Agreement on Agriculture until the elimination and prohibition of export subsidies are completed.
G/AG/NW/W/105 Morocco	- [It is proposed] for the developing countries, (...) a transitional period (the duration of which remains to be defined) during which the dismantling of tariffs can be suspended;
G/AG/NW/W/135 Democratic Republic of Congo	- Extension of the implementation period [for reduction commitments in domestic support and export subsidies]

G/AG/NW/W/137 Senegal	- Envisage replacing criteria in the form of deadlines, which are often fixed arbitrarily, with objectively verifiable economic – indicators, based in particular on the level of development or growth of the sector; - Accordingly, make provision for revising the deadlines granted to developing countries, in particular as regards the granting of marketing subsidies provided for under Articles 9.4 and 9.1(d) and (e) of the Agreement on Agriculture.
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### 5. Specific proposals relating to technical assistance

G/AG/NG/W/15 United States	- It is proposed that that WTO members intensify ongoing technical assistance through governmental and non-governmental entities in parallel with these negotiations.
G/AG/NG/W/35 Cairns Group	- Enhanced technical assistance and the promotion of international cooperation to assist agricultural and rural development, and food security programs in developing countries.
G/AG/NG/W/36rev1. Barbados, Burundi, Cyprus, Czech Republic, Dominica, Estonia, the European Communities, Fiji, Iceland, Israel, Japan, Korea, Latvia, Liechtenstein, Madagascar, Malta, Mauritania, Mauritius, Mongolia, Norway, Poland, Romania, Saint Lucia, Slovak Republic, Slovenia, Switzerland, and Trinidad and Tobago on Non-Trade Concerns	- The problem and needs of developing countries should be duly taken into consideration in the negotiations and properly reflected in the outcome; inter alia sufficient assistance and capacity building to enhance domestic food production in developing countries. - Increased technical assistance to developing countries is necessary as the policy reform process proceeds. The Ministerial Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries should be effectively implemented. Furthermore, one should work towards reaching agreement on commitments for the provision of financial and technical assistance relating to the Decision as well as to trade-related capacity-building and trade-facilitating measures.
G/AG/NG/W/97+Corr.1 Commonwealth of Dominica, Jamaica, Mauritius, St. Kitts and Nevis, Saint Lucia, St. Vincent and the Grenadines & Trinidad and Tobago	- Negotiations should address the need for establishing a framework to ensure the provision of technical assistance to developing countries, in particular SIDS, for meeting the costs of compliance with SPS measures and technical standards (e.g. costs to obtain certification, costs incurred from delays in authorization) in the international market. Developing countries, including SIDS, should also be assisted with a view to enabling their participation in the activities of international standard-setting bodies.

G/AG/NG/W/100 CARICOM	<p>- A technical assistance fund should be established to support initiatives by developing countries which are aimed at complying with standards, market norms and other import regulations, required for enterability in particular agricultural product markets of developed countries.</p> <p>- Developed countries should commit to provide timely and tangible technical assistance to developing countries in areas pertinent to the implementation of the WTO Agreements, including, inter alia, commitments regarding anti-dumping and countervailing duties. Such assistance should be coordinated with the multilateral development institutions and should be subject to routine monitoring by developed and developing countries. Development assistance to developing countries should be exempt from reduction commitments.</p>
G/AG/NG/W/107 Egypt	Technical assistance afforded developing country Members should include the study of the effects of further liberalization of agriculture trade under the auspices of the WTO on their agriculture sectors; with a view to seek ways and means to minimize the effect of the negative aspects of said liberalization.
G/AG/NG/W/136 Kenya	The establishment of a mechanism to ensure in a concrete way technical and financial assistance to developing country exporters to meet SPS standards and regulations in developed country market. Such mechanism should be built within the commitments in the continuation of the reform process, well programmed and closely coordinated with the provisions given in the SPS Agreement.
G/AG/NG/W/140 Jordan	<p>Regarding market access, the establishment of an export promotion program [is proposed], aiming to provide technical assistance to developing countries to increase their capacity and capabilities in the market access fields.</p> <p>It is also proposed to establish a trade policy impact-monitoring program to provide the Committee on Agriculture with information on main indicators regarding the adoption of the AoA provisions, and their effect on small farmer incomes as well as impacts on environment and food security.</p>

**6. Specific proposals relating to Provisions relating to least-developed country Members**

G/AG/NG/W/135 Democratic Republic of Congo	Tax- and duty-free admission of those products originating in least developed countries.
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E. SANITARY AND PHYTO-SANITARY MEASURES.

Special and Differential Treatment provisions under the SPS Agreement fall under three broad categories:

- 1 Provisions under which WTO Members should safeguard the interests of developing country Members  
Two provisions (Article 10.1 and 10.4).
- 2 Transitional time periods:  
Two provisions (Article 10.2 and 10.3).
- 3 Technical assistance:  
One provision (Article 9).

General comments

In its report on the review of the SPS Agreement, the Committee noted that it had no information on the extent to which the special and differential treatment provided for in Articles 10.1 and 10.2 had been accorded to developing country Members, nor information on the extent to which developing country Members had made use of any special and differential treatment accorded to them.<sup>12</sup> The Committee also noted the proposals submitted by some developing country Members in the context of the review and encouraged Members to further the practical implementation of Articles 10.1 and 10.2. In particular, the Committee stressed that Members should, in accordance with the provisions of Article 10.2, accord longer time-frames for compliance on products of interest to developing country Members.

At its Special Session on 18 October 2000, General Council requested the SPS Committee "to examine the concerns of developing countries regarding the equivalence of SPS measures and to come up with concrete options as to how to deal with them". The SPS Committee has held three informal meetings third on the issue of equivalence in the context of developing country concerns.

On the basis of the discussions held to date, the Committee endorsed the following conclusions:

- (i) While noting the concept of equivalence is not about "duplication" or "sameness of measures", the Committee recognized that equivalence may take many different forms, ranging from the acceptance of the equivalence of particular sanitary and phytosanitary measures to protect against specific risks in a specific product, to formal systems-wide or broad-ranging agreements on equivalence. The Committee also recognized that the more broad-ranging the equivalence agreement, the more difficult it may be to conclude.
- (ii) The provision and exchange of data and information is critical for the recognition of equivalence. Therefore, Members reaffirm their commitment, in accordance with Article 7 and Annex B, paragraph 3, of the SPS Agreement, that their SPS Enquiry Point will provide requested information on recognition of equivalence, as well as on their participation in any bilateral

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<sup>12</sup> G/SPS/12 refers.



or multilateral equivalence agreements, including the texts of such agreements.

- (iii) To further enhance transparency, Members will inform the SPS Committee of their recognition of the equivalence of the sanitary and phytosanitary measures of other Members.

The Committee agreed to continue its work with regard to equivalence to develop concrete guidance, based on contributions from Members and in close cooperation with the relevant standard-setting bodies, that will enhance the opportunity for all Members, and in particular developing country Members, to benefit from the recognition of equivalence, including through equivalence agreements.

The Secretariat has compiled information on equivalence provided by Members and International Organisations, as well as the specific concerns raised by developing countries, and has endeavoured to identify possible means of resolving these issues. (see G/SPS/W/111). Members have been invited to consider these possible approaches, and to this effect a special meeting of the SPS Committee on 18-19 September.

In various statements and submissions, it had been suggested that either Article 10 of the Agreement should be made mandatory and/or that specific guidelines should be developed since this Article had not been widely implemented.<sup>13</sup> Another issue raised was that as developing countries lack access to technologies developed abroad for achieving standards acceptable to importing countries, developed country Members should take these constraints into account while formulating their SPS measures.

As part of its regular consideration of issues of concern to developing country Members, the SPS Committee agreed to focus its discussions in June and November 2000 on the implementation of the special and differential provisions of the agreement. A background paper was prepared by the Secretariat drawing attention to the concerns that had been previously identified.<sup>14</sup>

Some Members stated that it was important for developing country members to provide concrete examples of needs in respect of special and differential treatment, and notably how existing provisions for special and differential treatment had failed to meet the needs and expectations of developing country Members.<sup>15</sup>

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<sup>13</sup> G/SPS/R/15, paras. 34-37, G/SPS/GEN/85 and G/SPS/GEN/128 refer.

<sup>14</sup> G/SPS/W/105

<sup>15</sup> G/SPS/R/19

Provision	Comment
<b>Provisions under which WTO Members should safeguard the interests of developing country Members</b>	
<p><i>Article 10.1</i> <i>In the preparation and application of sanitary or phytosanitary measures, Members shall take account of the special needs of developing country Members, and in particular of the least-developed country Members.</i></p>	<p>Some developing country Members expressed the view that although Article 10.1 provided that the special needs of developing countries shall be taken into account in the preparation and application of SPS measures, this had rarely been done. Some developing country Members proposed that if an SPS measure created a problem for more than one developing country, then it should be withdrawn. It was suggested that if an SPS measure created problems for several developing countries but could not be withdrawn, the country adopting it should reconsider it and provide the necessary technical assistance to enable developing countries to adapt. The view was expressed that developing country constraints such as lack of adequate infrastructure, technology, finance and skilled manpower led to difficulties in complying with trading partners' SPS measures. This resulted in restricted market access, especially since countries often found it difficult to adjust to frequently changing SPS measures. Another view, expressed by a developing country member, was that for developing countries, compliance with commitments under the SPS Agreement was not necessarily hindered by lack of financial resources, equipment or sophisticated infrastructures, but by a lack of understanding of the Agreement, the absence of an operational framework for the authorities responsible for administering the Agreement; and by limited participation in competent bodies and in the WTO's SPS Committee.<sup>16</sup></p>
<p><i>Article 10.4</i> <i>Members should encourage and facilitate the active participation of developing country Members in the relevant international organisations.</i></p>	<p>The General Council Decision of 15 December 2000 stated that: " In accordance with the request to the Director-General to work with the relevant international standard-setting organizations on the issue of the participation of developing countries in their work, these organizations are urged to ensure the participation of Members at different levels of development and from all geographic regions, throughout all phases of standard development." (see WT/L/384).</p> <p>At its Special Session on 18 October 2000 the</p>

<sup>16</sup> G/SPS/W/105 refers

Provision	Comment
	<p>General Council agreed to the proposal by the Chairman, with respect to the SPS Agreement, that the Director-General explore with the relevant international standard-setting organizations and relevant intergovernmental organizations financial and technical mechanisms to assist the participation of developing countries in standard-setting activities; and that the Director-General coordinate efforts with the relevant international standard-setting organizations to identify SPS-related technical assistance needs and how best to address these, taking into consideration the importance of bilateral and regional technical assistance in this regard.</p> <p>The reports on actions taken by the Director-General pursuant to the mandate handed to him are contained in documents WT/GC/42 WT/GC/45, and WT/GC/46 and Rrv.1 The latter also contains The last two contain responses from international financing institutions to the Director-General's request to provide information regarding the kind of technical and financial assistance that they provide to developing countries to facilitate their participation in the work of international standardizing bodies, any planned activities in this regard, as well as scope for expansion of these activities.</p> <p>On 13 March 2001, the relevant standard-setting organizations participated in a WTO-organized workshop to provide information on their respective standard-setting processes, with a focus on maximizing developing country involvement. A report of the workshop has been circulated as G/SPS/GEN/250.</p> <p>The timing of SPS Committee meetings has taken into account the meetings of the main standards setting organisations. For instance, SPS Committee meetings have been held back-to-back with the Codex Alimentarius Commission's meetings, to enable food security experts to combine both meetings in one trip. Some developing country Members stressed that the participation of developing countries in international standard-setting bodies remained inadequate, and that as a result, international</p>

<sup>17</sup> G/SPS/GEN/128, G/SPS/GEN/W/85, G/SPS/R/19 and G/SPS/W/105

<sup>18</sup> G/SPS/W/105, G/SPS/R/19 and WT/TPR/G/33 refer.

Provision	Comment
	<p>standards were often adopted without taking into account the problems and constraints facing developing countries. The point was made that active participation in standard setting required adequate institutional infrastructure, human and financial resources and effective follow-up capabilities. Some Members proposed that WTO Members should establish a joint fund with the purpose of assisting developing countries to increase their participation in the work of the SPS Committee and in the international standard-setting bodies. A group of developing country Members suggested that standards should only be recognized by the Agreement if the participation of countries from different geographical areas and levels of development had been ensured in their formulation, and if the specific conditions prevailing in developing countries had been taken into account.<sup>17</sup> Some developing country Members reported to the Trade Policy Review Body that although developing countries participate in the policy-making committees of international bodies such as the Codex Alimentarius they are grossly outnumbered in these deliberations, at times resulting in standards development not conducive to their implementation. An observer from Codex, reporting to the SPS Committee on the twenty-third session of the Codex Alimentarius Commission in July 1999, emphasized that 103 member countries had participated, including a large number of developing countries.<sup>18</sup></p>
<b>Transitional time periods</b>	
<p><i>Article 10.2</i> <i>Where the appropriate level of sanitary or phytosanitary protection allows scope for the phased introduction of new sanitary or phytosanitary measures, longer time-frames for compliance should be accorded on products of interest to developing country Members so as to maintain opportunities for their exports.</i></p>	<p>Several developing country Members highlighted that there was little information regarding whether Members were, in fact, providing longer time frames for compliance on products of interest to developing countries.<sup>19</sup> In its review of the operation and implementation of the Agreement, the SPS Committee noted that it had no information on the extent to which the provision had been applied to developing country Members, nor how the latter had made use of it. Other developing country Members suggested that Article 10.2 should be modified to include a mandatory period of at least 12 months between the date of notification and the entry into force</p>

<sup>19</sup> G/SPS/R/15, paras. 34-37, G/SPS/GEN/128 refers.

Provision	Comment
	<p>for SPS measures on products from developing countries.<sup>20</sup> Some Members informally supported the view that Article 10.2 had not been complied with, and proposed making it more binding, if necessary. The point was made by a developed country Member that while importing countries were not willing to compromise public health, governments were willing to be flexible in finalising regulations, and implementation dates were commonly extended.<sup>21</sup></p> <p>Discussions have been held in the context of the implementation review mechanism of the General Council on the operationalisation of this Article, or whether a time-period should be specified, but there has been non consensus on the matter-</p>
<p><i>Article 10.3</i> <i>With a view to ensuring that developing country Members are able to comply with the provisions of this Agreement, the Committee is enabled to grant to such countries, upon request, specified, time-limited exception in whole or in part from obligations under this Agreement, taking into account their financial, trade and development needs.</i></p>	<p>To date, no request has been made under Article 10.3.</p> <p>One Member proposed extending the transition period during which developing and least-developed countries could delay the implementation of the Agreement, as this would allow developing country Members to gradually bring their standards into conformity with international standards, while also giving them time to forge equivalence agreements with developed country Members. This could be done in the context of Article 10.3, which provided for time-limited exceptions.<sup>22</sup></p>

<sup>20</sup> G/SPS/W/105 refers

<sup>21</sup> G/SPS/R/19

<sup>22</sup> G/SPS/GEN/85 refers.

Provision	Comment
<b>Technical assistance</b>	
Provision	Comment
<p><i>Article 9.1 Members agree to facilitate the provision of technical assistance to other Members, especially developing country Members, either bilaterally or through the appropriate international organizations. Such assistance may be, inter alia, in the areas of processing technologies, research and infrastructure, including in the establishment of national regulatory bodies, and may take the form of advice, credits, donations and grants, including for the purpose of seeking technical expertise, training and equipment to allow such countries to adjust to, and comply with, sanitary or phytosanitary measures necessary to achieve the appropriate level of sanitary or phytosanitary protection in their export markets.</i></p>	<p>The SPS Committee has been discussing technical assistance on the basis of a typology prepared by the Secretariat (G/SPS/GEN/206) and other documents. The four categories of technical assistance identified are: information; training; "soft" infrastructure development; and "hard" infrastructure development.</p>
<p><i>Article 9.2</i></p> <p><i>Where substantial investments are required in order for an exporting developing country Member to fulfil the sanitary or phytosanitary requirements of an importing Member, the latter shall consider providing such technical assistance as will permit the developing country Member to maintain and expand its market access opportunities for the product involved.</i></p>	<p>The view was expressed that special and differential treatment provisions would be effective only if they were complemented by sufficient technical assistance to strengthen developing countries' ability to deal with scientific issues, especially risk assessment, and to improve laboratory facilities and technologies needed to comply with SPS obligations.<sup>23</sup> In the review of the operation and implementation of the Agreement, the Committee stressed the need for increased technical assistance and cooperation, in particular with regard to human resource development, national capacity building, and transfer of technology and information, particularly by way of concrete, "hands on" assistance. Technical assistance needs and activities are discussed at each regular meeting of the SPS Committee. A questionnaire was circulated to all Members requesting information on their technical assistance activities in the SPS area, as well as on their specific requests for technical assistance.<sup>24</sup> Information on a large number of technical assistance projects has been received.<sup>25</sup></p>

<sup>23</sup> G/SPS/R/19 and G/SPS/GEN/128.

<sup>24</sup> G/SPS/W/101

<sup>25</sup> G/SPS/GEN/143 and Add.1, and G/SPS/GEN/181

F. AGREEMENT ON TEXTILES AND CLOTHING

The Agreement on Textiles and Clothing includes 6 special and differential treatment provisions, which can be categorised as follows:

1. Provision aimed at increasing the trade opportunities of developing country Members:  
One provision (Article 2.18).
2. Provisions under which WTO Members should safeguard the interests of developing country Members:  
Three provisions (Article 6.6(b), 6.6(a) and Annex, paragraph 3(a)).
3. Provisions relating to least-developed country Members:  
Two provisions (the Footnote to Article 1.2, and Article 6.6 (a)).

Provision	Comments
<b>Provisions aimed at increasing trade opportunities</b>	
<p><i>Article 2:18</i> <i>As regards those Members whose exports are subject to restrictions on the day before the entry into force of the WTO Agreement and whose restrictions represent 1.2 per cent or less of the total volume of the restrictions applied by an importing Member as of 31 December 1991 and notified under this Article, meaningful improvement in access for their exports shall be provided, at the entry into force of the WTO Agreement and for the duration of this Agreement, through advancement by one stage of the growth rates set out in Article 2:13 and 2:14, or through at least equivalent changes as may be mutually agreed with respect to a different mix of base levels, growth and flexibility provisions. Such improvements shall be notified to the TMB.</i></p>	<p>Members have noted that Article 2.18 should be implemented both within the context and general meaning of the ATC which was liberalization of trade and the purpose of the special provisions regarding small suppliers, that is to provide significant increases in access to them in terms of advancement by one stage of the growth rates with a view to contribute to the future possibilities of developing their trade. The view has been expressed that the term "advancement by one stage" in Article 2.18 does not mean substitution of the second stage growth factor for the first stage growth factor, that the stages have cumulative effect, therefore the growth factor for Stage 2 is to be applied in addition to the Stage 1 growth factor increase. (G/L/224, paragraph 44). Concerns have been raised that in the implementation of Article 2.18 the methodologies used by only one of the Members maintaining restraints of increasing the respective growth rates first by 16 per cent and then by 25 per cent had fulfilled the requirements of Article 1.2, and that two Members maintaining restraints had applied only a 25 per cent increase. (G/L/224, paragraph 44).</p>

Provision	Comment
<b>Provisions under which WTO Members should safeguard the interests of developing country Members</b>	
<p><i>Article 6:6(b)</i>  <i>Members whose total volume of textile and clothing exports is small in comparison with the total volume of exports of other Members and who account for only a small percentage of total imports of that product into the importing Member shall be accorded differential and more favourable treatment in the fixing of the economic terms provided in Article 6: 8, 6:13 and 6:14. For those suppliers, due account will be taken, pursuant to Article 1:2 and 1.3, of the future possibilities for the development of their trade and the need to allow commercial quantities of imports from them.</i></p>	<p>With respect to Article 6.6(b) concern was expressed that in the application of safeguard measures by a Member, involving Members considered to be small suppliers, account had not been taken of the specific requirement in Article 6.6(b) to provide differential and more favourable treatment. (G/L/224, paragraph 44).</p>
<p><i>Article 6.6(c)</i>  <i>With respect to wool products from wool-producing developing country Members whose economy and textiles and clothing trade are dependent on the wool sector, whose total textile and clothing exports consist almost exclusively of wool products, and whose volume of textiles and clothing trade is comparatively small in the market of importing Members, special consideration shall be given to the export needs of such Members when considering quota levels, growth rates and flexibility.</i></p>	<p>No safeguard action had been taken against any wool producing exporting country whose economies are dependent on the wool sector.</p>
<p><i>Annex, point 3, para (a)</i>  <i>Actions under the safeguard provisions in Article 6 of [the Agreement on Textiles and Clothing] shall not apply to: developing country Members' exports of handloom fabrics of the cottage industry, or hand-made cottage industry products made of such handloom fabrics, or traditional folklore handicraft textile and clothing products, provided that such products are properly certified under arrangements established between the Members concerned.</i></p>	<p>No safeguard action has been taken against such products.</p>
<b>Provisions relating to least-developed countries</b>	
<p><i>Article 1.2, footnote</i>  <i>To the extent possible, exports from a least-developed country Member may also benefit from [Article 1.2: Members agree to use the provisions of paragraph 18 of Article 2 and paragraph 6 (b) of Article 6 in such a way as to permit meaningful increases in access possibilities for small suppliers and the development of commercially significant trading opportunities for new entrants in the field of textiles and clothing trade.</i></p>	<p>In the last review, one developed country Member said its quotas with a particular least-developed country Member had high quota growth rates, another developed country Member said that it had no restraints and applied zero tariffs.  With respect to the treatment of the least-developed country Members, it has been pointed out that some least-developed countries have benefitted from the provisions of</p>



Provision	Comment
	Article 2.18 while one Member had not, and that this was discriminatory as between least-developed countries and inconsistent with the objectives of the ATC. The importance of taking into account the special concerns of the least-developed Members in order to ensure improved market access for their products was stressed in this regard. (G/L/224, paragraph 48)
<i>Article 6.6(a)</i> <i>In the application of the transitional safeguard, particular account shall be taken of the interests of exporting members as set out below: least-developed country Members shall be accorded treatment significantly more favourable than that provided to the other groups of Members referred to in this paragraph, preferably in all its elements, but at least in overall terms.</i>	No safeguard action has been taken against any LDC.

