

## WORKING DOCUMENT No. 9

### TIERED FORMULA FOR TARIFF REDUCTIONS

#### Basis for reductions

1. Subject to such other specific provisions as may be made, all final bound tariffs<sup>1</sup> shall be reduced using the tiered formula set out in the paragraphs below.
2. In order to place final bound non-*ad valorem* tariffs in the appropriate band of the tiered formula, Members shall follow the methodology to calculate *ad valorem* equivalents (AVEs), along with associated provisions, set out in Annex A to TN/AG/W/3 of 12 July 2006. All AVEs so calculated shall be listed in an annex to these Modalities.

#### Tiered formula

3. Developed country Members shall reduce their final bound tariffs in equal annual instalments over five years in accordance with the following tiered formula:
  - (a) where the final bound tariff or *ad valorem* equivalent is greater than 0 and less than or equal to 20 per cent, the reduction shall be [48-52] per cent;
  - (b) where the final bound tariff or *ad valorem* equivalent is greater than 20 per cent and less than or equal to 50 per cent, the reduction shall be [55-60] per cent;
  - (c) where the final bound tariff or *ad valorem* equivalent is greater than 50 per cent and less than or equal to 75 per cent, the reduction shall be [62-65] per cent; and
  - (d) where the final bound tariff or *ad valorem* equivalent is greater than 75 per cent, the reduction shall be [66-73] per cent.
4. Developing country Members other than those specified in paragraph 6 below shall reduce their final bound tariffs in equal annual instalments over eight years in accordance with the following tiered formula:
  - (a) where the final bound tariff or *ad valorem* equivalent is greater than 0 and less than or equal to 30 per cent, the reduction shall be 2/3 of the cut for developed in 3(a) above;
  - (b) where the final bound tariff or *ad valorem* equivalent is greater than 30 per cent and less than or equal to 80 per cent, the reduction shall be 2/3 of the cut for developed in 3(b) above;
  - (c) where the final bound tariff or *ad valorem* equivalent is greater than 80 per cent and less than or equal to 130 per cent, the reduction shall be 2/3 of the cut for developed in 3(c) above; and
  - (d) where the final bound tariff or *ad valorem* equivalent is greater than 130 per cent, the reduction shall be 2/3 of the cut for developed countries in 3(d) above.

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<sup>1</sup> That is, all out-of-quota tariffs specified in Section I-A of Members' Schedules of Concessions. In-quota tariffs shall be subject to commitments under the relevant paragraphs.

5. The maximum overall average cut on final bound tariffs any developing country Member shall be required to undertake as a result of application of this formula is [36][40] per cent. Should the above formula imply an overall average cut of more than [36][40] per cent, the developing country Member shall have the flexibility to apply lesser reductions applied in a proportionate manner across the bands, to keep within such an average level.

6. Small, vulnerable economies<sup>2</sup> shall be entitled to moderate the cuts specified in paragraph 4 above by a further [10] *ad valorem* percentage points in each band. [Note: the following will occur in the Special Product provision: Where application of the formula for small, vulnerable economies referred to in paragraph 19 of Working Document No. 15 would result in an overall average cut higher than 24 per cent, the Member concerned may self-designate as Special Products (and self select the treatment for) any such number of tariff lines that it determines would be sufficient to attain an overall maximum 24 per cent average cut.]

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<sup>2</sup> The Members concerned are those that meet the criteria set out in paragraph 134 of TN/AG/W4 and are listed in Annex C thereof. As is made clear in the Agreed Framework, small vulnerable economies (SVEs) are not meant to create any sub-category of Members. Bearing that principle in mind, the following Members could also be deemed to be eligible for this treatment, should they choose to avail themselves of it, despite not being members of the SVE Group of countries *per se* given that this treatment could be deemed to be broadly comparably appropriate: Côte d'Ivoire and Nigeria (plus other Members that can provide data that show that they meet the criteria in paragraph 134).

## WORKING DOCUMENT No. 10

### SENSITIVE PRODUCTS

#### Designation

1. Each developed country Member shall have the right to designate up to [4] [6] per cent of [dutiab] tariff lines as "Sensitive Products". Where such Members have more than 30 per cent of their tariff lines in the top band, there is an option to have the number of Sensitive Products increased to [6][8] per cent, subject also to the conditions outlined in paragraph 6 below. Where application of this methodology would impose a disproportionate constraint in absolute number of tariff lines because tariff concessions are scheduled at the 6-digit level, the Member concerned may also increase its entitlement to [6][8] per cent.
2. Developing country Members shall have the right to designate up to one-third more of tariff lines as "Sensitive Products".

