WORKING DOCUMENT NO. 15

SPECIAL PRODUCTS

1. The number of Special Products shall be greater than the number of Sensitive Products that a developing Member may have. Given that the current Draft Modalities canvasses that the number of sensitive products that a developing Member can have will be between [5.3] and [8] per cent of [dutiable] tariff lines, that suggests that we are into the territory of at least [6] [9] per cent for special products.

2. I don't think the absolute number can ever be divorced from the treatment. I believe therefore that the number can end up somewhat higher than the above, provided that the treatment is reasonable in all the circumstances.

3. Guidance by indicators is a dictate of the Agreed Framework and the Hong Kong Ministerial Declaration. I have the sense that we are no nearer agreement on what those indicators may be than we have been for quite some time. In the meantime, the G33 indicators are on the table, albeit that they are not agreed. In any case, as I stated in TN/AG/W/4, I think we need a tailored approach, and that can be managed through the concept of a minimum and a maximum, with small, vulnerable economies (SVEs) essentially freed from those constraints.

4. Working on that assumption, the following observations may help focus on what that treatment might reasonably be.

5. First, I think that the actual cuts should be closely around the sensitive cuts ranges for developing country Members (bearing in mind that the sensitive cut ranges would carry with them normally a tariff quota expansion obligation. Special Products will not have any such obligation.)

6. By my calculations, the ranges of sensitive product cuts look roughly like the following:

Tariff band	**Default % cut**	**1/3 deviation**	**½ deviation**	**2/3 deviation**
0-30	32-34.6	22	16.5-16.7	11
31-80	36.6-40	24/26	18.3-20	12/13
81-130	41.3-43.3	26/28	20.5-21.5	13/14
131->	44-48.6	28/30	22-24	14/15

7. Looking at the above table, I would suggest that the centre of gravity for "default" special products cuts will reasonably end up rounded out around that one-half deviation range. Given that Members have rather differing tariff structures, I have doubts, however, as to whether setting a single rate applicable to every line and every situation will yield equitable results. On the other hand, trying to micro-define the ranges applicable to all the various situations will probably be impracticable. But we have to do something and it will never be perfect. I would suggest therefore that we set an overall average rate, with a minimum and maximum cut.

8. In that spirit, we take the middle range above and stretch it in either direction by a couple of *ad valorem points*. On that basis you would have provision for, say, [7] [12] per cent of tariff lines (the number arrived at being a function of where we actually end up as regards the number of sensitive products) to be sheltered from the tiered formula per se. For the sum of those (self-selected) tariff lines, they would need to meet an overall average cut of say [20] per cent with minimum cuts at [15] per cent and maximum cuts at [25] per cent.

9. That could well be it, but I have the sense that we could live with a second but smaller category that has already been labelled (not by me until now) "super-specials". It would be an even lesser cut, but as a consequence it would have to be a lesser number. And we have still to resolve the most difficult question of whether there shall be tariff lines with no cuts. As you know, it is my sense that there will be a need for this, but I know there are a number of Members that disagree strongly with that, so my reading of the situation is that if there does indeed end up being tariff lines for which there are no cuts, there will not be a large number of these. If we do in fact end up with lines with no cuts, we can do it explicitly or we can do it implicitly. I would see that one way of dealing with both these elements is to say that for an additional, say, [2] [5] per cent of tariff lines, there shall be an entitlement to meet, for those, a lower average cut of, say, [5] per cent with no minimum cut and a maximum of [10] per cent.

10. It may well be that only some Members will have this need for this latter category. For other Members, they might, rather, need a larger number of special products in the "normal" category. Thus you could have an alternative to the "super specials" based on what a number of Members have suggested by way of the concept of "transfer" from sensitive product entitlement to "special" product entitlement.

11. Bearing in mind that there would be, for such a "transfer", no tariff quota provided, this "transfer" would not be at a full one-for one rate of maximum deviation from the sensitive tariff cut in isolation. But, obviously, it is not going to be outside of that zone. One would have to arrive at a reasonable rate. I would suggest that the "premium" should be one-half (rounded) deviation from what would have been the rate if it was fully applied. If so, it would look like this:

Tariff band	**Default % cut**	**Transfer cut**
0-30	32-34.6	16
31-80	36.6-40	18
81-130	41.3-43.3	20
131->	44-48.6	22

12. This entitlement for additional transfer would be available for no more than a maximum of [3] [6] per cent of tariff lines.

13. For small, vulnerable economy Members, they are, of course, entitled to the above should they choose to exercise that entitlement. Alternatively they would have the option of choosing instead their more generalised entitlement to deviate from the tiered formula plus going to the 24 per cent average cut that was, in TN/AG/W/4, envisaged more directly through paragraph 52, but which would now be achieved through the Special Products vehicle.

14. Based on the above, I would, schematically, roughly characterise this as follows:

Special Products

15. Developing country Members shall be entitled to self-designate special products guided by indicators based on the criteria of food security, livelihood security and rural development, on the following two-category basis:

16. In the first category, a minimum of [7] per cent of tariff lines up to a maximum of [12] per cent of tariff lines may be sheltered from the application of the tariff cut formula[1]. The [8] per cent, shall exist as a minimum, and a Member need not have applied the indicators if it remains at or under that minimum. Above that minimum, the indicators shall have been applied to arrive at all the items concerned. For the tariff lines concerned there shall be a minimum cut of [10] [20] per cent and a maximum cut of [20] [30] per cent, provided that the average of the cuts is at least [15] [25] per cent.

Either:

17. In the second category[2], a further [2] [5] percent of tariff lines may be sheltered from the application of the tariff cut formula. For those tariff lines there shall be no requirement for a minimum cut, but the maximum cut on any line shall be [10] [15] percent and the overall average of the cuts must be at least [5] [10] percent.

Or:

18. [A maximum of 8 per cent of special product tariff lines shall not be required to face tariff cuts.] [All special product tariff lines must face a tariff cut, with the minimum cut being no less than 10 per cent]

19. In the case of small vulnerable economies, they may, if they choose to do so, apply the moderated tariff tiered formula for SVEs plus the two-category special entitlement outlined above. Alternatively, they may deviate further from the moderated tiered formula cut provided for in that paragraph for as many tariff lines as they choose to designate as a special product provided that they simply meet the overall average cut of 24 per cent. The tariff lines that they so designate as special products need not be subject to any minimum tariff cut and this designation need not be guided by the indicators.

RAMs

20. Where a RAM Member uses the first category of Special Products above, the threshold level above which indicators are not required to be used shall be 2 per cent higher, the number of eligible tariff lines shall be 2 per cent greater and the relevant cuts may be 5 per cent less than generally applicable.

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[1] Where a Member has already the entitlement under the relevant paragraph to apply lesser reductions to lower its average cut under the tariff formula to 36 per cent, it is understood that this provision is also applicable as an additional flexibility.

[2] Where a Member chooses not to, or is not in a position to, use this second category entitlement outlined above, that Member may transfer any unused sensitive products entitlement to obtain thereby additional special products, subject to the following: (a) that the maximum entitlement for transfer is [2] [5] per cent of tariff lines; (b) that the treatment for the tariff lines concerned will be a cut that is one-half of what would have been required under the normal tiered tariff cut for those lines; (c) that in the event that use of this provision leads to a net special product entitlement greater than the [7] per cent minimum the indicators shall have been used for guidance on all the items designated; and (d) that there will be no tariff quota expansion commitment for those lines.