## G. THE AGREEMENT ON TECHNICAL BARRIERS TO TRADE

The Agreement on Technical Barriers to Trade contains provisions under five of the six categories of Special and Differential Treatment. The 17 provisions for special and differential treatment can be classified as follows:

1. Provisions under which WTO Members should safeguard the interests of developing country Members:  
Seven provisions (Article 10.6; Article 12.1; Article 12.2; Article 12.3; Article 12.5; Article 12.9; and Article 12.10).
2. Flexibility of commitments, of action, and use of policy instruments:  
One provision. (Article 12.4)
3. Transition Time Periods: 1 provision (Article 12.8)
4. Technical Assistance:  
Seven Provisions. (Article 11.1; Article 11.2; Article 11.3; Article 11.4; Article 11.5; Article 11.6; Article 12.7)
5. Provisions relating to measures to assist least-developed country Members:  
One provision (Article 11.8).

General comments

Following the Second Triennial Review (November 2000), the Committee has started to develop a TBT-related Technical Cooperation Programme by conducting an information gathering exercise and designing a survey in order to assist identifying and prioritising the technical assistance needs. At the TBT meeting on 29 June 2001, the Secretariat was requested to compile relevant submissions from Members [15] as well as to prepare a draft survey questionnaire for the consideration of the Committee on 8-9 October 2001.

At its special Session on 18 October 2000, the General Council requested the TBT Committee "to examine the problems faced by developing countries in both international standards and conformity assessment, and to explore possible solutions in the context of the ongoing Triennial Review." A summary of discussions held by the TBT Committee in the context of the Second Triennial Review of the TBT Agreement is contained in document G/L/422. The General Council also requested the Director-General to explore with relevant organizations, financial and technical mechanisms to assist the participation of developing countries in international standard-setting activities. Following a meeting with a number of organisations, the Secretariat has started a project, with the help of these relevant organizations, to compile information on the following headings: (i) specific TBT-needs of different groups of developing countries; and (ii) existing technical assistance activities provided by the various organizations. Members were invited to submit relevant information<sup>26</sup> to the Secretariat by 31 May 2001 on their specific needs and national experiences in relation to technical assistance received and provided in the TBT area. (see G/TBT/SPEC/18)

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<sup>26</sup> G/TBT/9 – The Second Triennial Review Report – sets out the observations of the Committee on the challenges faced by developing countries in the various TBT areas, and Members may find this a useful reference resource in compiling their national information.

Concerning the General Council mandate to the Director-General on TBT issues, and following the meeting (on 23 January) between the Secretariat and a number of standard-setting organizations, the following bodies have provided information on their on-going TBT-related technical assistance activities, including means to assist the participation of developing countries in standard-setting activities: IEC, ISO, ITC, FAO/WHO Codex, OIML, UNIDO and UN/ESCAP. The Secretariat will compile the information received aiming at providing a global picture of the situation.

At the Special Meeting on Procedures for Information Exchange held in June, 22 developing country capital based experts were funded to participate by contributions from a number of Members and the APEC. The meeting was widely appreciated, in particular it provided the opportunities for experience sharing among Members on how to fulfill and benefit from the transparency provisions of the Agreement. It was regarded by a large number of developing country Members as an useful way of providing technical assistance. A session was devoted to the enhancement of electronic transmission of information, and discussions included how electronic means could facilitate the participation by developing countries in international standards development.

At the March and June meetings, ISO, CODEX, ITC and UNIDO were invited to update the TBT Committee on their technical assistance activities and on the ways in which they seek to ensure effective participation of Members, in particularly developing country Members in standard activities. The Committee also continued to examine issues relating to conformity assessment, such as mutual recognition agreements.

Provision	Comment
<b>Provisions under which WTO Members should safeguard the interests of developing country Members</b>	
<p><i>Article 10.6</i>  <i>The Secretariat shall, when it receives notifications in accordance with the provisions of this Agreement, circulate copies of the notifications to all Members and interested international standardizing and conformity assessment bodies, and draw the attention of developing country Members to any notifications relating to products of particular interest to them.</i></p>	<p>Under Article 10.6, the Secretariat circulates to all Members copies of notifications covering those products indicated by developing country members as being of particular interest to them. (G/TBT/W/124).</p>
<p><i>Article 12.1</i>  <i>Members shall provide differential and more favourable treatment to developing country Members, through the provisions of this Article, as well as through the relevant provisions of other Articles of this Agreement</i></p>	
<p><i>Article 12.2</i>  <i>Members shall give particular attention to the provisions of this Agreement concerning developing country Members' rights and obligations and shall take into account the special development, financial and trade needs of developing country Members in the implementation of this Agreement, both nationally and in the operation of this Agreement's institutional arrangements</i></p>	<p>One session of the workshop on Technical Assistance and Special and Differential Treatment in the context of the TBT Agreement dealt with the difficulties faced by developing country Members and their needs concerning the implementation and administration of the Agreement, focussing in particular on the following elements: (i) notification obligations; (ii) setting up of national enquiry points; (iii) implementation of the Code of Good Practice</p>

Provision	Comment
	<p>for the Preparation, Adoption, and Application of Standards by national standardizing bodies; (iv) preparation of technical regulations; and (v) submission of statements under Article 15.2. The results of the workshop are under consideration of the Committee as part of its second triennial</p>
<p><i>Article 12.3</i>  <i>Members shall, in the preparation and application of technical regulations, standards and conformity assessment procedures, take account of the special development, financial and trade needs of developing country Members, with a view to ensuring that such technical regulations, standards and conformity assessment procedures do not create unnecessary obstacles to exports from developing country Members.</i></p>	

Provision	Comment
<p><i>Article 12.5</i> <i>Members shall take such reasonable measures as may be available to them to ensure that international standardizing bodies and international systems for conformity assessment are organized and operated in a way which facilitates active and representative participation of relevant bodies in all Members, taking into account the special problems of developing country Members.</i></p>	<p>At its Special Session on 18 October 2000 the General Council agreed to the proposal by the Chairman, with respect to the TBT Agreement, that the Director-General explore with the relevant international standard-setting organizations and relevant intergovernmental organizations financial and technical mechanisms to assist the participation of developing countries in standard-setting activities; and that the Director-General coordinate efforts with the relevant international standard-setting organizations to identify TBT-related technical assistance needs and how best to address these, taking into consideration the importance of bilateral and regional technical assistance in this regard.</p> <p>The General Council subsequently adopted a Decision on Implementation-related issues on 15 December 2001 which stated that: "In accordance with the request to the Director-General to work with the relevant international standard-setting organizations on the issue of the participation of developing countries in their work, these organizations are urged to ensure the participation of Members at different levels of development and from all geographic regions, throughout all phases of standard development."</p> <p>A report on actions taken by the Director-General pursuant to the mandates handed to him can be found in GC/42.</p> <p>The TBT committee adopted a decision on principles for the development of international standards, guides and recommendations with respect to article 2, 5 and annex III of the TBT agreement, to ensure transparency, openness, impartiality and consensus, effectiveness and relevance, coherence, and to address the concerns of developing countries. The decision states the same principles should also be observed when technical work or a part of the international standard development is delegated under agreements or contracts by international standardizing bodies to other relevant organizations, including regional bodies.</p>
<p><i>Article 12:9</i> <i>During consultations, developed country Members shall bear in mind the special difficulties experienced by developing country</i></p>	<p>A session of the workshop of Technical Cooperation and Special and Differential Treatment dealt with: (i) development of human</p>

Provision	Comment
<p><i>Members in formulating and implementing standards and technical regulations and conformity assessment procedures, and in their desire to assist developing country Members with their efforts in this direction, developed country Members shall take account of the special needs of the former in regard to financing, trade and development.</i></p>	<p>and institutional resource; (ii) ways by which technical regulations and standards of markets could best be met; and (iii) other capacity building matters.</p>
<p><i>Article 12:10</i>  <i>The Committee shall examine periodically the special and differential treatment, as laid down in this Agreement, granted to developing country Members on national and international levels.</i></p>	<p>Please refer to general comments..</p>

Provision	Comment
<b>Flexibility of commitments, of action, and use of policy instruments</b>	
<p><i>Article 12:4</i>  <i>Members recognize that, although international standards, guides or recommendations may exist, in their particular technological and socio-economic conditions, developing country Members adopt certain technical regulations, standards or conformity assessment procedures aimed at preserving indigenous technology and production methods and processes compatible with their development needs. Members therefore recognize that developing country Members 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.</i></p>	<p>With the view to operationalize and implement the provisions of Article 12, at the First Triennial Review the Committee agreed to consider including the following matters in its future programme of work, which could be taken up during the next three years and reviewed during the Second Triennial Review of the Agreement: The use of measures to engender capacity building in developing country Members, including the consideration of measures relevant to transfer of technology to these countries, for the purpose of preparation and adoption of technical regulations, standards or conformity assessment procedures, taking into account their special development, financial and trade needs. The Committee noted that difficulties might be encountered in relation to the use of certain international standards as specified under Article 12.4, and that trade problems could arise through, <i>inter alia</i>, the absence of international standards, or their non-use due to possible out-dated content. It found that there was a need to examine these difficulties as well as the potential trade effects arising from international standards. An examination of these issues would also need to consider the extent to which the special development, financial and trade needs of developing countries Members had been taken into account, and the kind of technical assistance that might be needed in this respect.<sup>27</sup></p>
<b>Transitional time periods</b>	
<p><i>Article 12:8 (...)</i>  <i>Accordingly, with a view to ensuring that developing country Members are able to comply with this Agreement, the Committee on Technical Barriers to Trade provided for in Article 13 is enabled to grant, upon request, specified, time-limited exceptions in whole or in part from obligations under this Agreement. When considering such requests the Committee shall take into account the special problems, in the field of preparation and application of technical regulations, standards and conformity assessment procedures, and the special development and trade needs of the developing country Member, as well as its stage of technological development, which may hinder its ability to discharge fully its</i></p>	<p>No request for a time-limited exemption has been made under this Article.</p>

<sup>27</sup> G/TBT/5, paragraph 18.

Provision	Comment
<i>obligations under this Agreement. The Committee shall, in particular, take into account the special problems of the least-developed country Members.</i>	
<b>Technical assistance</b>	
<p><i>Article 11:1</i>  <i>Members shall, if requested, advise other Members, especially the developing country Members, on the preparation of technical regulations.</i></p>	<p>Various submissions have been made in relation to technical assistance in general ( see references in "general comments" section above).</p>
<p><i>Article 11:3</i>  <i>Members shall, if requested, take such reasonable measures as may be available to them to arrange for the regulatory bodies within their territories to advise other Members, especially the developing country Members, and shall grant them technical assistance on mutually agreed terms and conditions regarding:</i>  <i>(i)the establishment of regulatory bodies, or bodies for the assessment of conformity with technical regulations; and</i>  <i>(ii)the methods by which their technical regulations can best be met.</i></p>	
<p><i>Article 11:4</i>  <i>Members shall, if requested, take such reasonable measures as may be available to them to arrange for advice to be given to other Members, especially the developing country Members, and shall grant them technical assistance on mutually agreed terms and conditions regarding the establishment of bodies for the assessment of conformity with standards adopted within the territory of the requesting Member.</i></p>	
<p><i>Article 11:5</i>  <i>Members shall, if requested, advise other Members, especially the developing country Members, and shall grant them technical assistance on mutually agreed terms and conditions regarding the steps that should be taken by their producers if they wish to have access to systems for conformity assessment operated by governmental or non-governmental bodies within the territory of the Member receiving the request.</i></p>	



Provision	Comment
<p><i>Article 11:6</i> Members which are members or participants of international or regional systems for conformity assessment shall, if requested, advise other Members, especially the developing country Members, and shall grant them technical assistance on mutually agreed terms and conditions regarding the establishment of the institutions and legal framework which would enable them to fulfil the obligations of membership or participation in such systems.</p>	<p>The Committee has agreed to review the role of regional and international systems for conformity assessment as covered by Article 9 and how these systems could contribute to solving the problems of multiple testing and certification/registration for traders and industries, including in particular small and medium size enterprises. This exercise will also address the extent to which international guides and recommendations contribute to the establishment of these systems, and the possible technical assistance needed for developing countries to develop operational conformity assessment procedures within the context of Articles 11.6, 11.7 and 12.5.</p>
<p><i>Article 12.7</i> Members shall, in accordance with the provisions of Article 11 (see above), provide technical assistance to developing country Members 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 country Members. In determining the terms and conditions of the technical assistance, account shall be taken of the stage of development of the requesting Members and in particular of the least-developed country Members.)</p>	<p>At the workshop on Technical Assistance and Special and Differential Treatment, a number of presentations were made on the technical and financial assistance already being provided by national and international conformity assessment systems to developing countries.<sup>28</sup></p>
<b>Provisions relating to least-developed country Members</b>	
<p><i>Article 11.8</i> In providing advice and technical assistance to other Members in terms of Article 11:1 to 11:7, Members shall give priority to the needs of the least-developed country Members.</p>	

<sup>28</sup> G/TBT/SPEC/15 contains the programme workshop.

## H. TRADE-RELATED INVESTMENT MEASURES

There are four special and differential treatment provisions in the TRIMS agreement, which fall into three separate categories as follows:

1. Flexibility of commitments, of action, and use of policy instruments:  
One provision (Article 4).
2. Transitional time periods:  
Two provisions (Article 5.1 and 5.2).
3. Provisions relating to least-developed country Members:  
One (Article 5.2). It should be noted that the provision for least-developed countries is a modified version of the transition time-period provision available to all developing countries.

All special and differential treatment provisions under the TRIMs agreement relate to actions developing countries may take as a result of time-bound exemptions. The information in the right hand column shows the extent to which developing countries have had recourse to these provisions.

Provision	Comment
<b>Flexibility of commitments, of action, and use of policy instruments</b>	
<i>Article 4 (Developing Country Members)</i> <i>A developing country Member shall be free to deviate temporarily from the provisions of Article 2 to the extent and in such a manner as Article XVIII of GATT 1994, the Understanding on the Balance-of-Payments Provisions of GATT 1994, and the Declaration on Trade Measures Taken for Balance-of-Payments Purposes adopted on 28 November 1979 (BISD 26S/205-209) permit the Member to deviate from the provisions of Articles III and XI of GATT 1994.</i>	In the TRIMs Committee a developing country Member cited this provision as justifying some measures it has taken; some other Members questioned this justification. (G/TRIMS/M/9, paragraphs 30-37 and G/TRIMS/M/10 paragraphs 16-22).
<b>Transitional time periods</b>	
<i>Article 5:2</i> <i>Each Member shall eliminate all TRIMs which are notified under Article 5.1, within two years of the date of entry into force of the WTO Agreement in the case of a developed country Member, within five years in the case of a developing country Member, and within seven years in the case of a least-developed country Member.</i>	Notifications under Article 5.1 have been submitted by 26 Members. For most Members having made notifications, the Article 5.2 transition period for elimination of the TRIMs expired on 1 January 2000. Issues that have arisen with respect to Article 5 include the question of what measures should be notified under Article 5.1, as well as the question of whether TRIMs notified after the deadline are still entitled to benefit from the transition period. (WT/G/TRIMS/M/2-7)

Provision	Comment
<p><i>Article 5:3</i> <i>On request, the Council for Trade in Goods may extend the transition period for the elimination of TRIMs notified under Article 5.1 for a developing country Member, including a least-developed country Member, which demonstrates particular difficulties in implementing the provisions of this Agreement. In considering such a request, the Council for Trade in Goods shall take into account the individual development, financial and trade needs of the Member in question.</i></p>	<p>10 developing country Members requested extensions of the transition period pursuant to Article 5.3. On 31 July 2001, eight developing country Members were granted extensions of the transition period to eliminate TRIMs through end-2001, with the possibility of having the extensions extended to no later than end-2003. The extensions were provided through decisions of the Council for Trade in Goods under Article 5.3 in seven of the eight cases (see G/L/460-466), and in the other case through a waiver under Article IX of the WTO Agreement. (see WT/L/410) Consultations are continuing on any other requests for extension of the transition period.</p>
<b>Provisions relating to least-developed country Members</b>	
<p><i>Article 5.2</i> <i>Each Member shall eliminate all TRIMs which are notified under Article 5.1 [...] within seven years in the case of a least-developed country Member.</i></p>	<p>One least-developed country Member notified TRIMs under Article 1. To date, no request for extension has been received.</p>

## I. AGREEMENT ON IMPLEMENTATION OF ARTICLE VI (ANTI-DUMPING) OF THE GATT 1994

The agreement on the implementation of Article VI contains one provision for the special and differential treatment of developing country members (Article 15), which falls under the category of provisions under which WTO Members should safeguard the interests of developing country Members.