#### Treatment - tariff cut

3. Developed country Members may deviate from the otherwise applicable tiered reduction in final bound tariffs on products designated as Sensitive. This deviation may be at a minimum of one third and a maximum of two thirds of the reduction that would otherwise have been required by the tiered formula. A Member may also make a reduction of one half of the otherwise applicable reduction.
4. Developing country Members shall have the right to deviate by a minimum of one third and a maximum of two thirds of the reduction that would otherwise have been required by the tiered formula applicable to developing countries. They may also make a reduction of one half of the otherwise applicable reduction.

#### Tariff quota expansion

5. Tariff quotas arrived at through the use of the Sensitive Products provisions pursuant to paragraphs 1 and 2 above and 6 to 9 below shall, for developed country Members, result in new access opportunities equivalent to no less than [4][6] per cent of domestic consumption expressed in terms of physical units where the maximum deviation of two thirds is used. Where the minimum deviation of one third is used, the new access opportunities shall be no less than [3] [5] per cent of domestic consumption. Where one half deviation is used, the new access opportunities shall be no less than [3.5] [5.5] per cent of domestic consumption.<sup>1</sup>
6. Where a Member is entitled to, and chooses to exercise its entitlement to have a higher number of Sensitive Products pursuant to paragraphs 1 and 2 above, the relevant amounts specified in paragraph 5 will be maintained for all products, as a minimum, but the Member will have an obligation to ensure that a higher overall average of [4.5] [6.5] per cent of domestic consumption is also achieved. In addition, if after application of its tariff reduction commitments a Member still wishes to retain more than 5 per cent of its [dutiab] tariff lines in excess of 100 per cent *ad valorem*, it shall meet this additional latter requirement increased by a further [ ] per cent.
7. Where the existing bound tariff quota volume already represents 10 per cent or more of domestic consumption, and the minimum or median deviation is used, the expansion in the tariff quota volume under paragraph 5 above need not be more than [2.5][3.5] per cent of domestic consumption. Where the existing bound tariff quota volume represents 30 per cent or more of

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<sup>1</sup> See attached Annex regarding the calculation of these tariff quota expansion commitments.

domestic consumption, the expansion need not be more than [2] [3] per cent of domestic consumption.

8. For developing country Members, the tariff quota expansion shall be two thirds of the amount for developed country Members. For developing country Members, domestic consumption shall not include self-consumption of subsistence production.

9. Expansion of the tariff quota for a Sensitive Product shall be on a most-favoured-nation basis only.

## ANNEX

### Basis for the calculation of tariff quota expansion

**Either:**

1. Where, for any product, a Member has a tariff quota bound in its Schedule and wishes to designate any tariff line within that product coverage as Sensitive, the defined percentage of tariff quota access to be provided shall be calculated in terms of the percentage of domestic consumption of the entire product, irrespective of whether, for any number of tariff lines within that product coverage, the Member concerned has taken the full (i.e. "non-Sensitive") tariff cut.

2. Where the domestic consumption data for the product in question is available from recognized international sources such as FAO or OECD, it shall be used. If it is not so available, existing national data shall be used. In the calculation of domestic consumption at that product level, all consumption must be included in the calculation, whether for direct human consumption, industrial use, animal feed, etc. This data must be provided in a transparent manner using a commonly-agreed supporting data template. Where this data does not currently exist at a national level, it shall be arrived at through a balance sheet approach (i.e. imports + production – exports +/- stocks). Calculations shall be provided in a transparent manner using a commonly-agreed supporting data template.<sup>2</sup>

**Or:**

3. Where, for any product, a Member wishes to designate only a certain number of tariff lines within that product as Sensitive, it is free to do so (provided the total number of tariff lines remains within the defined numerical limit on tariff lines that may be declared Sensitive). Where verifiable domestic consumption data exists for those tariff lines, the amount of the tariff quota access to be provided for them shall be the defined percentage of that domestic consumption figure for those tariff lines. Where verifiable domestic consumption data does not exist for those tariff lines at the time of adoption of these Modalities, the following four-step method of calculation shall apply:

4. Step 1: 6-digit level: Where domestic consumption data exists aligned to the 6-digit tariff level, it shall be used. The supporting data shall be supplied and verified in the commonly-agreed supporting data template. Where that data does not exist already at the 6-digit level, a proxy shall be used as follows. The volume of world trade for a given 6-digit tariff line shall be expressed as a percentage of total world trade for the whole product category within which that 6-digit tariff line exists. That percentage is applied to the particular Member's total domestic consumption of that product category to give the domestic consumption figure at the 6-digit level.