General comments

Provision	Comment
<b>Provisions under which WTO Members should safeguard the interests of developing country Members</b>	
<p><i>Article 15 (Developing Country Members)</i>  <i>It is recognized that special regard must be given by developed country Members to the special situation of developing country Members when considering the application of anti-dumping measures under this Agreement. Possibilities of constructive remedies provided for by this Agreement shall be explored before applying anti-dumping duties where they would affect the essential interests of developing country Members.</i></p>	<p>The Panel in <i>European Communities – Anti-Dumping Duties on Imports of Cotton-Type Bed Linen from India</i> was requested to rule whether the European Communities had complied with Article 15 of the AD Agreement. (WT/DS/141R) India asserted that the European Communities had acted inconsistently with Article 15 by not "exploring possibilities of a constructive remedy" prior to the imposition of anti-dumping duties. The Panel findings on the legal issues included the following:</p> <ul style="list-style-type: none"> <li>• Imposition of a lesser duty or a price undertaking would constitute "constructive remedies" within the meaning of Article 15. The Panel did not come to any conclusions as to what other actions might in addition be considered to constitute "constructive remedies" under Article 15,<sup>29</sup> but did note that a decision not to impose a duty, while within the authority of a Members, was not a remedy of any type, constructive or otherwise.<sup>30</sup></li> <li>• The phrase "before applying anti-dumping duties" in Article 15 means before the application of definitive antidumping duties. Therefore, Article 15 does not require developed country Members to explore the possibilities of price undertakings prior to the imposition of provisional measures.<sup>31</sup></li> <li>• While Article 15 requires that possibilities of constructive remedies be "explored", this imposes no obligation to actually provide or accept any constructive remedy that may be identified and/or offered. It does, however, impose an obligation to actively consider, with an open mind, the possibility of such a remedy prior to the imposition of an anti-</li> </ul>

<sup>29</sup> Paragraph 6.229

<sup>30</sup> Paragraph 6.228

<sup>31</sup> Paragraph 6.231

Provision	Comment
	<p>dumping measure that would affect the essential interests of a developing country.</p> <ul style="list-style-type: none"><li data-bbox="810 338 1401 465">• The Panel ruled that, in the particular factual circumstances of the dispute, the EC had failed to act consistently with its obligations under Article 15.</li></ul> <p>One Member expressed the view that a developed Member had not complied with Article 15 when imposing anti-dumping duties. (See G/ADP/W/416)</p>

- J. AGREEMENT ON IMPLEMENTATION OF ARTICLE VII OF THE GATT 1994, AND THE DECISION ON TEXTS RELATING TO MINIMUM VALUES AND IMPORTS BY SOLE AGENTS, SOLE DISTRIBUTORS AND SOLE CONCESSIONAIRES.

Agreement on Implementation of Article VII of the GATT 1994

The eight provisions for special and differential treatment under the Agreement fall under the following broad headings:

1. Provisions under which WTO Members should safeguard the interests of developing country Members:  
One provision (Annex III.5).
2. Flexibility of commitments, of action, and use of policy instruments:  
Two provisions (Annex III.3 and Annex III.4).
3. Transitional Time Periods:  
Four provisions (Article 20.1; article 20.2; Annex III:1; and Annex III.2).
4. Technical Assistance:  
One Provisions (Article 20.3)

In the course of the work of the Customs Valuation Committee, Members have made statements and/or taken action in regard, or pursuant to, a number of the special and differential treatment provisions listed above. The provisions in relation to which statements made or actions taken have been recorded by the committee are detailed below.

Proposals made by some developing countries on the subjects of information exchange, cost of services, and Article 7 residual method were referred to the Customs Valuation Committee on 18 October 2000. On 31 July 2001, the Chairman of the General Council requested the Chair of the Committee on Customs Valuation to hold consultations on the basis of the report contained in document G/VAL/36 with the aim of suggesting to the Chairman of the General Council an appropriate course of action by 15 September.

Provision	Comment
<b>Provisions under which WTO Members should safeguard the interests of developing country Members</b>	
<p><i>Annex III:5</i> Certain developing countries may have problems in the implementation of Article 1 of the Agreement in so far as it relates to importations into their countries by sole agents, sole distributors and sole concessionaires. If such problems arise in practice in developing country Members applying the Agreement, a study of this question shall be made, at the request of such Members, with a view to finding appropriate solutions.</p>	<p>No request for a study has been made so far.</p>

Provision	Comment
<b>Flexibility of commitments, of action, and use of policy instruments</b>	
<p><i>Annex III:3</i>  <i>Developing countries which consider that the reversal of the sequential order at the request of the importer provided for in Article 4 of the Agreement may give rise to real difficulties for them may wish to make a reservation to Article 4 in the following terms:</i>  <i>"The Government of ..... reserves the right to provide that the relevant provision of Article 4 of the Agreement shall apply only when the customs authorities agree to the request to reverse the order of Articles 5 and 6."</i>  <i>If developing countries make such a reservation, the Members shall consent to it under Article 21 of the Agreement.</i></p>	<p>Fifty-three developing country Members, of which 13 least-developed country members, have invoked this paragraph.<sup>32</sup></p>
<p><i>Annex III:4</i>  <i>Developing countries may wish to make a reservation with respect to Article 5:2 of the Agreement in the following terms:</i>  <i>"The Government of ..... reserves the right to provide that Article 5:2 of the Agreement shall be applied in accordance with the provisions of the relevant note thereto whether or not the importer so requests."</i>  <i>If developing countries make such a reservation, the Members shall consent to it under Article 21 of the Agreement.</i></p>	<p>Fifty-one developing country Members, of which eleven least developed country members, have invoked this paragraph.<sup>33</sup></p>
<b>Transitional time periods</b>	
<p><i>Article 20.1</i>  <i>Developing country Members not party to the Agreement on Implementation of Article VII of the GATT (Tokyo Round), may delay application of the provisions of this Agreement for a period not exceeding five years from the date of entry into force of the WTO Agreement for such Members. Developing country Members who choose to delay application of this Agreement shall notify the Director-General of the WTO accordingly.</i></p>	<p>This provision was invoked by 56 developing countries (of which 12 least-developed countries). For 29 of these Members the provision expired on 1 January 2000 and for another 24, the provision expired during the year up to July 2001.</p> <p>The General Council decision of 15 December 2000 stated that: "Noting that the process of examination and approval, in the Customs Valuation Committee, of individual requests from Members for extension of the five-year delay period in Article 20.1 is proceeding well, the General Council encourages the Committee to continue this work." (WT/L/384)</p>

<sup>32</sup> G/VAL/W/77

<sup>33</sup> G/VAL/2/Rev.10/Corr.2

Provision	Comment
<p><i>Article 20:2</i>  <i>In addition to paragraph 1, developing country Members not party to the Agreement on Implementation of Article VII of the GATT (Tokyo Round), may delay application of paragraph 2(b)(iii) of Article 1 and Article 6 for a period not exceeding three years following their application of all other provisions of this Agreement. Developing country Members that choose to delay application of the provisions specified in this paragraph shall notify the Director-General of the WTO accordingly.</i></p>	<p>This provision has been invoked by 48 developing countries (of which 11 are least-developed countries).</p>
<p><i>Annex III.1</i>  <i>The five-year delay in the application of the provision of the Agreement by developing country Members provided for in paragraph 1 of Article 20 may, in practice, be insufficient for certain developing country members. In such cases a developing country Member may request before the end of the period referred to in paragraph 1 of Article 20 an extension of such period, it being understood that the Members will give sympathetic consideration to such a request in cases where the developing country Member in question can show good cause.</i></p>	<p>A total of 20 Members have requested extensions under this provision, and one Member requested a second extension; thirteen of which have been granted. The duration of extensions granted range from 1 year to two years.</p>
<p><i>Annex III.2</i>  <i>Developing countries which currently value goods on the basis of officially established minimum values may wish to make a reservation to enable them to retain such values on a limited and transitional basis under such terms and conditions as may be agreed to by the Members. (please also refer to <u>Decision on texts relating to minimum values and imports by sole agents, sole distributors and sole concessionaires.</u>)</i></p>	<p>Seventeen developing country Members have reserved their rights to retain minimum values under Annex III.2. The Committee has adopted four Decisions containing the terms and conditions under which four Members may continue to use minimum values while applying the Agreement.</p>
<b>Technical assistance</b>	
<p><i>Article 20:3</i>  <i>Developed country Members shall furnish, on mutually agreed terms, technical assistance to developing country Members that so request. On this basis developed country Members shall draw up programmes of technical assistance which may include, inter alia, training of personnel, assistance in preparing implementation measures, access to sources of information regarding customs valuation methodology, and advice on the application of the provisions of this Agreement.</i></p>	<p>In April 1998, the Committee on Customs Valuation published an inventory of all technical assistance activities undertaken up to that time by WTO and WCO, on the basis of information made available to the Secretariat. Activities relating to 52 Members were listed. It was noted that "It is likely that many activities have not been included for lack of information". (G/VAL/W/25). The Secretariat prepared a checklist of priority activities for technical assistance to assist Members in identifying gaps in activities aimed at the implementation of the Agreement ( G/VAL/W/30). A number of developed country Members have, in the context</p>



Provision	Comment
	of the Committee on Customs Valuation, provided information on technical cooperation activities provided to developing country members. <sup>34</sup> One developing country Member also drew attention to the technical cooperation activities it had carried out. <sup>35</sup> One developed country Member identified the following key principles with regard to the delivery of technical assistance: the full participation by the recipients for demand driven assistance; the establishment of priorities and identification of specific problem areas; the need to improve coherence between the relevant donors. <sup>36</sup>

K. DECISION ON TEXTS RELATING TO MINIMUM VALUES AND IMPORTS BY SOLE AGENTS, SOLE DISTRIBUTORS AND SOLE CONCESSIONAIRES.

The decision contains two provisions for special and differential treatment, both of which fall under the category of Provisions under WTO Members should safeguard the interests of developing country Members.

Provision	Comment
<b>Provisions under which WTO Members should safeguard the interests of developing country Members</b>	
<i>Decisions on Texts Relating to Minimum Values and Imports by Sole Agents, Sole Distributors and Sole Concessionaires: Minimum values: Text I</i> <i>Where a developing country makes a reservation to retain officially established minimum values within the terms of Annex III:2 and shows good cause, the Committee shall give the request for the reservation sympathetic consideration. Where a reservation is consented to, the terms and conditions referred to in Annex III:2 shall take full account of the development, financial and trade needs of the developing country concerned.</i>	Please refer to section on Annex III.2 of the document (page 49)
<i>Text II</i> <i>A number of developing countries have a concern that problems may exist in the valuation of imports by sole agents, sole distributors and sole concessionaires. Under Article 20:1 (mentioned in Section 2.7 of this document), developing country Members have a period of delay of up to</i>	

<sup>34</sup> G/VAL/M/12; G/VAL/W/36; G/VAL/W/37 and Add.1; G/VAL/W/48; and G/VAL/W/49.

<sup>35</sup> G/VAL/M/14

<sup>36</sup> G/VAL/W/71

Provision	Comment
<p><i>five years prior to the application of the Agreement. In this context, developing country Members availing themselves of this provision could use the period to conduct appropriate studies and to take such other actions as are necessary to facilitate application.</i></p> <p><i>In consideration of this, the Committee recommends that the Customs Co-operation Council assist developing country Members, in accordance with the provisions of Annex II, to formulate and conduct studies in areas identified as being of potential concern, including those relating to importations by sole agents, sole distributors and sole concessionaires.</i></p>	

L. AGREEMENT ON IMPORT LICENSING PROCEDURES.

The Agreement includes four special and differential treatment provisions, which can be classified as follows:

1. Provisions under which WTO Members should safeguard the interests of developing country Members:  
Three provisions (Article 1.2; Article 3.5 (a)(iv); Article 3.5(j)).
2. Transitional Time Periods:  
One provision (Article 2.2, footnote 5).

Provision	Comment
<b>Provisions under which WTO Members should safeguard the interests of developing country Members</b>	
<p><i>Article 1.2 General Provisions</i></p> <p><i>Members shall ensure that the administrative procedures used to implement import licensing regimes are in conformity with the relevant provisions of GATT 1994 including its annexes and protocols, as interpreted by this Agreement, with a view to preventing trade distortions that may arise from an inappropriate operation of those procedures, taking into account the economic development purposes and financial and trade needs of developing country Members.</i></p>	<p>This matter has not been raised in the Committee on Import Licensing. However, this provision has been invoked in dispute settlement cases. For example see WT/DS169/R</p>
<p><i>Article 3:5(a)(iv) Non-automatic Import Licensing</i></p> <p><i>Members shall provide, upon the request of any Member having an interest in the trade in the</i></p>	

Provision	Comment
<p><i>product concerned, all relevant information concerning where practicable, import statistics (i.e. value and/or volume) with respect to the products subject to import licensing. Developing country Members would not be expected to take additional administrative or financial burdens on this account.</i></p>	
<p><i>Article 3.5 (j) Non Automatic Import Licensing</i> <i>In allocating licences, the Member should consider the import performance of the applicant. In this regard, consideration should be given as to whether licences issued to applicants in the past have been fully utilized during a recent representative period. In cases where licences have not been fully utilized, the Member shall examine the reasons for this and take these reasons into consideration when allocating new licences. Consideration shall also be given to ensuring a reasonable distribution of licences to new importers, taking into account the desirability of issuing licences for products in economic quantities. In this regard, special consideration should be given to those importers importing products originating in developing country Members and, in particular, the least-developed country Members.</i></p>	<p>This matter has not been raised in the Committee on Import Licensing. However, this provision has been invoked in dispute settlement cases.</p>
<b>Transitional time periods</b>	
<p><i>Article 2:2 footnote 5 Automatic Import Licensing</i> <i>A developing country Member, other than a developing country Member which was a Party to the Agreement on Import Licensing Procedures done on 12 April 1979, which has specific difficulties with the requirements of Article 2:2 subparagraphs (a)(ii) and (a)(iii) may, upon notification to the Committee, delay the application of these subparagraphs by not more than two years from the date of entry into force of the WTO Agreement for such Member.</i></p>	<p>Twenty-four developing country Members had invoked the delayed application provisions since the entry into force of the WTO Agreement. The two-year period of delay allowed under the Agreement has expired for all these Members, and accordingly the obligations of Article 2.2(a)(ii) and (a)(iii) apply to all current WTO Members. It is recalled that the invocation of the above provisions does not exempt Members from the obligation to notify under Articles 1.4(a), 8.2(b) and 7.3 of the Agreement. (G/LIC/W/14)</p>

M. AGREEMENT ON SUBSIDIES AND COUNTERVAILING MEASURES

The agreement on Subsidies and Countervailing Measures contains 16 special and differential treatment provisions some of which fall into more than one of the following categories:

1. Provisions under which WTO Members should safeguard the interests of developing country Members:

Two provisions (Articles 27.1; and 27.15).

2. Flexibility of Commitments, of action, and use of policy instruments:

Ten provisions (Articles 27.2 (a) and Annex VII; Article 27.4; 27.7; 27.8, 27.9; 27.10; 27.11, 27.12, and 27.13). It should be noted that article 27.2(a) is applicable to a subset of developing countries, listed in Annex VII, and not developing countries as a whole.

3. Transitional Time Periods:

Seven provisions (Article 27.2 (b); Article 27.3; Articles 27.4 and 27.14 ; Article 27.5; Article 27.6; and Article 27.11).

Articles 27.4, 27.6 and 27.11 are listed in both the flexibility and transition time periods category, as their hybrid nature combines characteristics of both these categories.

In addition to these provisions applicable to developing countries, or a sub-group thereof, are four provisions (Articles 29, 1-4) which apply to members in the process of transformation from a centrally planned into a market, free-enterprise economy.

General Comments:

The General Council in its decision of 15 December 2000 on implementation-related issues referred all issues relating to Article 27.5 and 27.6 of the Agreement on Subsidies and Countervailing Measures (SCM) to the Subsidies and Countervailing Measures Committee ( see below). The same General Council Decision also stated that the SCM Committee shall examine as an important part of its work the issues of aggregate and generalized rates of remission of import duties and of the definition of "inputs consumed in the production process", taking into account the particular needs of developing-country Members. Following a decision in February 2000, the SCM Committee has been examining the implementation-related issues referred to it primarily on the basis of written submissions.

In addition, the Chairman of the General Council on 31 July 2001 requested the Committee on Subsidies and Countervailing Measures to review the provisions of the Agreement on Subsidies and Countervailing Measures regarding countervailing duty investigations, and to report to the General Council by 30 September.

Furthermore, an understanding was reached on 31 July that a proposal by submitted one Member be referred to the SCM Committee. This proposal reads, "Members request the Committee on Subsidies and Countervailing Measures to consider the implementation of Article 27 of the Agreement on Subsidies and Countervailing Measures as it relates to particular issues concerning developing-country Members with a small percentage share of exports in import markets and in global trade "

Provision	Comment
<b>Provisions under which WTO Members should safeguard the interests of developing country Members</b>	
<p><i>Article 27.1</i>  <i>Members recognize that subsidies may play an important role in economic development programmes of developing country Members</i></p>	<p>In relation to the Asian economic crisis, some developing country Members have requested that Article 27.1 should take its relevant meaning, so that Members in crisis could be allowed to recover, before additional burden is placed on them. (G/SCM/M/16).</p>

Provision	Comment
	<p>Please refer to introductory chapeau of this section referring to proposal made by one Member relating to the implementation of Article 27 as it relates to particular issues concerning developing-country Members with a small percentage share of exports in import markets and in global trade</p>
<p><i>Article 27:15</i> <i>The Committee shall, upon request by an interested developing country Member, undertake a review of a specific countervailing measure to examine whether it is consistent with the provisions of 27:10 and 27:11 as applicable to the developing country Member in question.</i></p>	<p>No such request has been received by the SCM Committee.</p> <p>Please refer to introductory chapeau of this section referring to proposal made by one Member relating to the implementation of Article 27 as it relates to particular issues concerning developing-country Members with a small percentage share of exports in import markets and in global trade</p>
<b>Flexibility of commitments, of action, and use of policy instruments</b>	
<p><i>Article 27, paragraph 2(a)</i> <i>The prohibition of paragraph 1 (a) of the Article 3 shall not apply to developing country members referred to in Annex VII.</i> <i>Annex VII (Developing Country Members, referred to in paragraph 2(a) of Article 27) The developing country Members not subject to the provisions of Article 3:1 (a) under the terms of Article 27:2 (a) are: (a) Least-developed countries designated as such by the United Nations which are Members of the WTO. (b) Each of the following developing countries which are Members of the WTO shall be subject to the provisions which are applicable to other developing country Members according to Article 27.2 (b) when GNP per capita has reached \$1,000 per annum; Bolivia, Cameroon, Congo, Côte d'Ivoire, Dominican Republic, Egypt, Ghana, Guatemala, Guyana, India, Indonesia, Kenya, Morocco, Nicaragua, Nigeria, Pakistan, Philippines, Senegal, Sri Lanka and Zimbabwe</i></p>	<p>The General Council's decision of 15 December 2000 stated that, "Taking into account the unique situation of Honduras as the only original Member of the WTO with a GNP per capita of less than US\$ 1000 that was not included in Annex VII(b) to the Agreement on Subsidies and Countervailing Measures (SCM Agreement), Members call upon the Director-General to take appropriate steps, in accordance with WTO usual practice, to rectify the omission of Honduras from the list of Annex VII(b) countries."</p> <p>Another concern raised with respect to Annex VII(b) was that the criterion for inclusion was based on a measure of GNP per capita and that a developing country could be deleted from the list as the GNP per capita exceeded the allowed value, but that, due to a changed exchange rate, the country could fall back below. (G/SCM/M/15 paragraph 68).</p> <p>The Committee on Subsidies took note that the GNP per capita per annum of four developing countries has exceeded the figure listed in Annex VII(b).</p> <p>Please refer to introductory chapeau of this section referring to proposal made by one Member relating to the implementation of Article 27 as it relates to particular issues concerning</p>

Provision	Comment
	developing-country Members with a small percentage share of exports in import markets and in global trade.
<i>Article 27.4: please refer to following section.</i>	
<i>Article 27.7 The provisions of Article 4 shall not apply to a developing country Member in the case of export subsidies which are in conformity with the provisions of Article 27:2 through 27:5. The relevant provisions in such a case shall be those of Article 7.</i>	This provision has been invoked in the dispute settlement context. (WT/DS/46/R) Please refer to introductory chapeau of this section referring to proposal made by one Member relating to the implementation of Article 27 as it relates to particular issues concerning developing-country Members with a small percentage share of exports in import markets and in global trade
<i>Article 27:8 There shall be no presumption in terms of Article 6.1 that a subsidy granted by a developing country Member results in serious prejudice, as defined in this Agreement. Such serious prejudice, where applicable under the terms of Article 27:9, shall be demonstrated by positive evidence, in accordance with the provisions of Article 6:3 through 6:8.</i>	In the context of a complaint by two developed country Members concerning subsidies provided by one developing country Member, the Panel held that because there was more than 5 per cent subsidization of the product at issue (one of the forms of subsidization referred to in Article 6.1), a serious prejudice claim could be brought against the subsidizing developing country Member on the basis of positive evidence. The Panel went on to find that, on the basis of the positive evidence, the developing country Member's subsidies at issue had caused serious prejudice, through significant price undercutting, to the interests of one of the complainants. (WT/DS54/R-WT/DS55/R-WT/DS59/R-WT/DS64/R). [Note: Pursuant to Article 31, Article 6.1 applied for a period of five years from the date of entry into force of the WTO Agreement, and could have been extended for a further period by consensus of the SCM Committee. At the end of the five-year period, no such consensus was reached.] Please refer to introductory chapeau of this section referring to proposal made by one Member relating to the implementation of Article 27 as it relates to particular issues concerning developing-country Members with a small percentage share of exports in import markets and in global trade

Provision	Comment
<p><i>Article 27:9</i> Regarding actionable subsidies granted or maintained by a developing country Member other than those referred to in Article 6:1, action may not be authorized or taken under Article 7 unless nullification or impairment of tariff concessions or other obligations under GATT 1994 is found to exist as a result of such a subsidy, in such a way as to displace or impede imports of a like product of another Member into the market of the subsidizing developing country Member or unless injury to a domestic industry in the market of an importing Member occurs.</p>	<p>This provision has not been invoked so far in the dispute settlement context. Please refer to introductory chapeau of this section referring to proposal made by one Member relating to the implementation of Article 27 as it relates to particular issues concerning developing-country Members with a small percentage share of exports in import markets and in global trade</p>
<p><i>Article 27:10</i> Any countervailing duty investigation of a product originating in a developing country Member shall be terminated as soon as the authorities concerned determine that: (a) the overall level of subsidies granted upon the product in question does not exceed 2 per cent of its value calculated on a per unit basis; or (b) the volume of the subsidized imports represents less than 4 per cent of the total imports of the like product in the importing Member, unless imports from developing country Members whose individual shares of total imports represent less than 4 per cent collectively account for more than 9 per cent of the total imports of the like product in the importing Member.</p>	<p>Please refer to introductory chapeau of this section referring to proposal made by one Member relating to the implementation of Article 27 as it relates to particular issues concerning developing-country Members with a small percentage share of exports in import markets and in global trade</p>
<p><i>Article 27:11</i> For those developing country Members within the scope of Article 27:2(b) which have eliminated export subsidies prior to the expiry of the period of eight years from the date of entry into force of the WTO Agreement, and for those developing country Members referred to in Annex VII, the number in Article 27:10(a) shall be 3 per cent rather than 2 per cent. This provision shall apply from the date that the elimination of export subsidies is notified to the Committee, and for so long as export subsidies are not granted by the notifying developing country Member. This provision shall expire eight years from the date of entry into force of the WTO Agreement. (Article 27.10 (a): Any countervailing duty investigation of a product originating in a developing country Member shall be terminated as soon as the authorities concerned determine that: the overall level of subsidies granted upon the product in question does not exceed 2 per cent of its value calculated on a per unit basis).</p>	<p>Five of the countervailing duty legislative notifications reviewed by the Committee include provisions relating to such favourable treatment. Additionally, twenty-seven Members have notified the Committee that the full text of the Agreement on Subsidies and Countervailing Measures has been incorporated into their domestic legal systems. Please refer to introductory chapeau of this section referring to proposal made by one Member relating to the implementation of Article 27 as it relates to particular issues concerning developing-country Members with a small percentage share of exports in import markets and in global trade</p>

Provision	Comment
<p><i>Article 27:12</i>  <i>The provisions of Article 27:10 and 27:11 shall govern any determination of de minimis under Article 15:3.</i></p>	<p>Please refer to introductory chapeau of this section referring to proposal made by one Member relating to the implementation of Article 27 as it relates to particular issues concerning developing-country Members with a small percentage share of exports in import markets and in global trade</p>
<p><i>Article 27:13</i>  <i>The provisions of Part III (Actionable Subsidies) shall not apply to direct forgiveness of debts, subsidies to cover social costs, in whatever form, including relinquishment of government revenue and other transfer of liabilities when such subsidies are granted within and directly linked to a privatization programme of a developing country Member, provided that both such programme and the subsidies involved are granted for a limited period and notified to the Committee and that the programme results in eventual privatization of the enterprise concerned.</i></p>	<p>The Committee received and discussed one notification made pursuant to this provision. (G/SCM/N/13/BRA and Corr.1)  Please refer to introductory chapeau of this section referring to proposal made by one Member relating to the implementation of Article 27 as it relates to particular issues concerning developing-country Members with a small percentage share of exports in import markets and in global trade</p>
<b>Transitional time periods</b>	
<p><i>Article 27.2 (b)</i>  <i>The prohibition of Article 3.1(a) shall not apply to: other developing country Members for a period of eight years from the date of entry into force of the WTO Agreement, subject to compliance with the provisions in Article 27:4.</i></p>	<p>Please refer to introductory chapeau of this section referring to proposal made by one Member relating to the implementation of Article 27 as it relates to particular issues concerning developing-country Members with a small percentage share of exports in import markets and in global trade</p>
<p><i>Article 27.3</i>  <i>The prohibition of Article 3.1 (b) shall not apply to developing country Members for a period of five years, and shall not apply to least developed country Members for a period of eight years, from the date of entry into force of the WTO Agreement. (Article 27:3)</i></p>	<p>Four developing country Members have invoked this provision when notifying pursuant to Article 25. (G/SCM/Q2/IND/5; G/SCM/Q2/NGA/4; G/SCM/Q2/PHL/5; and G/SCM/Q2/SEN/6).  Please refer to introductory chapeau of this section referring to proposal made by one Member relating to the implementation of Article 27 as it relates to particular issues concerning developing-country Members with a small percentage share of exports in import markets and in global trade.</p>
<p><i>Article 27.4</i>  <i>Any developing country Member referred to in Article 27:2(b) shall phase out its export subsidies within the eight-year period, preferably in a progressive manner. However, a developing country Member shall not increase the level of its export subsidies, and shall eliminate them within a period shorter than that provided for in this paragraph when the use of such export subsidies</i></p>	<p>In the context of a dispute between a developing country Member and a developed-country Member, the Panel held that Article 27 does not displace Article 3.1(a) of the SCM Agreement unconditionally, but, rather, that the exemption for developing countries from the application of the Article 3.1(a) prohibition on export subsidies is conditional on compliance with the provisions</p>



Provision	Comment
<p><i>is inconsistent with its development needs. If a developing country Member deems it necessary to apply such subsidies beyond the eight-year period, it shall not later than one year before the expiry of this period enter into consultation with the Committee, which will determine whether an extension of this period is justified, after examining all the relevant economic, financial and development needs of the developing country Member in question. If the Committee determines that the extension is justified, the developing country Member concerned shall hold annual consultations with the Committee to determine the necessity of maintaining the subsidies. If no such determination is made by the Committee, the developing country Member shall phase out the remaining export subsidies within two years from the end of the last authorized period.</i></p>	<p>in Article 27.4. This finding was not appealed. A report by the Appellate Body held that, " it is clear that the conditions set forth in paragraph 4 [of Article 27] are <i>positive obligations</i> for developing country Members, <i>not</i> affirmative defences." It concurred with the Panel Report which stated that "it is for the complaining Member to demonstrate that the developing country Member in question is not in compliance with at least one of the elements laid out in Article 27.4." (WT/DS46/R and WT/DS46/AB/R).</p> <p>Please refer to introductory chapeau of this section referring to proposal made by one Member relating to the implementation of Article 27 as it relates to particular issues concerning developing-country Members with a small percentage share of exports in import markets and in global trade.</p>
<p><i>Article 27.14</i> <i>The Committee shall, upon request by an interested developing country Member, undertake a review of a specific countervailing measure to examine whether it is consistent with its development needs.</i></p>	<p>No such request has been received by the SCM Committee.</p> <p>Please refer to introductory chapeau of this section referring to proposal made by one Member relating to the implementation of Article 27 as it relates to particular issues concerning developing-country Members with a small percentage share of exports in import markets and in global trade.</p>
<p><i>Article 27.5</i> <i>A developing country Member which has reached export competitiveness in any given product shall phase out its export subsidies for such product(s) over a period of two years. However, for a developing country Member which is referred to in Annex VII and which has reached export competitiveness in one or more products, export subsidies on such products shall be gradually phased out over a period of eight years.</i></p>	<p>No developing country Member has notified having reached export competitiveness.</p> <p>The General Council's decision of 15 December 2000 stated that: "The Committee on Subsidies and Countervailing Measures (SCM Committee) shall examine as an important part of its work all issues relating to Articles 27.5 and 27.6 of the SCM Agreement, including the possibility to establish export competitiveness on the basis of a period longer than two years."</p> <p>Since February 2001, extensive discussions have taken place, primarily on the basis of written submissions by Members. These submissions may be found in documents G/SCM/W/431.Rev1; G/SCM/W/433; G/SCM/W/435-440; G/SCM/W/442-443; G/SCM/W/445-448; G/SCM/W/450-451; G/SCM/W/453; G/SCM/W/456-458.</p> <p>Please refer to introductory chapeau of this section referring to proposal made by one</p>

Provision	Comment
	Member relating to the implementation of Article 27 as it relates to particular issues concerning developing-country Members with a small percentage share of exports in import markets and in global trade
<p><i>Article 27.6</i>  <i>Export competitiveness in a product exists if a developing country Member's exports of that product have reached a share of at least 3.25 per cent in world trade of that product for two consecutive calendar years. Export competitiveness shall exist either (a) on the basis of notification by the developing country Member having reached export competitiveness or (b) on the basis of a computation undertaken by the Secretariat at the request of any Member. For the purposes of this paragraph, a product is defined as a section heading of the Harmonised System Nomenclature. The Committee is to review the operation of this provision (i.e. Article 27:6) five years from its date of the entry into force.)</i></p>	<p>The General Council's decision of 15 December 2000 stated that: "The Committee on Subsidies and Countervailing Measures (SCM Committee) shall examine as an important part of its work all issues relating to Articles 27.5 and 27.6 of the SCM Agreement, including the possibility to establish export competitiveness on the basis of a period longer than two years." Since February 2001, extensive discussions have taken place, primarily on the basis of written submissions by Members. These submissions may be found in documents G/SCM/W/431; G/SCM/W/433; G/SCM/W/443; G/SCM/W/450-451; G/SCM/W/456-458. G/SCM/W/435-440; G/SCM/W/445-448; G/SCM/W/453;</p> <p>Please refer to introductory chapeau of this section referring to proposal made by one Member relating to the implementation of Article 27 as it relates to particular issues concerning developing-country Members with a small percentage share of exports in import markets and in global trade</p> <p>In the context of the mandated review of the operation of Article 27.6, it was noted by developed country members and one developing country Member that the Committee on Subsidies and Countervailing Measures had had no experience to date with the operation of the mechanism for determining export competitiveness in a product, as there had been no notification from any Member that it had reached export competitiveness as defined, nor had any Member requested that the Secretariat perform a calculation to determine whether another Member had reached export competitiveness. Three developed country Members contended that the definition of a product as a product section heading under the Harmonised System was too broad.</p>

N. AGREEMENT ON SAFEGUARDS.

The Agreement on safeguards contains two special and differential treatment provisions:

1. Provisions under which WTO Members should safeguard the interests of developing country Members:  
One provision (Article 9.1 and Footnote 2).
2. Flexibility of Commitments, of action, and use of policy instruments:  
One provision (Article 9.2).

Provision	Comment
<b>Provisions under which WTO Members should safeguard the interests of developing country Members</b>	
<p><i>Article 9.1 and footnote 2</i> Safeguard measures shall not be applied against a product originating in a developing country Member as long as its share of imports of the product concerned in the importing Member does not exceed 3 per cent, provided that developing country Members with less than 3 per cent import share collectively account for not more than 9 per cent of total imports of the product concerned.</p> <p><i>and footnote 2:</i> A Members shall immediately notify an action taken under Article 9.1 to the Committee on Safeguards.</p>	<p>The following issues have arisen with regard to Article 9.1 of the Agreement on Safeguards: Opposition was voiced over the manner in which one Member had applied Article 9.1 of the Safeguards Agreement, to exclude one developing Member from eligibility under Article 9.1 on the grounds that that Member was not included in the preference-giving Member's list of GSP beneficiaries. (G/SG/M/9 and G/SG/M/14).</p> <p>In addition, there have been requests for details regarding two developing country Members' application of Article 9.1's requirement to exclude from application of a measure imports from developing countries with small import shares. (G/SG/M/13)</p> <p>In the context of the imposition of a safeguard measure, a developing country member imposing the measure indicated that certain developing country members were covered by the measures because their share of total imports exceeded three per cent, consistent with Article 9.1 of the Agreement on Safeguards. (G/SG/M/14).</p>
<b>Flexibility of Commitments, of action, and use of policy instruments</b>	
<p><i>Article 9.2 Developing Country Members</i> A developing country Member shall have the right to extend the period of application of a safeguard measure for a period of up to two years beyond the maximum period provided for in Article 7:3. Notwithstanding the provisions of Article 7:5, a developing country Member shall have the right to apply a safeguard measure again to the import of a product which has been subject to such a measure, taken after the date of entry into force of</p>	<p>There has been to date no recourse to this provision.</p>

Provision	Comment
the WTO Agreement, after a period of time equal to half that during which such a measure has been previously applied, provided that the period of non-application is at least two years.	

O. GENERAL AGREEMENT ON TRADE IN SERVICES (GATS)

The GATS does not adopt the traditional concept of Special and differential treatment, according to which, to a large extent, all developing countries are treated the same. It rather addresses the concerns and needs of developing countries through providing appropriate flexibility on an individual basis. Such flexibility is reflected in numerous provisions of the Agreement as well as in its basic structure, which allows each Member to undertake liberalization commitments in a manner consistent with its development needs. Such commitments are always negotiated on a case-by-case basis.

Under the typology developed for considering special and differential treatment, it can be said that the GATS contains 15 special and differential treatment provisions dealing with developing country-related issues. Their classification can be broken down as follows:

1. Provisions aimed at increasing trade opportunities:  
Three provisions (Preamble, Article IV:1 and Article IV:2).
2. Provisions under which WTO Members should safeguard the interests of developing country Members:  
Four provisions (Preamble, Article XII:1, Article XV:1, Article XIX:3).
3. Flexibility of commitments, of action. and use of policy instruments:  
  
Four provisions (Article III:4; Article V:3; Article XIX:2, and Paragraph 5(g) of the Annex on Telecommunications).
4. Technical Assistance:  
Two provisions (Article XXV:2 and Paragraph 6 of the Annex on Telecommunication).
5. Provisions relating to least developed country Members:  
Two Provisions (Article IV:3, Article XIX:3).

Provision	Comment
<b>Provisions aimed at increasing trade opportunities</b>	
<p><i>Preamble</i>  <i>Wishing to establish a multilateral framework of principles and rules for trade in services with a view to the expansion of such trade under conditions of transparency and progressive liberalization and as a means of promoting the economic growth of all trading partners and the development of developing countries;</i>  <i>Desiring to facilitate the increasing participation of developing countries in trade in services and the expansion of their services exports including, inter alia, through the strengthening of their domestic services capacity and its efficiency and competitiveness.</i></p>	<p>The requirements of the provisions of this article are reflected in S/L/93 "Guidelines and Procedures for the Negotiations on Trade in Services", particularly Section I ("Objectives and Principles"), paragraphs 1-2.</p>
<p><i>Article IV:1</i>  <i>The increasing participation of developing country Members in world trade shall be facilitated through negotiated specific commitments, by different Members pursuant to Parts III and IV of this Agreement, relating to: (a) the strengthening of their domestic services capacity and its efficiency and competitiveness, inter alia through access to technology on a commercial basis; (b) the improvement of their access to distribution channels and information networks; and (c) the liberalization of market access in sectors and modes of supply of export interest to them</i></p>	<p>The requirements of the provisions of this article are reflected in S/L/93 "Guidelines and Procedures for the Negotiations on Trade in Services", particularly Section I ("Objectives and Principles"), paragraphs 1-4; Section II ("Scope"), paragraph 5.</p> <p>A developing country member stated that developed countries should adopt commercially meaningful commitments in areas of interest to developing countries to make Article IV meaningful and effective (S/C/M/38, paragraph 42). Some developing country Members stated that developing countries had experienced serious difficulties in participating in the international trade in services. (S/C/M/39 paragraphs 10,11, 17, 20, 21, 23, 24).</p> <p>One developing country Member stated that it appeared that developed countries continued to dominate services trade and that the expected improvement in participation of developing countries had not taken place. This indicated the need for special and more favourable treatment of developing countries and suggested that developed countries had offered service providers of developing countries inadequate access, whereas those of developed countries had been able to penetrate developing countries' markets. (S/C/M/34, paragraph 37). Data indicate that there were 100 horizontal limitations with respect to mode 4, compared to 20 for Mode 2.</p> <p>A developed country member expressed the view that it was important that developing countries</p>

Provision	Comment
	<p>identified sectors of interest to them and that Members considered the role of market opening in services for the growth and the integration of a country in the global economy. (S/C/M/35 paragraph 36, and S/C/M/38, paragraph 35).</p> <p>Other developing country Members pointed to the need to make Article IV operational. A developed country Member stated that the primary means of accomplishing the objectives of Article IV was to ensure that consumers in developing countries – service suppliers, manufacturers, and farmers, as well as individuals – had to affordable, high-quality, innovative services that meet their needs and budgets. Some of these services will be provided on a cross-border basis, but most will be provided through commercial presence. For this reason, it should be in a country's economic interest to remove restrictions and provide guaranteed access for foreign service providers to enter its market through branches, subsidiaries, representative offices, and other forms of commercial presence. (S/C/W/119)</p>
<p><i>Article IV:2</i>  <i>Developed country Members, and to the extent possible other Members, shall establish contact points within two years from the date of entry into force of the WTO Agreement to facilitate the access of developing country Members' service suppliers to information, related to their respective markets, concerning:(a)commercial and technical aspects of the supply of services; (b)registration, recognition and obtaining of professional qualifications; and (c)the availability of services technology.</i></p>	<p>All developed country Members, and many developing country Members have established contact points.</p> <p>A developed country Member expressed the view that not all relevant Members had complied with the notification provision in Article IV:2, regarding contact points. (S/C/M/43, paragraph 41 and S/C/W/ 148). Two developing country Members stated that for example, it may be useful for Members to review the operation of the contact points provided for in Article IV.2. (S/C/W/120) At meeting of the Council for Trade in Services on 26 May it had been agreed that, based on notifications by Members, the Secretariat would produce a listing of enquiry points as required by Article III:4 and of contact points as required by Article IV:2 of the GATS. It had also been agreed that such listings would be placed on the WTO Internet site.</p>