5. Where this product consumption data is available from recognized international sources such as FAO or OECD, it shall be used. If it is not so available, existing national data shall be used. In the calculation of domestic consumption at that product category level, all domestic consumption must be included in the calculation, whether for direct human consumption, industrial use, animal feed, etc. This data must be provided in a transparent manner in a commonly-agreed supporting data template. Where this data does not currently exist at a national level, it shall be arrived at through a balance

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<sup>2</sup> There must be an agreed approach for product coverage for purposes of domestic consumption as regards the role of more highly processed products. Either there shall be a multilaterally agreed list of which 6 digit basic and more highly processed tariff lines trade will count (and how) for any given product so that an agreed basis for balanced calculation shall be found, or more highly processed products imports shall be factored out of the calculations.

sheet approach (i.e. imports + production - exports+/- stocks). Calculations shall also be provided in a transparent manner using a commonly-agreed supporting data template.<sup>3</sup>

6. Step 2: 8-digit level: Where domestic consumption exists aligned to the 8-digit tariff level, it shall be used. The supporting data shall be supplied and verified in a commonly-agreed template. Where that data does not exist already aligned to the 8-digit level, a proxy shall be used. At the national level, the share of imports for any 8-digit tariff line within a 6-digit heading shall then be applied to the estimate of (or actual, if available) 6-digit consumption figure determined in Step 1 above to derive a proxy for domestic consumption at the 8-digit level.

7. Step 3: base TQ calculation: The tariff quota expansion is determined by applying the defined percentage expansion to the 8-digit level domestic consumption figure arrived at under Step 2 above.

8. Step 4: adjustment to base TQ calculation: The application of this proxy approach can have the effect of further and artificially accentuating low trade allocation to tariff lines which have been low traded precisely because they have been subject to relatively higher tariff restraint within the product category concerned. In order to offset this disproportionate effect, there shall be a safety-net provision whereby, as an absolute minimum, [for each and every 8-digit tariff line there shall be a floor minimum access of at least [1] [3] per cent of domestic consumption of the total product] [and] [a proportionality principle shall apply whereby the tariff quota expansion amount shall be calculated as the percentage of the number of 8-digit tariff lines within any given product category declared as Sensitive applied to the domestic consumption figure for the total product] [,with the greater of the two applicable].

9. Where there are separate tariff lines for in-quota and out-of-quota trade, they shall be combined and treated as one tariff line under this approach.

10. Imports for re-export (including where the obligation to re-export is in a processed form) shall not be counted as "imports" under that tariff line under this approach.

11. Under whichever of these approaches is selected:

- (a) The calculations shall be made available to all Members so that, at the time of the adoption of these Modalities, Members will be in a position to know precisely what the actual volume of tariff quota expansion shall be at a tariff line level, should a product be subsequently declared as Sensitive.
- (b) Existing scheduled tariff lines shall be the basis for all calculations. There shall be no sub-categorization of tariff lines beyond existing scheduled commitments.
- (c) The base period shall be the most recent period for which data is available, i.e. 2003-05 unless this would be, for some particular product, a manifestly unrepresentative period due to exceptional circumstances.
- (d) For any given product category, [a single tariff quota with a single in-quota tariff shall be scheduled, irrespective of how many tariff lines are designated as Sensitive] [a maximum of [two] tariff quotas shall be scheduled for any given product category within which there are Sensitive Products, but only where, for the distinct tariff lines concerned, there is a differential margin of more than [x] per cent in the import unit values of the tariff lines concerned. All the tariff lines below that threshold would go into the first tariff quota, and all the tariff lines above that threshold would go into the second tariff quota].