Provision	Comment
<b>Provisions under which WTO Members should safeguard the interests of developing country Members</b>	
<p><i>Preamble</i>  <i>Recognizing the right of Members to regulate, and to introduce new regulations, on the supply of services within their territories in order to meet national policy objectives and, given asymmetries existing with respect to the degree of development of services regulations in different countries, the particular needs of developing countries to exercise this right</i></p>	<p>The requirements of the provisions of this article are reflected in S/L/93 "Guidelines and Procedures for the Negotiations on Trade in Services", particularly Section I ("Objectives and Principles"), paragraphs 1-2.</p>
<p><i>Article XII:1</i>  <i>"...It is recognized that particular pressures on the balance-of-payments of a Member in the process of economic development or economic transition may necessitate the use of restrictions to ensure, inter alia, the maintenance of a level of financial reserves adequate for the implementation of its programme of economic development or economic transition"</i></p>	
<p><i>Article XV:1</i>  <i>"...Such negotiations (on subsidies) shall recognize the role of subsidies in relation to the development programmes of developing countries and take into account the needs of Members, particularly developing country Members, for flexibility in this area..."</i></p>	
<p><i>Article XIX:3</i>  <i>For each round, negotiating guidelines and procedures shall be established. For purposes of establishing such guidelines, the Council for Trade in Services shall carry out an assessment of trade in services in overall terms and on a sectoral basis with reference to the objectives of this Agreement, including those set out in paragraph 1 of Article IV. Negotiating guidelines shall establish modalities for the treatment of liberalization undertaken autonomously by Members since previous negotiations, as well as for the special treatment for least-developed country Members under the provisions of paragraph 3 of Article IV.</i></p>	<p>The requirements of the provisions of this article are reflected in S/L/93 "Guidelines and Procedures for the Negotiations on Trade in Services". See in particular Section I ("Objectives and Principles"), paragraphs 2; and . Section III ("Modalities and Procedures"), paragraph 13-15</p>
<b>Flexibility of commitments, of action, and use of policy instruments</b>	
<p><i>Article III:4</i>  <i>Each Member shall also establish one or more enquiry points to provide specific information to other Members, upon request, on all such matters as well as those subject to the notification requirement in paragraph 3. Such enquiry points shall be established within two years from the date of entry into force of the Agreement</i></p>	

Provision	Comment
<p><i>Establishing the WTO (referred to in this Agreement as the "WTO Agreement"). Appropriate flexibility with respect to the time-limit within which such enquiry points are to be established may be agreed upon for individual developing country Members. Enquiry points need not be depositories of laws and regulations.</i></p>	
<p><i>Article V:3 Economic Integration (a) Where developing countries are parties to an agreement of the type referred to in Article V:1, flexibility shall be provided for regarding the conditions set out in Article V:1, particularly with reference to Article V:1(b) thereof, in accordance with the level of development of the countries concerned, both overall and in individual sectors and sub-sectors. (b) Notwithstanding Article V:6, in the case of an agreement of the type referred to in Article V:1 involving only developing countries, more favourable treatment may be granted to juridical persons owned or controlled by natural persons of the parties to such an agreement.</i></p>	<p>It was felt that there was no need to clarify what was meant by special and differential treatment of developing countries in Article V. (S/C/M/35 paragraph 46) In response to a question, it was clarified that the need for flexibility with respect to coverage of such agreements when a developing country was involved was a point certainly raised and taken note of in the reports of the CRTA. (S/C/M/46, paragraph 35)</p>
<p><i>Article XIX:2 Negotiation of Specific Commitments The process of liberalization shall take place with due respect for national policy objectives and the level of development of individual Members, both overall and in individual sectors. There shall be appropriate flexibility for individual developing country Members for opening fewer sectors, liberalizing fewer types of transactions, progressively extending market access in line with their development situation and, when making access to their markets available to foreign service suppliers, attaching to such access conditions aimed at achieving the objectives referred to in Article IV. (see section on Article IV).</i></p>	<p>The requirements of the provisions of this article are reflected in S/L/93 "Guidelines and Procedures for the Negotiations on Trade in Services", particularly Section I ("Objectives and Principles"), paragraphs 2-3, and Section III("Modalities and Procedures"), paragraphs 12, 14 and15.</p>



Provision	Comment
<p><u>Annex on Telecommunications</u> 5. g) <i>Notwithstanding the preceding paragraphs of this section, a developing country Member may, consistent with its level of development, place reasonable conditions on access to and use of public telecommunications transport networks and services necessary to strengthen its domestic telecommunications infrastructure and service capacity and to increase its participation in international trade in telecommunications services. Such conditions shall be specified in the Member's Schedule.</i></p>	<p>In the Uruguay Round, and the follow up negotiations on basic telecommunications and financial services, developing country Members have made use of flexibility appropriate to their level of development by in the making of commitments. For instance, of the 99 Members who have made commitments on 80 sectors or fewer of the Sectoral Classification List, 98 are developing country Members. (S/C/W/94). Use has been made of time-delayed commitments (phase ins) in some sectors.</p>
<b>Technical assistance</b>	
<p>Article XX:2 <i>Technical Co-operation Technical assistance to developing countries shall be provided at the multilateral level by the Secretariat and shall be decided upon by the Council for Trade in Services.</i></p>	<p>On 25 June 1999, the Services Council held a special Information Session on Telecommunication Services. The Information Session examined in depth technical assistance to developing countries on regulatory issues such as the establishment of an independent regulator, interconnection and competitive safeguards. Experts from other international intergovernmental organizations including the International Telecommunications Union and the World Bank participated as well as national regulators from capitals. On 26 May 2000, the Council for Trade in Services adopted the text of the cooperation agreement between the International Telecommunication Union and the World Trade Organization (S/C/9/Rev.1). Subsequently, the ITU Council also adopted the text at its annual session held on 19-28 July. Paragraph 6 of the agreement states that the WTO and ITU secretariats will endeavour to cooperate on matters relating to technical assistance and technical cooperation. A developing country Member stressed the importance of technical assistance, which should not only be a donor/recipient process, but also a sharing of resources and a cooperative commitment. XXV:2. (S/C/M/39, paragraph 24).</p> <p>One delegation stressed that technical assistance was particularly needed by those Members who were undertaking regulatory reforms. That delegation was already involved in providing technical assistance in the telecommunications sector. (S/C/M/31 paragraph 28)</p> <p>The requirements of the provisions of this article are reflected in S/L/93 "Guidelines and</p>

Provision	Comment
	Procedures for the Negotiations on Trade in Services
<i>Annex on Telecommunications: paragraph 6(c) In cooperation with relevant international organizations, Members shall make available, where practicable, to developing countries information with respect to telecommunications services and developments in telecommunications and information technology to assist in strengthening their domestic telecommunications services sector.</i>	
<b>Provisions relating to least-developed country Members</b>	
<i>Article XIX:3 "...Negotiating guidelines shall establish modalities for the treatment of liberalization undertaken autonomously by Members since previous negotiations, as well as for the special treatment for least-developed country Members under the provisions of paragraph 3 of Article 4."</i>	The requirements of the provisions of this article are reflected in S/L/93 "Guidelines and Procedures for the Negotiations on Trade in Services". See in particular Section III ("Modalities and Procedures") paragraph 13
<i>Article IV:3 Increasing Participation of Developing Countries Special priority shall be given to the least-developed country Members in the implementation of Article IV:1 and 2. Particular account shall be taken of the serious difficulty of the least-developed countries in accepting negotiated specific commitments in view of their special economic situation and their development, trade and financial needs.</i>	The requirements of the provisions of this article are reflected in S/L/93 "Guidelines and Procedures for the Negotiations on Trade in Services". See in particular Section I ("Objectives and Principles"), paragraph 2.

P. PROPOSAL RELATING TO SPECIAL AND DIFFERENTIAL TREATMENT SUBMITTED BY MEMBERS TO THE SPECIAL SESSION OF THE COUNCIL FOR TRADE IN SERVICES

This information draws on material contained in the proposals submitted to date in the context of the negotiations on services. Elements of the different proposals have been classified using the typology of special and differential treatment employed elsewhere in this document. Incidental statements about developing countries or development matters have been omitted to the extent possible. In many proposals, the same paragraph addresses more than one of the six categories used. In those cases, repetitions have been avoided to the extent possible.

In addition to specific negotiating proposals recorded and classified below, many Members have made formal statements to the Special Session of the Council for Trade in Services. The contents of these statements are not reproduced below. They can be found in the document series S/CSS/M/--.

**1. Specific proposals relating to provisions aimed at increasing the trade opportunities of developing country members**

Proposal	Contents
<p>S/C/W/127 – The Dominican Republic, El Salvador, and Honduras</p> <p>Proposal regarding the GATS (Annex on Tourism)</p>	<p>An Annex on Tourism is needed because:</p> <ul style="list-style-type: none"> <li>- it is neither possible to monitor progressive liberalization nor the compliance with commitments undertaken under "tourism and travel-related services", in particular to meet the objectives of GATS Article IV;</li> <li>- specific commitments undertaken following the "request and offer" approach to develop sectoral schedules in the World Trade Organization (WTO/OMC) again would fail to eliminate the barriers to trade in tourism services, especially in the related transportation services and travel distribution systems (including tour wholesalers, tour operators, global distribution systems/computer reservation systems and travel agents) pertaining to a large extent to consumption abroad;</li> <li>- as a general shortcoming of the Uruguay Round Agreements, of which the GATS is an integral part, it is not possible to deal with the trade implications of anti-competitive conduct...As a result, the favorable balance of trade in tourism services for developing countries would be in jeopardy, because of the failure of existing provisions in the GATS to discipline the barriers and anti-competitive practices identified, thus reducing further the share of value-added that is kept by developing countries.</li> </ul>
<p>S/CSS/W/7 – African Group</p> <p>Negotiating Guidelines and Procedures</p>	<p>Developed countries should agree to take measures for encouraging the import of services from developing countries. Various measures can be envisaged, including: (i) reserving a specified portion of services import for government use from developing countries; and (ii) relaxing entry conditions for service providers from developing countries.</p> <ul style="list-style-type: none"> <li>- Special attention should be given to sectors and modes of supply of interest to developing countries.</li> </ul>

<p>S/CSS/W/12 India – Liberalisation of movement of professionals under the GATS</p>	<p>It suggests possible strategies and approaches to achieving meaningful liberalization in this area which is of great relevance to many developing countries and could contribute to effective implementation of Article IV of GATS.</p> <p><b>STRATEGIES AND APPROACHES TO EFFECTIVE LIBERALIZATION:</b></p> <p>1. Given the unsatisfactory nature and extent of liberalization in Mode 4, alternative approaches and strategies need to be adopted in this Round for bringing about effective market access in this mode, thereby contributing significantly to the operationalization of Article IV:1(c) of GATS.</p> <p>1. Improving the Structure of Commitments</p> <p><u>Horizontal Commitments</u></p> <p>I. Horizontal Commitments to specifically include category of <u>Individual Professionals</u> in addition to the various categories that currently exist. Consequently, delinking of commitments with mode 3 is to be achieved.</p> <p>II. Relevant criterion for determination of eligibility to a particular category needs to be clearly specified.</p> <p>III. Uniform definitions and coverage of broader service personnel categories included in the horizontal commitments need to be drawn up for bringing about greater certainty in these commitments.</p> <p>IV. Further expansion in the scope of categories covered by Horizontal Schedules by defining coverage of "other persons" and "specialists" to include middle and lower level professionals by specifying relevant criteria</p> <p><u>Sectoral Commitments</u></p> <p>V. Specific Sectoral / sub-sectoral commitments needs to be taken in addition to the horizontal commitments for Professional and Business Services where movement of professionals is important</p> <p>VI. Sectoral commitments should be detailed and specific in terms of:</p> <p>Measures applicable to individual sectors</p> <p>Categories for which commitments apply</p> <p>VII. All limitations, conditions etc. relevant to the individual sector/sub-sector to be clearly laid down in sectoral schedules.</p> <p><u>Finer Classification of Categories</u></p> <p>VIII. Dis-aggregated categories of Service providers in Sectoral Schedules to be clearly specified relevant to the market needs and potential for each sector/ sub-sector.</p> <p>In order to achieve this objective, one approach that is suggested is the super-imposition of International Standard</p>
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Classification of Occupation (ISCO-88) of ILO on the WTO Services Sectoral Classification List- MTN/GNS/W/120. The ISCO has established an internationally adopted classification of 9 major occupational groups.

For purposes of illustration and also the fact that this paper seeks to focus on Professionals, Annex- "A" to this paper indicates how this superimposition can be done for the Occupational Category Professionals in so far as it relates to Professional Services Sector of W/120. Professionals are included in two Major Groups covered by ISCO-88:

Major Group 2: Professionals

Major Group 3: Technicians and Assistant Professionals

IX. Commitments may be made by Members with respect to the specific sectors/sub-sectors as contained in W/120 buttressed by specific occupational categories relevant to these sectors/sub-sectors as contained in ISCO-88 as indicated in Annex "A".

**Removal of Existing Limitations:**

Economic Needs Tests (ENT)

X. Need for establishment of Multilateral Norms to reduce scope for discriminatory practices in use of ENT.

XI. Clear criteria to be laid down for

Applying such tests

Establishing norms for administrative and procedural formalities

Specifying how results of such tests would restrict entry to foreign service providers.

XII. Fewer occupational categories to be made subject to such tests and consensus achieved on such categories.

XIII. Specific suggestion is to exclude applicability of ENTs to specified occupational categories of Professionals as contained in ISCO-88 under the relevant sectors/sub-sectors of W/120.

XIV. In sectors/sub-sectors and Occupations where applicability of ENT is not excluded, its application should be based on Multilateral Principles laid out in "Reference Paper on Use of ENT".

The various Principles that such a Reference Paper should address could be:

Definition of ENT

Criteria (Qualitative / Quantitative) for introduction of ENT

Procedures for application

Guidelines for administration of ENT

Transparency & Full Availability of information

Duration & Review of ENT application

Administrative Procedures Relating to Visas, Work Permits

Multilateral guidelines/norms are necessary to tackle this area as it negates even the limited market access available.

XV. The member countries should try to have a more transparent and objective implementation of visa and work permit regimes in future.

XVI. Temporary service providers should be separated from permanent labour flows, so that the normal immigration procedures would not hinder the commitments made for temporary movement. This could be achieved either by introducing a special GATS Visa for categories of personnel covered by horizontal and sectoral commitments undertaken by a Member in mode 4 under GATS or through a special sub-set of Administrative Rules and Procedures within the overall immigration policy framework.

XVII. The conditions for entry & stay in the case of both these alternatives should obviously be less stringent than for permanent immigration.

XVIII. The above would be possible if the aforementioned recommendations on specificity, finer classification and wider coverage of personnel categories and transparency are reflected in the sectoral and horizontal commitments so that minimum discretion and greater degree of certainty is achieved.

XIX. The main features would include:

- Strict time-frames within which visa must be granted (2-4 weeks maximum);
- Flexibility for visas on shorter notice for select categories of service providers;
- Transparent and streamlined application process;
- Means to find out the status of applications, causes of rejection, and requirements to be fulfilled;
- Easier renewal and transfer procedures;
- Visas for select Companies for use by its employees deputed abroad temporarily;
- Early in-built Safeguard mechanisms to prevent entering into permanent labour market;

Introducing Norms to Address Social Security Issues

XX. Bilateral Totalisation Agreements need to be entered into by Members for overcoming this problem.

XXI. Exemption from such contributions for developing country professionals so that their comparative advantage is not affected

Strengthening GATS Norms and Disciplines on Recognition of Qualifications

*Implementing existing Notification Requirements under Article VII of GATS providing for MRAs between Members.*

India has already made a statement before the Council for Trade in Services (CTS) in its meeting held on 6/10/2000 on this issue. The operational features that would be involved are :

XXII. Prompt compliance by all Members with Notification Requirements laid down in Articles VII:4(a), (b) & (c)

XXIII. Full text of existing MRAs on recognition to be made available immediately to the WTO Secretariat and circulated amongst all Members. This should be done automatically in all future cases

XXIV. Effective opportunities to be provided to developing country Members to join in negotiations for establishment of MRAs

XXV. CTS to regularly monitor implementation of all the above requirements

*Establishment of Multilateral Norms to facilitate MRAs among Member countries*

XXVI. Norms for Professional Service sectors where no formal accreditation or licensing procedures are required  
 e example is Software Services. In this case, criteria should be laid down for minimum professional experience and minimum professional education. The idea is to lay down minimalistic international standards to reduce discrimination or excessive discretion.

XXVII. Norms concerning equivalence of work-related and academic qualifications  
 ould seek to draw an equivalence between on-the-job experience and academic degrees so that this could facilitate entry requirements for specific sectors.

XXVIII. Norms concerning broad- based equivalence  
 g recognition through broad-based equivalence of qualifications and standards. For this purpose, it is necessary to establish bridging mechanisms in case of divergence of requirements and existing standards between host and home countries.  
 nsatory system based on Local Adaptation Periods and Aptitude Tests for recognition in host country needs to be developed without requiring actual harmonization of standards and qualifications between the host and home countries.

XXIX. Norms Concerning temporary licensing  
 ons for temporary licensing to practice in the host country where such licensing procedures are absent in home country e.g. in the case of Engineering profession.  
 ures and Sectors where such norms could be applicable to be multilaterally determined.

XXX. Establishment of Bilateral MRAs to be facilitated through this framework

<p>S/CSS/W/13 – Argentina, Brazil, Cuba, The Dominican Republic, El Salvador, Honduras, India, Indonesia, Malaysia, Mexico, Nicaragua, Pakistan, Panama, Paraguay, Philippines, Sri Lanka, Thailand, Uruguay, and the Members of the Andean Community (Bolivia, Colombia, Peru, Ecuador, Venezuela)</p> <p>Elements for Negotiating Guidelines and Procedures</p>	<p>- Liberalization shall focus on sectors and modes of supply of export interest to developing countries.</p>
<p>S/CSS/W/43 – Members of the Caribbean Community (CARICOM) WTO Negotiations on Services</p>	<p>- Mode 4: Further liberalization of the movement of natural persons is essential for the full implementation of Article IV:1(c) which provides for the liberalization of market access in sectors and modes of supply of interest to developing countries.</p> <p>- Mutual recognition and standards: The practice by some developed country Members of stipulating qualification/certification and/or licensing requirements for certain categories of service providers can, in certain situations, restrict market access for services providers in key sectors in developing countries. In many cases, the requirements exceed those actually needed for the service to be rendered, thereby disqualifying the candidates' professional and educational qualifications. CARICOM proposes that efforts should be made to accelerate the work required under Article VII.</p>
<p>S/CSS/W/46 and Corr.1 – Canada. Initial Canadian negotiating proposal</p>	<p>Special attention shall be given to sectors and modes of supply of interest to developing countries.</p>
<p>S/CSS/W/56 – Canada. Initial Negotiating Proposal on Computer Related Services</p>	<p>For developing countries, computer and related services are particularly important via mode four delivery. Canada therefore encourages Members to improve their commitments for the temporary entry of Information Technology workers not linked to commercial presence.</p>
<p>S/CSS/W/59 – Norway The negotiations on trade in services.</p>	<p>The negotiations should contribute to the increased participation of developing countries in trade in services, giving special priority to least developed country Members, inter alia by liberalization of market access in sectors and modes of supply of special interest to these Members.</p>
<p>S/CSS/W/69 – Venezuela Negotiating proposal on energy services</p>	<p>The outcome of these negotiations should be instruments, commitments and measures designed to:</p> <ul style="list-style-type: none"> <li>- Facilitate the effective participation of all Members in the supply of energy services, and in particular liberalize access to energy service markets for suppliers from developing countries, and eliminate the barriers which have prevented these countries from benefiting from trade opportunities in these services; ...</li> </ul>



	- implement GATS Articles IV and XIX through significant trade commitments, and provide for the Council for Trade in Services to assess on an ongoing basis the effective application of these Articles and the extent to which developing countries are benefiting from increased participation in trade in energy services.
S/CSS/W/80 – Mercosur Distribution Services	- Its purpose is to promote the liberalization of this important sector and contribute to increasing participation by developing countries in trade in services. - Trade barriers still exist in this sector. Some, such as obstacles to the distribution of agricultural products, affect developing countries in particular. Prohibitions on the establishment of a commercial presence by intermediaries or distributors of agricultural products prevent developing countries from implementing comprehensive export strategies for products and services of interest to them. - Developing countries are denied free access to distribution services for some products of vital export interest to them either because items are expressly excluded from commitment schedules or because there is a total absence of commitments in certain sectors.
S/CSS/W/88 – Chile The Negotiations on Trade in Services	In the specific case of the developing countries, professional services provide an effective way of conducting cross-border trade in services, without necessarily being linked to commercial presence.
S/CSS/W/95 – Mercosur Computer and Related Services	Its purpose is to promote the liberalization of this important sector and contribute to increasing participation by developing countries in trade in services.
S/CSS/W/97 – Colombia. Proposal for the Negotiations on the Provision of Services Through Movement of Natural Persons	- Members, especially developed countries, should undertake sectoral commitments related to this mode of service supply. Colombia's priority sectors include professional services, construction and related engineering services, computer services, social services, services incidental to agriculture, hunting and forestry, health-related services, tourism and travel-related services, recreational, cultural and sporting services, cleaning services and personnel placement and supply services. - Recognition of qualifications and experience and licensing are barriers to the supply of services in developed countries by natural persons from developing countries. Mutual recognition agreements are an important mechanism for overcoming these barriers. Full compliance with Article VII of the GATS on the notification of such agreements should therefore be ensured, and developing countries afforded the chance to become party to them.
S/CSS/W/98 – Colombia Professional Services	Members should ensure full compliance with and the effective implementation of Article IV.2(b) of the GATS (Increasing Participation of Developing Countries): "Developed country Members, ..., shall establish contact points, ..., to facilitate the access of developing country Members' service suppliers to information, related to their respective markets, concerning: (b) registration, recognition and obtaining of professional qualifications; and (c) the availability of services technology".
S/CSS/W/99 – Brazil Audiovisual Services	- Cultural products and services are part of an industry of clear economic and commercial importance, the audiovisual sector being its most dynamic segment and one of export interest to some developing countries. - Brazil proposes that Members make specific commitments in audiovisual services taking into account the objectives of Article IV of the GATS (Increasing Participation of Developing Countries). In that regard, special attention should be given to audiovisual services in which developing countries have greater potential such as (but not exclusively) television services (CPC 96132).

**2. Specific proposals relating to provisions under which WTO members should safeguard the interests of developing country members**

Proposal	Contents
S/CSS/W/43 – Members of the Caribbean Community (CARICOM) WTO Negotiations on Services	Safeguards: We endorse the proposal that safeguard measures be included in the GATS. We attach great importance to emergency safeguards for services as a useful instrument for countering negative effects arising from the liberalization of trade in services. We share the view that multilateral disciplines in this area would encourage the active participation of developing countries.
S/CSS/W/50 – Canada Initial Negotiating proposal on financial services	Canada's objectives for the GATS 2000 round of financial services negotiations include recognising the special needs and interests of developing Member countries
S/CSS/W/59 – Norway The negotiations on trade in services	Norway acknowledges that an emergency safeguard clause may be of particular interest to developing countries in order to achieve progressively higher levels of liberalization of trade in services.
S/CSS/W/69 – Venezuela Negotiating proposal on energy services	<ul style="list-style-type: none"> <li>- It would be in the interests of developing countries if these negotiations were approached with a wider focus than a merely trade-based perspective, and if the results could help to enable them to achieve their objectives linked to the strengthening of their domestic entrepreneurial capacity, technological development and the protection of the environment and natural resources.</li> <li>- Furthermore, the agreements resulting from the negotiations should help developing countries to achieve improved access to technology and, in general terms, to pursue services-related policies designed to increase the competitiveness of all their production sectors.</li> <li>- The negotiations should guarantee the right of Members, especially developing countries, to regulate the supply of energy services within their territories in order to meet national policy objectives and to facilitate their increasing participation in international trade in these services, through the strengthening of their domestic capacity, in accordance with the preamble to the GATS.</li> <li>- The outcome of these negotiations should be instruments, commitments and measures designed to... strengthen the capacities, efficiency and competitiveness of suppliers of energy services from developing countries and improve instruments for their access to technology on a commercial basis</li> </ul>
S/CSS/W/86 – Korea Negotiating proposal for financial services	Korea believes that international community should encourage developing countries to take more efforts to strengthen their financial systems in preparation for the further liberalization of their financial markets. In this respect, negotiations on financial services should aim at achieving more orderly and sequenced liberalization in accordance with the levels of developments of financial market and supervisory system of member countries.
S/CSS/W/90 – New Zealand. Objectives for the resumed services negotiations	New Zealand will explore ways to effectively address the interests and concerns of <i>developing and least developed countries</i> in these negotiations, with a particular emphasis on overcoming the serious challenges faced by least developed countries.
S/CSS/W/99 – Brazil Audiovisual Services.	In view of the sensitivities associated with this sector, consideration should be given to additional instruments, particularly in the area of motion picture production and distribution. There is merit in considering mechanisms for subsidies in the

	audiovisual sector aimed at achieving cultural policy objectives. This could be addressed in the ongoing negotiations on subsidies under Article XV of the GATS in the framework of possible multilateral disciplines or by scheduling National Treatment limitations for those subsidies in Members' schedules of specific commitments. In any event, it would be important to ensure that they have the least trade distortive effect, given the disparities in Members' capacity to subsidize. Special needs of developing countries must be appropriately addressed in this regard.
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### 3. Provisions relating to flexibility of commitments, of action, and use of policy instruments

Proposal	Content
S/CSS/W/6 – Hong Kong, China. Scope and coverage of the services negotiations and their guidelines.	Hong Kong, China fully subscribes to the provision of the GATS which provide for flexibility for developing countries to undertake commitments in a progressive manner and with the objectives of Article IV in mind. We believe, however, that the liberalisation of services sectors, provided that appropriate regulatory frameworks are in place, is in the overall benefit of all Members. We thus consider that the best approach to flexibility is to provide for realistic phasing in periods for commitments for developing countries, rather than to consider the exclusion of sectors from specific commitments.
S/CSS/W/7 – African Group Negotiating Guidelines and Procedures.	- Article IV on Increasing Participation of Developing Countries and Article XIX:2 on Negotiating of Specific Commitments provide flexibility in liberalizing trade in services for opening fewer sectors, liberalising fewer types of transaction, progressively extending market access in line with their development situation, and the possibility of attaching conditions to market access commitments. - During the negotiations, developing countries should not be expected to undertake further obligations for liberalisation in trade in services, beyond those of interest to them.
S/CSS/W/13 – Argentina, et. al. Elements for Negotiating Guidelines and Procedures	There shall be appropriate flexibility for individual developing country Members for opening fewer sectors, liberalizing fewer types of transactions, progressively extending market access in line with their development situation and, when making access to their markets available to foreign service suppliers, attaching to such access conditions aimed at achieving the objectives referred to in Article IV.
S/CSS/W/14 – Korea Proposal on the negotiating guidelines and procedures	Korea fully subscribes to paragraphs 2 and 3 of Article XIX and to Article IV, which provide flexibility for developing countries and special and differential treatment of least developed countries. We believe that the modalities for the negotiations should be developed in a way so that the gradual liberalization, differing levels of participation in plurilateral and multilateral initiatives, flexible time frames, and use of phase-in and transitional periods of developing countries and least developing countries are reflected, as appropriate.
S/CSS/W/16 – Switzerland Guidelines for the mandated services negotiations	Switzerland believes that GATS Article IV and XIX provide for a sound basis for ensuring an increasing participation of developing countries. We fully subscribe to these provisions and are ready to take them fully into account in the course of the negotiations by providing the necessary flexibility, especially for least-developed countries.
S/CSS/W/43 - Members of the Caribbean Community (CARICOM) WTO Negotiations on	- Subsidies: We stress that the negotiation on subsidies in the GATS should take into account the need for appropriate flexibility for developing country Members. Small developing countries require subsidies as a mechanism for encouraging their service providers to participate in international trade in services and for their continued development. Negotiations should therefore allow for the maintenance of existing, and the introduction of new programmes to encourage the

Services	<p>development of the domestic services capacity of those economies as provided by Article IV.</p> <p>- As small developing economies, we attach particular importance to paragraphs 2 and 3 of Article XIX and to Article IV, which provide the flexibility and special and differential treatment for developing and least-developed countries</p> <p>- We stress the need for “special and differential” treatment for developing countries, and in particular small developing economies. We share the view of other Members that the modalities for the negotiations should be so developed as to accommodate gradual liberalization, differing levels of participation in plurilateral and multilateral initiatives, flexible time frames, and the provision of phase-in and transitional periods for developing countries and least-developed countries as appropriate.</p>
S/CSS/W/50 – Canada Initial negotiating proposal on financial services	Recognising the special needs and interests of developing Member countries. As such, Canada supports facilitating greater liberalization by allowing Members to phase in commitments over a specified period. Although a method for phasing in commitments will have to be agreed upon, Canada supports further exploration of this matter.
S/CSS/W/59 – Norway The negotiations on trade in services	The negotiations should treat all Members’ proposals fairly, secure an overall balance of rights and obligations for all participants, and allow for appropriate flexibility for individual developing country Members
S/CSS/W/69 – Venezuela Negotiating proposal on energy services	<p>The negotiations should respect the appropriate flexibility for individual developing country Members to open fewer sectors, liberalize fewer types of transactions and progressively extend market access in line with their development situation, in accordance with Article XIX of the GATS.</p> <p>The negotiations should respect the developing countries' space to implement policies aimed at domestic capacity-building, in particular the capacity of their small and medium-sized energy service suppliers.</p>

**4. Specific proposals relating to transition times**

None

**5. Specific proposals relating to technical assistance**

Proposal	Contents
S/CSS/W/4 – USA Framework for negotiation	Needs assessment for developing countries and others: Assisting all Members to participate fully in the negotiations should be established as a regular item on the agenda of the Council. For some Members, this could involve identifying sources of assistance that would, for example, allow them to specify their interests in the negotiations, or that would allow them to develop the regulatory capacity to accompany greater market openness. Providers of such assistance, whether WTO Members, international organizations, or other public or private entities, could be invited to make presentations on how their programs might address Member interests in the context of the GATS negotiations. Members who are recipients of assistance may wish to provide information on how it has or has not supported their interests in the GATS negotiations.
S/CSS/W/42 – Japan	Japan supports a proposal that "Increasing the participation of developing country Members to negotiations" should be an

The negotiations on trade in services	agenda item for the Council for Trade in Services, where the concrete ways to assist those Members would be discussed. Japan attaches importance to assisting developing countries in their capacity building efforts with a view to achieving a progressively higher level of liberalisation and increasing their participation in world services trade.
S/CSS/W/43 – CARICOM WTO negotiations on services	Such treatment (of small developing economies) should be based on a careful assessment of the needs of those economies; and of the expected effectiveness of the measures proposed. We underline the need for technical assistance for carrying out such assessments, and for collating statistical information on services trade.
S/CSS/W/46 and corr.1 – Canada. Initial Canadian negotiating proposal	Members should consider how to support the negotiating capabilities of developing countries.

## 6. Specific proposals relating to provisions relating to least-developed country members

S/CSS/W/4 – USA Framework for Negotiation	Special treatment for least-developed countries: Least-developed countries should be free to choose their participation in any plurilateral or multilateral GATS initiatives. Timeframes within the negotiations should be sufficiently flexible to allow least-developed countries to identify their interests in the negotiations and respond to requests of trading partners. Members should be responsive to proposals by least-developed countries to phase in new commitments and establish transition periods. The concluding date for the negotiation will allow for submission of final country schedules by least-developed countries six months later.
S/CSS/W/7 – African Group  The negotiating guidelines and procedures	- Article IV on Increasing Participation of Developing Countries and Article XIX:2 on Negotiating of Specific Commitments provide flexibility in liberalizing trade in services for opening fewer sectors, liberalising fewer types of transaction, progressively extending market access in line with their development situation, and the possibility of attaching conditions to market access commitments. In addition, Least Developed Countries are to be given special priority taking into account the serious difficulty they face in accepting negotiated specific commitments as a result of their special economic situation and their development, trade and financial needs. - establishing negotiating modalities to identify sectors and modes of supply of interest to developing countries, and particularly the least developed among them
S/CSS/W/15 – European Communities Overall Approach to services negotiations.	Treatment of Least Developed Countries: The EC considers that it would be appropriate to reflect on how to best support least-developed countries in participating in the negotiations. Moreover, the EC does support proposals regarding in particular flexibility in modalities for liberalisation, as provided for in Article IV of the GATS.
S/CSS/W/16 – Switzerland Guidelines for the mandated services negotiations	More specifically, we support ideas put forward by other Members to allow flexibility to least-developed countries for the submission of their schedules as well as to allow for the longer transitional periods when phasing in commitments.
S/CSS/W/32 – European Communities	Transitional periods for the implementation of market openings may be considered on a case-by-case basis with particular attention to least developed countries.

GATS 2000: Sector proposals	
S/CSS/W/42 – Japan The negotiations on trade in services.	Japan is also ready to look positively into liberalisation proposals that include progressive implementation or transition for least developed country Members. Special treatment should also be given to least developed country Members when negotiating methods of a multilateral and cross-cutting nature are to be considered.
S/CSS/W/46 and corr.1 – Canada Initial Canadian negotiating proposal	Consideration should be given to providing special treatment for the least developed countries.
S/CSS/W/89 – Andean Community  Definition of criteria for classification of services	A single reference list adapted to economic realities in terms of coverage and detail will afford a sounder basis for the negotiation of specific commitments and would contribute to encouraging the least-developed countries to undertake more substantive and meaningful liberalization commitments.

Q. THE AGREEMENT ON TRADE-RELATED ASPECTS OF INTELLECTUAL PROPERTY RIGHTS

The TRIPs agreement contains four provisions relating to special and differential treatment, which can be classified in the following four categories:

1. Transitional Time Periods:  
Two provisions (Article 65.2 and 65.4)
2. Technical assistance:  
One provision (Article 67)
3. Provisions relating to least-developed country Members:  
Three provisions (part of the Preamble to the Agreement; Article 66.1; and 66.2).

Provision	Comment
<b>Transitional time periods</b>	
<p><i>Article 65:2</i>  <i>A developing country Member is entitled to delay for a further period of four years the date of application, as defined in paragraph 1, of the provisions of this Agreement other than Articles 3, 4 and 5.</i></p>	<p>Extensive use has been made of the transition periods provided for developing and least-developed countries in Articles 65 and 66 of the TRIPS Agreement. The issue of the sufficiency of these transition periods, in particular in relation to patent protection regarding pharmaceutical products, has been raised in the TRIPS Council and elsewhere. The transition period for developing countries under Article 65.2 expired on 1 January 2000. At its meeting of 20-21 October 1999, the Council agreed that, for the review of the national implementing legislation of Members for whom the general transitional period under Article 65 of the Agreement would expire on 1 January 2000, procedures would be used as had been employed in the reviews of legislation that had taken place so far (for concise procedures, see JOB(99)/ 6928). Four meetings have been held so far (June and November 2000, April 2001, and June 2001); and one more meetings will take place in November 2001.</p>
<p><i>To the extent that a developing country Member is obliged by this Agreement to extend product patent protection to areas of technology not so protectable in its territory on the general date of application of this Agreement for that Member, as defined in paragraph 2, it may delay the application of the provisions on product patents of Section 5 of Part II to such areas of technology for an additional period of five years. (Article 65.4)</i></p>	<p>A number of issues have arisen in regard to compliance with the related "mailbox" and exclusive marketing right provisions of Article 70.8 and 70.9. This matter has figured regularly on the agenda of the TRIPS Council (see IP/C/M/26 and IP/C/M/27). Moreover, it has been the subject of four invocations of the dispute settlement mechanism relating to three separate matters, one of which was settled with a mutually agreed solution (IP/D/2/Add.1), another of which was the subject of two Panel Reports (WT/DS50/R, WT/DS79/R) and an Appellate</p>

Provision	Comment
	<p>Body Report (WT/DS50/AB/R) and the last of which is at the consultation phase (IP/D/18).</p> <p>One developing country Member stated upon the adoption of a report of the Appellate Body (WT/DS50/AB/R) which concluded that it had not fulfilled its obligations under the TRIPS Agreement that the overall effect of the reports of the Panel and the Appellate Body appeared to dilute, to a certain extent, what developing countries had considered to be the flexibilities available to them under the transitional provisions of the TRIPS Agreement. (WT/DSB/M/40, page 7).</p>
<b>Technical assistance</b>	
<p><i>Article 67</i>  <i>In order to facilitate the implementation of this Agreement, developed country Members shall provide, on request and on mutually agreed terms and conditions, technical and financial cooperation in favour of developing and least-developed country Members. Such cooperation shall include assistance in the preparation of laws and regulations on the protection and enforcement of intellectual property rights as well as on the prevention of their abuse, and shall include support regarding the establishment or reinforcement of domestic offices and agencies relevant to these matters, including the training of personnel.</i></p>	<p>Considerable attention has been given by the TRIPS Council to the provision of technical cooperation pursuant to Article 67 of the TRIPS Agreement. This issue has been a regular item on the agenda of the Council's meetings, with a view to monitoring compliance with the obligation contained in Article 67, sharing information on the technical cooperation possibilities available and providing an opportunity to identify any needs not adequately being addressed. Developed countries have provided, on an annual basis, for a special technical cooperation review meeting normally held in September of each year, reports on their technical and financial cooperation activities of relevance (most recently in documents IP/C/W/203 and addenda). Furthermore, they have notified contact points in their administrations for technical cooperation on TRIPS. (IP/N/7, revisions and addenda). No significant concerns regarding the adequate availability of technical cooperation have been formulated in the TRIPS Council. Intergovernmental organizations with observer status in the TRIPS Council have also provided written information on their technical cooperation activities relating to TRIPS matters (IP/C/W/202 and addenda 1-6), as has the WTO Secretariat (IP/C/W/201).</p>
<b>Provisions relating to least-developed country Members</b>	
<p><i>Preamble</i>  <i>Recognizing also the special needs of the least-developed country Members in respect of maximum flexibility in the domestic implementation of laws and regulations in order to enable them to create a sound and viable</i></p>	



Provision	Comment
<i>technological base</i>	
<p><i>Article 66.1</i>  <i>In view of the special needs and requirements of least-developed country Members, their economic, financial and administrative constraints, and their need for flexibility to create a viable technological base, such Members shall not be required to apply the provisions of this Agreement, other than Articles 3, 4 and 5, for a period of 10 years from the date of application as defined under Article 65.1. The Council for TRIPS shall, upon duly motivated request by a least-developed country Member, accord extensions of this period.</i></p>	<p>(see previous section on transition time periods).</p>
<p><i>Article 66:2</i>  <i>Developed country Members shall provide incentives to enterprises and institutions in their territories for the purpose of promoting and encouraging technology transfer to least-developed country Members in order to enable them to create a sound and viable technological base.</i></p>	<p>In response to an invitation by the TRIPS Council to developed country Members to supply information on how Article 66.2 of the TRIPS Agreement is being implemented, information has been provided in writing by 20 developed country Members (the number includes 12 member States of the European Union).</p> <p>The Special Session of the General Council agreed on 18 October 2000 to invite the Council for TRIPS, with a view to facilitating full implementation of Article 66.2, to give consideration to drawing up an illustrative list of incentives of the sort envisaged by Article 66.2, and to put on a regular and systematic basis its procedure for the notification and monitoring of measures in accordance with the provisions of Article 66.2. During subsequent informal consultations in the Council for TRIPS, all interested delegations were urged to submit either in writing or orally suggestions for an illustrative list of incentives and also for a regular notification and monitoring procedure. Such proposals have not yet been submitted.</p> <p>At the invitation of the Special Session of the General Council, the Council for TRIPS invited the Secretariats of the UNCTAD, WIPO, UNIDO, the World Bank, and the CBD to provide to it, written information on their activities on technology capacity-building. To date such information has been received from the CBD, UNCTAD, UNIDO, and WIPO ( documents IP/C/W/243 and addenda)..</p>

R. UNDERSTANDING ON RULES AND PROCEDURES GOVERNING THE SETTLEMENT OF DISPUTES.

The Understanding on Rules and Procedures Governing the Settlement of Disputes contains 11 provisions relating to special and differential treatment, which can be classified as follows:

1. Provisions under which WTO Members should safeguard the interests of developing country Members:  
Seven provisions. (Article 4.10; Article 10.8; Article 12.10; Article 12.11; Article 21.2; Article 21.7; and Article 21.8.)
2. Flexibility of commitment, of action, or use of policy instruments:  
One provision (Article 3.12).
3. Technical assistance:  
One provision (Article 27.2)
4. Provisions relating to least-developed country Members.  
Two provisions (Article 24.1 and Article 24.2)

General comments with respect to the dispute settlement understanding

In the review of the Dispute Settlement Understanding, developing countries have raised doubts as to the effective access of developing countries to the dispute settlement process and the lack of clarity regarding the manner in which the special and differential treatment provisions are implemented. It has been suggested that certain special and differential treatment Articles of the DSU are not articulated in specific terms and that this needed to be corrected. Articles 4.10, 8.10, 12.11, 21.2, 21.7 and 21.8 were specifically mentioned in this respect. Even though the words "shall" and "should" have been used, it is claimed that there is no way to ensure that such treatment is accorded to developing countries in practice. It was therefore reiterated that there seemed to be a need for developing a monitoring mechanism to check whether such requirements are adhered to. That may also be ensured by strengthening the language of for example Article 4.10 and Article 21.2 by replacing the word "should" by "shall". Additionally, it has been suggested that specific guidelines need to be evolved to ensure rigorous implementation of provisions in favour of developing countries. (Job No. 6645, paragraph 319)

The view has been expressed that rather than promoting the idea of private law firms representing the national interests of developing country Members, the WTO should concentrate its efforts on identifying mechanisms aimed at strengthening the institutional framework of those countries, in particular by promoting the technical development of their human resources. (Job No. 6645, paragraph 141)

Also as part of the review of the DSU, a group of Members has proposed amending Article 4.10 of the DSU ( on the need to pay attention to the interests of developing country Members during consultations) and Article 21.2 of the DSU (on the need to pay attention to the interests of developing country Members during the implementation of DSB recommendations and rulings). Both provisions currently use the term "should". According to the proposed amendment, the term "should" is to be replaced by the term "shall" (see WT/GC/410, paras. 19-20).