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<sup>3</sup> *Idem.*

## WORKING DOCUMENT No. 11

### TARIFF ESCALATION

1. The tariff escalation formula provided below shall apply to the list of primary and processed products attached in Annex A (to be finalized).
2. In addition to the application of the tiered tariff reduction formula, tariff escalation shall be addressed in the following manner:
3. Instead of taking the cut that would otherwise apply to final bound tariffs in the band to which the processed product belongs (with the exception of the top band), the processed product shall take the cut applicable to the tariffs that fall in the [next] highest band. [A processed product in the top band shall take the cut applicable in that band increased by a factor of 0.3.]<sup>1</sup>
4. These supplementary cuts shall be moderated for the products concerned in two circumstances. First, where the absolute difference between the processed and primary product tariffs after application of the normal tariff formula would be five per cent *ad valorem* or less in any given tier [except in the case of the bottom tier], no additional tariff escalation adjustment shall be required.
5. Second, the tariff escalation adjustment formula cannot be applied in full where doing so would reduce the tariff for the processed product below that applicable to the primary product. In this situation, the rate of reduction for the processed product shall be moderated to ensure that it goes no further than equating to the actual rate for the primary product.
6. Tariff escalation treatment shall not apply to any product that is declared as Sensitive. Where the reduction for a tropical product would result in a reduction that is greater than under the tariff escalation formula, the tropical product reduction shall apply.

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<sup>1</sup> The following gives an illustration of the differences in the approaches specified when measured against a (hypothetical) base case scenario – which is the "mid-point" of the cuts proposed for developed country Members in TN/AG/W/4. Apart from the proposal to increase the cut in the top band by applying a 1.3 factor, the real differences are in fact only in the two bottom bands and the degree of that difference in the case of just those two bands is not in fact huge. Hence a "split the difference" option is provided here to emphasize the point. If one were to go down that path it could be described textually along the following lines:

Instead of taking the cut that would otherwise apply to tariffs in the band to which the processed product belongs, the processed product shall take the cut as follows:

If the product is in the top band, it takes the cut in that band.

If the product is in the second top band, it takes the cut otherwise applicable to the top band.

If the product is in the third top band, it takes a cut that is half way between the cuts applicable to the top band and the second top band.

If the product is in the bottom band, it takes the cut otherwise applicable to the second top band.

Hypothetical Illustrative Tiered Formula Cut (%)	"Next tier" Cut (%)	"Top tier" Cut (%)	"Split the Difference" Cut (%)
50	57.5	69.5	63.5
57.5	63.5	69.5	66.5
63.5	69.5	69.5	69.5
69.5	69.5	69.5 [90]	69.5

**Annex A (to be finalized)**

## WORKING DOCUMENT No. 12

### TARIFF SIMPLIFICATION

1. No tariff shall be bound in a form more complex than the current binding.
2. [At least [90] per cent of ] All bound tariffs on agricultural products in a Member's Schedule shall be expressed as simple *ad valorem* tariffs.
3. This shall be effected no later than [three years after] the commencement of the implementation period. [At least [80] per cent of all bound tariffs in a Member's Schedule shall be expressed as simple *ad valorem* tariffs no later than the end of the second year of the implementation period.]
4. Compound tariffs, mixed tariffs, and the more highly complex forms of bound tariffs, such as complex matrix tariffs, shall be converted to *ad valorem* [or specific] tariffs no later than [no later than the end of the second year of the implementation period] the commencement of the implementation period.
5. The method for converting final bound non *ad valorem* tariffs into the *ad valorem* equivalents [or for converting final bound compound, mixed and highly complex tariffs into specific or *ad valorem* tariffs] shall be the unit value method [based on IDB import data using the most recent three-year period for which data is available] [based on the methodology to calculate *ad valorem* equivalents as set out in Annex A to TN/AG/W/3 of 12 July 2006].
6. Developing country Members making such conversions shall have an additional two years to achieve this outcome, if applicable. Least-developed country Members shall not be required to effect any such changes.
7. Tariff reductions shall be made on the basis of Members' bound rates pursuant to paragraph 29 of the Agreed Framework. Reductions on this basis shall remain the legally binding commitment until the point at which there is multilateral agreement on tariff simplification.
8. If that agreement is reached prior to the tabling of Draft Schedules, the Draft Schedules shall reflect that agreement. If there is no such agreement prior to the tabling of Draft Schedules, that scheduling shall be on the basis of Members' bound rates pursuant to paragraph 29 of the Agreed Framework, although Members may, in parallel, table also their proposed conversions. In that situation, however, it is the former draft scheduled commitments that shall remain the legally binding obligation until the point at which subsequent multilateral agreement is reached on the proposed conversions.
9. Should that agreement occur prior to the adoption of the Doha Round Final Act, the final Schedules attached to that Act shall reflect that conversion and shall be the legally binding obligation for the Members concerned. Should such multilateral agreement occur only after the adoption of Schedules in the context of the Doha Round final Act, the normal multilateral requirements and procedures for renegotiation, modification or rectification of Schedules shall apply in making the relevant tariff simplification.
10. In all cases of proposed simplification, Members shall supply supporting data that demonstrates that the proposed simplified bound tariff is representative of, and does not amount to any increase over, the original more complex tariff and in conformity with the agreed methodology. All Members shall be given sufficient time for evaluation of the proposed changes and all Members undertaking such a simplification shall respond constructively to queries made regarding those proposed conversions. Upon request, the WTO Secretariat shall provide advice on technical matters and shall give particular technical assistance to developing country Members.