The same group of Members has proposed amending Appendix 3 of the DSU, which contains a proposed timetable for panel work. According to the proposed amendment, the complaining party is to provide its first written submission to the panel within 3-4 weeks rather than within 3-6 weeks, as currently envisaged in the DSU. However, the proposal specifies that where the complaining party is

a developing country Member, the relevant time-period should be up to 6 weeks (see WT/GC/410, para. 10).

Provision	Comment
<b>Provisions under which WTO Members should safeguard the interests of developing country Members</b>	
<p><i>Article 4:10</i> During consultations Members should give special attention to developing country Members' particular problems and interests.</p>	<p>One developing country Member complained that its request for consultations with another Member (developed) had been disregarded, thus discriminating against and impairing its interests in deviation from the provisions of Article 4.10 of the DSU. " (WT/DSB/M/7, page 2).</p>
<p><i>Article 8.10</i> When a dispute is between a developing country Member and a developed country Member the panel shall, if the developing country Member so requests, include at least one panellist from a developing country Member.</p>	<p>In disputes between developing country Members and developed country Members, nationals of developing country Members regularly serve as panelists, if the developing country Members so request.</p>
<p><i>Article 12.10</i> In the context of consultations involving and measures taken by a developing country Member, the parties may agree to extend the periods established in paragraphs 7 and 8 of Article 4. If, after the period has elapsed, the consulting parties cannot agree that the consultations have concluded, the Chairman of the DSB shall decide, after consultation with the parties, whether to extend the relevant period and, if so, for how long. In addition, in examining a complaint against a developing country Member, the panel shall allow sufficient time for the developing country Member to prepare and present its argumentation. The provisions of paragraph 1 of Article 20 and paragraph 4 of Article 21 are not affected by any action pursuant to this paragraph.</p>	<p>In one dispute, a developing country defendant contended that the process raised a number of questions in relation to the DSU such as (i) the real difficulties faced by developing countries on the insistence by a developed country that consultations be held only in Geneva; (ii) the meaning and significance of the consultations stage; (iii) whether a Member could decide unilaterally that consultations had been concluded in particular since Article 12.10 of the DSU provided that "In the context of consultations involving a measure taken by a developing country Member, the parties may agree to extend the period established in paragraphs 7 and 8 of Article 4." (WT/DSB/M/2, page 4).</p>
<p><i>Article 12.11</i> Where one or more of the parties is a developing country Member, the panel's report shall explicitly indicate the form in which account has been taken of relevant provisions on differential and more-favourable treatment for developing country Members that form part of the covered agreements which have been raised by the developing country Member in the course of the dispute settlement procedures.</p>	<p>Panel reports show that this provision has been taken into account: for example, see: WT/DS135/R/Add.1; WT/DS161/R; WT/DS46/R; WT/DS64/R; WT/DS70/RW; WT/DS90/R; and WT/DS/141/R.</p>

Provision	Comment
<p><i>Article 21.2</i>  <i>Surveillance of Implementation of Recommendations and Rulings: Particular attention should be paid to matters affecting the interests of developing country Members with respect to measures which have been subject to dispute settlement.</i></p>	<p>This provision has been referred to in arbitration awards pursuant to Article 21.3(c) of the DSU (see WT/DS54/15, WT/DS55/14, WT/DS59/13, WT/DS64/12; WT/DS87/15, WT/DS110/14).</p>
<p><i>Article 21.7</i>  <i>If the matter is one which has been raised by a developing country Member, the DSB shall consider what further action it might take which would be appropriate to the circumstances.</i></p>	
<p><i>Article 21:8</i>  <i>If the case is one brought by a developing country Member, in considering what appropriate action might be taken, the DSB shall take into account not only the trade coverage of measures complained of, but also their impact on the economy of developing country Members concerned.</i></p>	<p>This provision has been taken into account in an arbitrators' decision pursuant to Article 22.7 of the DSU (see e.g. WT/DS27/ARB/ECU).</p>
<b>Flexibility of commitments, of action, or use of policy instruments</b>	
<p><i>Article 3:12</i>  <i>Notwithstanding Article 3:11, if a complaint based on any of the covered agreements is brought by a developing country Member against a developed country Member, the complaining party shall have the right to invoke, as an alternative to the provisions contained in Articles 4, 5, 6 and 12 of this Understanding, the corresponding provisions of the Decision of 5 April 1966 (BISD 14S/18), except that where the Panel considers that the time-frame provided for in paragraph 7 of that Decision is insufficient to provide its report and with the agreement of the complaining party, that time-frame may be extended. To the extent that there is a difference between the rules and procedures of Articles 4, 5, 6 and 12 and the corresponding rules and procedures of the Decision, the latter shall prevail.</i></p>	<p>To date this provision of the DSU has not been used by any developing country</p>

Provision	Comment
<b>Technical assistance</b>	
<p><i>Article 27.2</i>  <i>While the Secretariat assists Members in respect of dispute settlement at their request, there may also be a need to provide additional legal advice and assistance in respect of dispute settlement to developing country Members. To this end, the Secretariat shall make available a qualified legal expert from the WTO technical cooperation services to any developing country Member which so requests. This expert shall assist the developing country Member in a manner ensuring the continued impartiality of the Secretariat.</i></p>	<p>It has been stated that there is a need to review the application of Article 27.2 of the DSU to make it more operational and effective in extending assistance with respect to dispute settlement matters to developing countries. It has been suggested that the budget of the Secretariat needs to be further supplemented to enable the Secretariat to hire full time consultants and to upgrade the posts of legal officers so that experienced personnel can be employed for this purpose. The legal advisors should constitute an independent legal unit within the Secretariat in order to ensure the neutrality required of the Secretariat itself. It has also been stated that the concept of "neutrality" of the WTO Secretariat needs to be more clearly defined and perhaps more loosely implemented as a strict implementation of "neutrality" limits the nature and scope of legal services made available to the developing Member countries and prevents legal advisors of the WTO from effectively helping developing country Members in defending or pleading a case. Another suggestion was to establish a trust fund to finance strategic alliances with lawyers' offices or private firms to expand the scope of consultancy and advisory services. (Job 6645, paragraphs 327-339)</p> <p>One Member has made a proposal for the establishment of a new unit under the WTO umbrella to act as a WTO Law Advisory Centre (see WT/GC/W/148).</p>
<b>Provisions relating to least-developed country Members</b>	
<p><i>Article 24:1</i>  <i>At all stages of the determination of the causes of a dispute and of dispute settlement procedures involving a least-developed country Member, particular consideration shall be given to the special situation of least-developed country Members. In this regard, Members shall exercise due restraint in raising matters under these procedures involving a least-developed country Member. If nullification or impairment is found to result from a measure taken by a least-developed country Member, complaining parties shall exercise due restraint in asking for compensation or seeking authorization to suspend the application of concessions or other obligations pursuant to these procedures.</i></p>	<p>No least-developed country has been involved in disputes as complainants or respondents, or as third parties in panel proceedings.</p>

Provision	Comment
<p><i>Article 24:2</i></p> <p><i>In dispute settlement cases involving a least-developed country Member, where a satisfactory solution has not been found in the course of consultations the Director-General or the Chairman of the DSB shall, upon request by a least-developed country Member offer their good offices, conciliation and mediation with a view to assisting the parties to settle the dispute, before a request for a panel is made. The Director-General or the Chairman of the DSB, in providing the above assistance, may consult any source which either deems appropriate.</i></p>	<p>No least-developed country has been involved in disputes as complainants or respondents, or as third parties in panel proceedings.</p> <p>In an attempt at making operational Article 5 of the DSU (on good offices, conciliation and mediation), the Director-General has proposed some procedural steps to be taken by the parties to a dispute when requesting the Director-General's assistance under Article 5 (see WT/DSB/25).</p>

S. LEAST-DEVELOPED COUNTRIES

**Decision on Measures in Favour of Least-Developed Countries**

Provision	Comment
<p><i>Paragraph 1</i> If not already provided for in the instruments negotiated in the course of the Uruguay Round, notwithstanding their acceptance of these instruments, the least-developed countries, and for so long as they remain in that category, while complying with the general rules set out in the aforesaid instruments, will only be required to undertake commitments and concessions to the extent consistent with their individual development, financial and trade needs, or their administrative and institutional capabilities. The least-developed countries shall be given additional time of one year from 15 April 1994 to submit their schedules as required in Article XI of the Agreement Establishing the World Trade Organization.</p>	<p>The period was further extended until December 1995. 21 least-developed countries became original WTO Members in accordance with this Ministerial Decision, and their schedules were annexed to the Marrakesh Protocol.</p>
<p><i>Paragraph 2 (i)</i> Expeditious implementation of all special and differential measures taken in favour of least-developed countries including those taken within the context of the Uruguay Round shall be ensured through, <i>inter alia</i>, regular reviews (which currently take place in the Committee on Trade and Development).</p>	<p>The Committee on Trade and Development conducted reviews at its meetings in September 1996 and November 1997.</p>
<p><i>Paragraph 2 (ii)</i> To the extent possible, MFN concessions on tariff and non-tariff measures agreed in the Uruguay Round on products of export interest to the least-developed countries may be implemented autonomously, in advance and without staging.</p> <p>Consideration shall be given to further improve GSP and other schemes for products of particular export interest to least-developed countries.</p>	<p>On the occasion of the High-Level Meeting on Integrated Initiatives for Least-Developed Countries' Trade Development held on 27-28 October 1997, Canada in the context of simplification of its tariff, announced that it intends to accelerate to 1998 most of its Uruguay Round tariff reductions currently scheduled for implementation on 1 January 1999.</p> <p>Announcements of new preferential market access measures in favour of least-developed countries were made by a number of developing countries at the High-Level Meeting on Integrated Initiatives for Least-Developed Countries' Trade Development in October 1997 and both at and since a meeting</p>

Provision	Comment
	<p>of the WTO's General Council in May 2000. (see WT/LDC/SWG/IF/14 and addenda)</p> <p>One notification has been submitted under the waiver for the preferential treatment of last developed countries (WT/COMTDW/12).</p> <p>Market access conditions in major markets, including developing countries or transition economies, for the exports of least developed countries is recorded in documents WT/COMTD/LDC/W/16 and WT/COMTD/LDC/W/17 and WT/LDC/SWG/IF/14 and addenda</p> <p>Please also refer to section on waiver relating to preferential tariff treatment of least-developed countries by developing countries.</p>
<p><i>Paragraph 2 (iii)</i></p> <p>The rules set out in the various agreements and instruments and the transitional provisions in the Uruguay Round should be applied in a flexible and supportive manner for the least-developed countries. To this effect, sympathetic consideration shall be given to specific and motivated concerns raised by the least-developed countries in the appropriate Councils and Committees.</p>	<p>See, inter alia, articles 15.2, 16.1 and 16.2 of the Agreement on Agriculture; Article 1.2 plus footnote and Article 6.6(a) of the Agreement on Textiles and Clothing; and Articles 66.1 and 66.2 of the TRIPs agreement.</p>
<p><i>Paragraph 2 (iv)</i></p> <p>In the application of import relief measures and other measures referred to in paragraph 3(c) of Article XXXVII of GATT 1947 and the corresponding provision of GATT 1994, special consideration shall be given to the export interests of least-developed countries.</p>	
<p><i>Paragraph 2 (v)</i></p> <p>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.</p>	<p>The High Level Meeting endorsed the "Integrated Framework for Trade-related Technical Assistance, including for Human and Institutional Capacity-Building, to Support Least-developed Countries in Their Trade and Trade-related Activities" (WT/LDC/HL/1/Rev.1). The Framework seeks to increase the benefits that least-developed countries derive from the trade-related technical assistance available to them from the six organizations involved in designing this Framework: IMF, ITC, UNCTAD, UNDP, World Bank and WTO, as</p>



Provision	Comment
	<p>well as from other multilateral, regional and bilateral sources.</p> <p>The Heads of the six core Agencies of the Integrated Framework for Trade-Related Technical Assistance to Least-Developed Countries to agreed: (i) to make every effort to support the integration of trade, trade-related technical assistance, and capacity-building into the national development strategies and plans of LDCs. This would be ensured principally through such instrument as Poverty Reduction Strategy Papers (PRSPs) and would influence other development frameworks such as the United Nations Development Assistance Framework (UNDAF). In doing so, these efforts will ensure dynamic interaction and dialogue among LDCs, donors and agencies, fully respecting country ownership. (ii) That this mainstreaming effort will be led and coordinated by the World Bank, according to the principles of the Comprehensive Development Framework, with participation and inputs from the other core agencies and other stakeholders. Building on initial Needs Assessments and subsequent work, this will involve formulating country-specific integration strategies as part of the mainstreaming process. These activities will feed into the World Bank Consultative Groups (CGs) and UNDP Round Table Meetings (RTs) where countries will present their medium-term policy frameworks and financing needs, including for trade-related assistance, for support by the donor community.</p> <p>(WT/LDC/SWG/IF/2)</p> <p>Following the decisions by the Heads of Agency, consultations amongst Members, and between Members and the core agencies, a Pilot Scheme was adopted by the Sub-Committee on Least-Developed Countries on 12 February 2001. (see WT/LDC/SWG/IF/13).</p> <p>The IF Pilot Scheme is managed by an IF Steering Committee, which held its first meeting on 15 March 2001.(see WT/LDC/SWG/IF/17)</p>
<p><i>Paragraph 3:</i> To keep under review the specific needs of the least-developed countries and to continue to seek the adoption of positive measures which facilitate the expansion of trading opportunities</p>	<p>Please refer to the relevant subsections above on actions taken pursuant to the 1997 HLM on High-Level Meeting on Integrated Initiatives for Least-developed Countries' Trade Development; decisions taken with regard to</p>

Provision	Comment
in favour of these countries.	the operation of the Integrated Framework; and market access measures undertaken pursuant to the 1997 HLM or announced in the General Council. The section below on the 1999 Decision on preferential tariff treatment for least-developed countries also refers.

**1999 Decision on waiver for preferential tariff treatment of Least Developed Countries**

<b>Provisions relating to measures to assist least-developed country Members</b>	
Provision	Comment
Subject to the terms and conditions set out hereunder, the provisions of paragraph 1 of Article I of the GATT 1994 shall be waived until 30 June 2009, to the extent necessary to allow developing country Members to provide preferential tariff treatment to products of least developed countries, designated as such by the United Nations, without being required to extend the same tariff rates to like products of any other Member.	To date, 1 notification has been submitted under this decision (WT/COMTD/N/12rev1).

#### IV. REFERENCES

This section contains a list of documents referred to in section III of this paper.

##### 1. GATT 1994

SUBJECT/ TITLE	REFERENCE
Trade Policy Review –India: Minutes of the Meeting	WT/TPR/M/33
Trade Policy Review –Switzerland: Minutes the Meeting	WT/TPR/M/13
Trade Policy Review –United States: Minutes of the Meeting	WT/TPR/M/16
Trade Policy Review –European Union: Minutes of the Meeting	WT/TPR/M/30
Trade Policy Review –Japan: Minutes of the Meeting	WT/TPR/M/32
Trade Policy Review- Brazil: Report by the Secretariat	WT/TPR/S/21
Trade Policy Review –Japan: Report by the Secretariat	WT/TPR/S/32
Trade Policy Review –Hong Kong, China: Report by the Secretariat	WT/TPR/S/52
Participation of Developing Countries in World Trade: Recent Developments and the Trade of Least-Developed Countries.	WT/COMTD/W/65
Market Access for Least Developed Countries: Compilation of Information	WT/COMTD/LDC/W16
Market Access for Least Developed Countries: Summary of Information	WT/COMTD/LDC/W17
Market Access Conditions for Least-Developed Countries	WT/LDC/SWG/W/14, and addenda and revisions

##### 2. Agriculture

SUBJECT/ TITLE	REFERENCE
Negotiating proposals on S&D submitted in the context of the negotiations on agriculture	G/AG/NG/W/* * series (please refer to section D for details)
Notification requirements adopted by the Committee on Agriculture:	G/AG/2
Tariff Information on Agricultural Products – Background Paper by Secretariat	G/AG/NG/S/10
Domestic Support –Background Paper by Secretariat	G/AG/NG/S/1 and Corr. 1
Green Box Measures –Background Paper by Secretariat -	G/AG/NG/S/2
Members usage of domestic support categories, export subsidies, and export credits. Background Paper by Secretariat	G/AG/NG/S/12 and Rev.
Export Subsidies –Background Paper by Secretariat -.1	G/AG/S/5/ and Rev

##### 3. NFIDCs

SUBJECT/ TITLE	REFERENCE
Report by the Committee on Agriculture to the Singapore Ministerial Conference on the Decision	G/L/125
Decision taken by the General Council on implementation	WT/L/384
Reports by Vice-Chairman on examination of the possible ways of improving the	G/AG/7 and

implementation of the decision	G/AG/10.
Implementation of the Decision ( background paper by the Secretariat) –	G/AG/NG/S3
Implementation of the Decision – Note by the Secretariat	G/AG/W/42/ Rev.3
Implementation of Article 10.2 of the Agreement – Reports to the General Council by the Vice Chairman of the Committee on Agriculture	G/AG/6 and G/AG/8
Proposal to implement the Marrakesh Decision in favour of LDCs and NFIDCs	-G/AG/W/49

#### 4. Sanitary and Phyto-Sanitary Measures

SUBJECT/ TITLE	REFERENCE
Review of SPS Agreement	G/SPS/12
Equivalence	G/SPS/W/111
Summary of Meeting of SPS Committee, 7-8 July 1999	G/SPS/R15
Summary of Meeting of SPS Committee 21-22 June 2000	G/SPS/R19
Questionnaire on technical assistance, note by secretariat	G/SPS/W/101
Special and Differential Treatment Note by Secretariat	G/SPS/W/105
Special and Differential Treatment and Technical Assistance: Submission made by India at the Meeting of 10-11 June 1998	G/SPS/GEN/85
SPS and Developing Countries - Statement by Egypt at the meeting of 7-8 July 1999:	G/SPS/GEN/128
Technical assistance typology – Note by the Secretariat	G/SPS/GEN/206
Summary report of the workshop on the international standard-setting organisations: process and participation	G/SPS/GEN/250
Summary of the replies to the questionnaire on technical assistance – Note by the Secretariat	G/SPS/GEN/143 /Add.1
Technical assistance provided to developing countries by the United States – Submission by the United States	G/SPS/GEN/18
Actions taken to increase the participation of developing country Members in the work of relevant international standards-setting organisations - Report by the Director-General	WT/GC/42
Actions taken to increase the participation of developing country Members in the work of relevant international standards-setting organisations – Second Report by Director-General	WT/GC/45
Actions to increase participation of developing country Members in the work of relevant standard setting organisations: Information from Financial Institutions – Report by the Director-General	WT/GC/46.

#### 5. Technical Barriers to Trade

SUBJECT/ TITLE	REFERENCE
TBT Technical Cooperation Programme: Request for Information by Members – Communication by Chairman -	G/TBT/SPEC/18
Second triennial review of the operation and implementation of the Agreement on Technical Barriers to Trade -	G/TBT/9
Problems faced by Developing Countries in International Standards and Conformity Assessment: Discussions of the TBT Committee in the context of the Second Triennial Review of the TBT Agreement – Report by the Chairman. -	G/L/422
Implementation of Article 10.6 of the TBT Agreement	G/TBT/W/124

Actions taken to increase the participation of developing country Members in the work of relevant international standards-setting organisations - Report by the Director-General	WT/GC/42
Committee on Technical Barriers to Trade – Minutes of the Meeting Held on 21 July 2000	G/TBT/M/20
First Triennial Review of the operation and implementation of the Agreement on Technical Barriers to Trade -	G/TBT/5
Workshop on Technical assistance and Special and Differential Treatment in the Context of the TBT Agreement.	G/TBT/SPEC/15

## 6. TRIMS

SUBJECT/ TITLE	REFERENCE
TRIMS Committee – Minutes of the Meeting Held on 15 June 1995	G/TRIMS/M/2
TRIMS Committee – Minutes of the Meeting Held on 19 October 1995	G/TRIMS/M/3
TRIMS Committee – Minutes of the Meeting Held on 18 March 1996	G/TRIMS/M/4
TRIMS Committee – Minutes of the Meeting Held on 30 September/ 1 November 1996	G/TRIMS/M/5
TRIMS Committee – Minutes of the Meeting Held on 17 March 1997	G/TRIMS/M/6
TRIMS Committee – Minutes of the Meeting Held on 15 September 1997	G/TRIMS/M/7
TRIMS Committee -Minutes of the Meeting Held on 14 September 1998	G/TRIMS/M/9
TRIMS Committee – Minutes of the Meeting Held on 8 March 1999	G/TRIMS/M/10
Extension of the Transition Period for the Elimination of Trade-Related Investment Measures Notified Under Article 5.1 of the Agreement on Trade-Related Investment Measures – Argentina. Decision of 31 July 2001	– G/L/460
Extension of the Transition Period for the Elimination of Trade-Related Investment Measures Notified Under Article 5.1 of the Agreement on Trade-Related Investment Measures – Colombia - Decision of 31 July 2001	G/L/461
Extension of the Transition Period for the Elimination of Trade-Related Investment Measures Notified Under Article 5.1 of the Agreement on Trade-Related Investment Measures – Malaysia - Decision of 31 July 2001	G/L/462
Extension of the Transition Period for the Elimination of Trade-Related Investment Measures Notified Under Article 5.1 of the Agreement on Trade-Related Investment Measures – Mexico- Decision of 31 July 2001.	G/L/463
Extension of the Transition Period for the Elimination of Trade-Related Investment Measures Notified Under Article 5.1 of the Agreement on Trade-Related Investment Measures – Philippines- Decision of 31 July 2001.	G/L/464
Extension of the Transition Period for the Elimination of Trade-Related Investment Measures Notified Under Article 5.1 of the Agreement on Trade-Related Investment Measures – Romania- Decision of 31 July 2001.	G/L/465
Extension of the Transition Period for the Elimination of Trade-Related Investment Measures Notified Under Article 5.1 of the Agreement on Trade-Related Investment Measures – Pakistan- Decision of 31 July 2001.	G/L/466
Thailand - Extension of the Transition Period for the Elimination of Trade-Related Investment Measures Notified Under Article 5.1 of the Agreement on Trade-Related Investment Measures. Decision of 31 July 2001	WT/L/410

## 7. Anti-Dumping

SUBJECT/ TITLE	REFERENCE
European Union – Anti-Dumping Duties on Imports of Cotton-Type Bed Linen from India	WT/DS/141/R
Committee on Anti-Dumping Practices- Minutes of the Meeting Held on 21-22-October 1996.	G/ADP/M/9
Committee on Anti-Dumping Practices- Minutes of the Meeting Held on 28-29 April 1997	G/ADP/M/10
Committee on Anti-Dumping Practices- Minutes of the Meeting Held on 29 October 1998	G/ADP/M/13
Committee on Anti-Dumping Practices- Minutes of the Meeting Held on 28 October 1999	G/ADP/M/15
Committee on Anti-Dumping Practices- Minutes of the Meeting Held on 4-5 May 2000	G/ADP/M/16
Committee on Anti-dumping Practices – AD Hoc Group on Implementation – "Termination of investigations under article 5.8; practical issues and experience in cases involving cumulation under article 3.3; practical issues and experience with respect to questionnaires and requests for information under articles 6.1 and 6.1.1; practical issues and experience in providing opportunities for industrial users and consumer organizations to provide information under article 6.12;practical issues and experience in conducting ;"new shipper" reviews under article 9.5" –paper by Turkey -	G/ADP/AHG/W/68
Practical Issues and Experience in applying article 2.4.2; Termination of investigations under article 5.8; practical issues and experience in cases involving cumulation under article 3.3; practical issues and experience with respect to questionnaires and requests for information under articles 6.1 and 6.1	.G/ADP/AHG/W/78
Trade Policy Review Body -Southern African Customs Union (SACU)- Minutes of Meeting	WT/TPR/M/35

## 8. Customs Valuation

SUBJECT/ TITLE	REFERENCE
Report of the Chairman of the Committee on Customs Valuation to the General Council	G/VAL/36
Sixth Annual Review of the Implementation Operation Of the agreement on implementation of Article VII of the General Agreement on Tariffs and Trade 1994.	G/VAL/W/77
Agreement on implementation of Article VII of the GATT 1994 (Customs Valuation): Invocation of Special Provisions Available to Developing Country Members - Note by the Secretariat: Revision	G/VAL/2/Rev.10 /Corr.2
Article 20.3 of the Agreement on Customs Valuation -Inventory of Technical Assistance	G/VAL/W/25
Priority Activities to Prepare for implementation of the Agreement on Customs Valuation -Article 20.3: Technical Assistance Activities. Note by the Secretariat	G/VAL/W/30
Recent United States Technical Assistance Activities	G/VAL/W/36
Technical Assistance on Customs Valuation	G/VAL/W/37+ Add1
Recent New Zealand Technical Assistance Activities	G/VAL/W/48

Recent Switzerland Technical Assistance Activities	G/VAL/W/49
Technical Assistance – Customs Valuation Model Work Programme - Communication from the European Communities	G/VAL/W/71
Committee on Customs Valuation – Minutes of the Meeting of 12 and 25 November and 17 December 1999	G/VAL/M/12
Committee on Customs Valuation – Minutes of the Meeting 12, 28 April AND 10, 31 May 2000	G/VAL/M/14

## 9. Import Licensing Procedures

SUBJECT/ TITLE	REFERENCE
Korea- Measures Affecting Imports of Fresh Chilled and Frozen Beef	WT/DS169/R
Third Biennial Review of the Implementation and Operation of the Agreement on Import Licensing Procedures -Background Document by the Secretariat	G/LIC/W/14

## 10. Agreement on Subsidies and Countervailing Measures

SUBJECT/ TITLE	REFERENCE
Brazil – Export Financing Programme for Aircraft – Report of the Panel	WT/DS/46/R
Brazil – Export Financing programme for Aircraft- report of the Appellate Body	WT/DS/46/AB/R
Indonesia- Certain Measures Affecting the Automobile Industry – Report of the Panel	WT/DS/54/R WT/DS/55/R WT/DS/59/R WT/DS/64/R
Committee on Subsidies and Countervailing Measures - Minutes of the Meeting Held on 23-24 October 1997	WT/M/15
Committee on Subsidies and Countervailing Measures - Minutes of the Meeting Held on 22-23 April 1998	WT/M/16
Committee on Subsidies and Countervailing Measures - Replies to Questions Posed by Japan Regarding the New and Full Notification of Senegal; Communication by Senegal	G/SCM/Q2/SEN6
Committee on Subsidies and Countervailing Measures - Replies to Questions from the European Community Regarding the New and Full Notification of the Philippines; Communication by the Philippines.	G/SCM/Q2/ NGA/4
Committee on Subsidies and Countervailing Measures Replies of Nigeria to Questions posed by the European Community, Japan, and the United States, Communication by Nigeria.	G/SCM/Q2/ NGA/4
Committee on Subsidies and Countervailing Measures Replies of India to Questions posed by the European Communities, Communication by India.	G/SCM/Q2/IND5
Implementation-related issues referred to the committee in the General Council's decision of 15 December 2000: Discussion Paper Submitted by Cuba, Dominican Republic, Egypt, Honduras, India, Indonesia, Malaysia, Pakistan, Tanzania, Uganda and Zimbabwe	G/SCM/W/431
Questions and comments concerning proposals on implementation related issues	G/SCM/W/433

referred to the Committee in the 15 December 2000 Decision of the General Council: Questions and Comments of Switzerland	
Questions and Comments Concerning Proposals on implementation-related issues referred to the committee in the 15 December 2000 Decision of the General Council: Questions and Comments of Hong Kong, China	G/SCM/W/438
Questions and Comments Concerning Proposals on implementation-related issues referred to the committee in the 15 December 2000 Decision of the General Council.: Questions and Comments of the European Communities	G/SCM/W/439
Questions and Comments Concerning Proposals on implementation-related issues referred to the committee in the 15 December 2000 Decision of the General Council.: Questions and Comments of the United States	G/SCM/W/440
Replies to Questions and Comments Concerning Proposals on implementation-related issues referred to the committee in the 15 December 2000 Decision of the General Council.: Replies of Cuba, Dominican Republic, Honduras, India, Indonesia, Malaysia, Pakistan, Tanzania, Uganda and Zimbabwe to Questions raised concerning the Proposal contained in document G/SCM/W/431/Rev.1 of 20 March 2001.	G/SCM/W/443
Follow up Questions and Comments Concerning Proposals on implementation-related issues referred to the committee in the 15 December 2000 Decision of the General Council. Questions by the United States	G/SCM/W/445
Follow up Questions and Comments Concerning Proposals on implementation-related issues referred to the committee in the 15 December 2000 Decision of the General Council. Replies by India to questions raised by the United States	G/SCM/W/447
Follow up Questions and Comments Concerning Proposals on implementation-related issues referred to the committee in the 15 December 2000 Decision of the General Council. Replies of Cuba, Dominican Republic, Honduras, India, Indonesia, Malaysia, Pakistan, Tanzania, Uganda and Zimbabwe to questions raised by the United States	G/SCM/W/448
Follow up Questions and Comments Concerning Proposals on implementation-related issues referred to the committee in the 15 December 2000 Decision of the General Council. Comments by Switzerland.	G/SCM/W/450
Follow up Questions and Comments Concerning Proposals on implementation-related issues referred to the committee in the 15 December 2000 Decision of the General Council. Questions and Comments by the United States.	G/SCM/W/451
Follow up Questions and Comments Concerning Proposals on implementation-related issues referred to the committee in the 15 December 2000 Decision of the General Council. Questions by Japan	G/SCM/W/453
Follow up Questions and Comments Concerning Proposals on implementation-related issues referred to the committee in the 15 December 2000 Decision of the General Council. Comments by Cuba, Dominican Republic, Honduras, India, Indonesia, Malaysia, Pakistan, Tanzania, Uganda and Zimbabwe to questions raised by the United States	G/SCM/W/456
Submission of the European Communities to the Committee on subsidies and countervailing measures	G/SCM/W/457
Replies to Follow-up Questions and Comments concerning Proposals on the Implementation-related Issues referred to the Committee in the 15 December 2000 Decision of the General Council Replies of India to Questions from the United States, Canada and Japan.	G/SCM/W/458



## 11. Agreement on Safeguards

SUBJECT/ TITLE	REFERENCE
Committee on Safeguards- Minutes of the regular meeting held on 5 May 1997.	G/SG/M/9
Committee on Safeguards- Minutes of the regular meeting held on 23 April 1999	G/SG/M/13
Committee on Safeguards- Minutes of the regular meeting held on 22 October 1999	G/SG/M/14

## 12. GATS

SUBJECT/ TITLE	REFERENCE
Guidelines and Procedures for the Negotiations on Trade in Services	S/L/93
Negotiating Proposals Submitted to the Special Session of the Council for Trade in Services	S/CSS/** (please refer to section P for details).
Report of the meeting held on 23 and 24 November 1998	S/C/M/31
Report of the meeting held on 22 and 23 March 1999	S/C/M/34
Report of the meeting held on 26 April 1999	S/C/M/35
Report of the meeting held on 19-20 July 1999	S/C/M/38
Report of the meeting held on 21 September 1999	S/C/M/39
Report of the meeting held on 24 May 2000	S/C/M/43
Report of the meeting held on 14 July 2000	S/C/M/46
Recent Developments in Services Trade – Overview and Assessment - Background Note by the Secretariat	S/C/W/94
Preparations for the 1999 Ministerial Conference - Further Negotiations As Mandated by the General Agreement on Trade in Services (GATS). Communication from the United States	S/C/W/119
Preparations for the 1999 Ministerial Conference - Further Negotiations As Mandated by the General Agreement on Trade in Services (GATS). Communication from Indonesia and Singapore	S/C/W/120
Text of the proposed "Agreement Between the International Telecommunications Union and the World Trade Organisation".	S/C/9/rev1
Statement by the United States: Notifications pursuant Article III:4 and Article IV:2 of the GATS	S/C/W/148

## 13. TRIPS

SUBJECT/ TITLE	REFERENCE
Council for Trade-Related Aspects of Intellectual Property Rights Minutes of Meeting, Held in the Centre William Rappard on 21 March 2000.	IP/C/M/26
Council for Trade-Related Aspects of Intellectual Property Rights Minutes of Meeting, Held in the Centre William Rappard on 26-29 June 2000.	IP/C/M/27
WTO Secretariat Technical Cooperation in the TRIPS Area – Note by the Secretariat.	IP/C/W/201
Technical Cooperation Activities: Information from other intergovernmental organizations –World Health Organisation.	IP/C/W/202
Technical Cooperation Activities: Information from other intergovernmental organizations –World Customs Organisation.	IP/C/W/202/Add.1

Technical Cooperation Activities:. Information from other intergovernmental organizations –.International Union for the Protection of New Varieties of Plants (UPOV)	IP/C/W/202/Add.2
Technical Cooperation Activities:. Information from other intergovernmental organizations - World Intellectual Property Organisation	IP/C/W/202/Add.3
Technical Cooperation Activities: Information From Developed Country Members: New Zealand	IP/C/W/203
Technical Cooperation Activities: Information From Developed Country Members: Switzerland	IP/C/W/203/Add.1
Technical Cooperation Activities: Information From Developed Country Members: Japan	IP/C/W/203/Add.2
Technical Cooperation Activities: Information From Developed Country Members: United States	IP/C/W/203/Add.3
Technical Cooperation Activities: Information From Developed Country Members: European Communities and their Member States.	IP/C/W/203/Add.4
Technical Cooperation Activities: Information From Developed Country Members: Portugal	IP/C/W/203/Add.4 /Suppl.
Technical Cooperation Activities: Information From Developed Country Members: Portugal	IP/C/W/203/Add4/ Suppl.
Technical Cooperation Activities: Information From Developed Country Members: Australia	IP/C/W/203/Add5
Technology Capacity Building: Information from Other Intergovernmental Organisations- World Intellectual Property Organisation.	IP/C/W/243
Technology Capacity Building: Information from Other Intergovernmental Organizations: Secretariat of the Convention on Biological Diversity	IP/C/W/243/A1
Technology Capacity Building: Information From Other Intergovernmental Organizations: UNIDO	IP/C/W/243/A2
Technology Capacity Building: Information From Other Intergovernmental Organizations: UNCTAD	IP/C/W/243/A3
Notification of Contact Points for Technical Cooperation on TRIPS.	IP/N/7, and revisions1 (with addenda 1-3), and revisions 2 (with addenda 1-5)
Argentina - Patent Protection for Pharmaceuticals and Test Data Protection for Agricultural Chemicals	IP/D/18
India - Patent Protection for Pharmaceutical and Agricultural Chemical Products: Report of the Panel	WT/DS50/R
India – Patent Protection for Pharmaceutical and Agricultural Chemical Products, Report by the Appellate Body	WT/DS50/AB/R
India - Patent Protection for Pharmaceutical and Agricultural Chemical Products(Complaint by the European Communities and their member States): Report of the Panel	WT/DS79/R

#### 14. Dispute Settlement

SUBJECT/ TITLE	REFERENCE
Brazil – Export Financing Programme for Aircraft:-Report of the Panel.	WT/DS46/R
Indonesia – Certain Measures Affecting the Automobile Industry: Report of the Panel.	WT/DS64/R
Canada – measures affecting the export of civilian aircraft: Report of the panel.	WT/DS70/R
India – Quantitative Restrictions on Imports of Agricultural, Textile and Industrial Products Report of the Panel	WT/DS/90/R
European Union – Anti-Dumping Duties on Imports of Cotton-Type Bed Linen from India	WT/DS/141/R
Korea – Measures Affecting Imports of Fresh, Chilled and Frozen Beef: Report of the Panel	WT/DS/161/R
Chile – Taxes On Alcoholic Beverages. Arbitration under Article 21.3(c) of the Understanding on Rules and Procedures Governing the Settlement of Disputes.	WT/DS110/14
European Communities – Measures Affecting Asbestos and Asbestos-containing Products: Report of the Panel	WT/DS/135/R
European Communities – Regime for the Importation, Sale and Distribution of Bananas- Recourse to Arbitration by the European Communities Under Article 22.6 of the DSU:-Decision by the Arbitrators	WT/DS27/ARB/ECU
Indonesia – Certain Measures Affecting the Automobile Industry - Arbitration Under Article 21.3(c) of the Understanding on Rules and Procedures Governing the Settlement of Disputes	WT/DS54/15
Indonesia – Certain Measures Affecting the Automobile Industry - Arbitration Under Article 21.3(c) of the Understanding on Rules and Procedures Governing the Settlement of Disputes	WT/DS59/13
Indonesia – Certain Measures Affecting the Automobile Industry - Arbitration Under Article 21.3(c) of the Understanding on Rules and Procedures Governing the Settlement of Disputes	WT/DS64/12
Chile – Taxes On Alcoholic Beverages: Communication from Chile	WT/DS87/11
Article 5 of the Dispute Settlement Understanding: Communication from the Director-General	WT/DSB/25
Developing Countries and the WTO Dispute Settlement Mechanism: Communication from the European Communities	WT/GC/W/148
Proposal to Amend Certain Provisions of the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU) Pursuant to Article X of the Marrakesh Agreement Establishing the World Trade Organisation: Submission by Canada, Colombia, Costa Rica, Ecuador, Japan, Korea, New Zealand, Norway, Peru, Switzerland and Venezuela for Examination and Further Consideration by the General Council	T/GC/W/410

#### 15. Least-Developed Countries

SUBJECT/ TITLE	REFERENCE
Market Access for Least Developed Countries: Compilation of Information	WT/COMTD/LDC/W16
Market Access for Least Developed Countries: Summary of Information	WT/COMTD/LDC/W17
Market Access Conditions for Least-Developed Countries	WT/LDC/SWG/W/14, and

	addenda and revisions
Review of the Integrated Framework: Communique From Heads of Six Core Agencies	WT/LDC/SWG /IF/2
Integrated Framework - Proposal for a Pilot Scheme	WT/LDC/SWG /IF/13
Progress Report on the Integrated Framework for Trade-Related Technical Assistance to Least-developed Countries	WT/LDC/SWG /IF/17

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