## WORKING DOCUMENT NO. 13

### TARIFF QUOTAS

#### (a) Bound in-quota tariffs

1. The final reductions of bound in-quota tariffs shall be no less than the [default] [sensitive deviation] rate of cut in the respective band within which the item falls, [increased by 20 per cent]. The implementation period and staging shall be aligned with those applying to reductions in the bound out-of-quota tariffs. [Bound in-quota tariffs shall be eliminated in equal annual instalments over five years.] In no case shall the rate of reduction in the out-of-quota tariff lead to an effective increase in the relative margin between that rate and the in-quota tariff.

2. Reductions in in-quota tariff rates shall not count for the purposes of calculating the average cuts, if applicable.

#### (b) Tariff quota administration

3. Tariff quota administration of scheduled agricultural tariff quotas shall be deemed to be an instance of "import licensing" within the meaning of the Uruguay Round Agreement on Import Licensing Procedures and, accordingly, that Agreement shall apply in full, subject to the Agreement on Agriculture and to the following more specific and additional obligations.

4. As regards the matters referred to in paragraph 4 (a) of Article 1 of that Agreement, as these agricultural tariff quotas are negotiated and scheduled commitments, publication of the relevant information shall be effected no later than 90 days prior to the opening date of the tariff quota concerned. Where applications are involved, this shall also be the minimum advance date for the opening of applications.

5. As regards paragraph 6 of Article 1, applicants for scheduled agricultural tariff quotas shall apply to one administrative body only.

6. As regards the matters referred to in paragraph 5(f) of Article 3 of that Agreement, the period for processing applications shall be, unqualifiedly, no longer than 30 days for "as and when received" cases and no longer than 60 days for "simultaneous" consideration cases. The issuance of licences shall, therefore, take place no later than the effective opening date of the tariff quota concerned, except where, for the latter category, there has been an extension for applications allowed for under Article 1.6.

7. As regards Article 3.5(i), licences for scheduled agricultural tariff quotas shall be issued in economic quantities.

8. As regards paragraph 5 of Article 3, tariff quota "fill rates" shall be understood to be "relevant information" within the meaning of this provision.

9. In order to ensure that their administrative procedures are consistent with Article 3.1 of that Agreement, "no more administratively burdensome than absolutely necessary to administer the measure", importing Members shall ensure that unfilled tariff quota access is not attributable to administrative procedures that are more constraining than an "absolute necessity" test would demand.

10. Members shall, accordingly, provide for an effective re-allocation mechanism [which ensures that, where licences held by private operators are less than fully utilized for reasons other than those that would be expected to be followed by a normal commercial operator in the circumstances, all feasible steps shall be taken to provide re-allocated access to tariff quotas as soon as possible. If this is legally and practicably feasible within a given tariff quota allocation period, it shall be done within that period. If not, changes to the licence allocation arrangements tailored to remedy the problem identified shall be implemented no later than the commencement of the next licensing period] [in accordance with the procedures outlined in Attachment x].

11. In any event, an importing Member shall, where it is manifest that a tariff quota is under filled, request those operators holding unused entitlements whether they would be prepared to make them available to other potential users.

12. As regards Article 3.5 (a) (ii) of that Agreement, Members shall make available the contact details of those importers holding licences for access to scheduled agricultural tariff quotas, where, subject to the terms of Article 1.11, this is possible and/or with their consent.

13. [Further to Article 3.5 (k), imports shall only be attributable to a scheduled agricultural tariff quota when the imports concerned have been accompanied by a certificate of origin issued by the exporting country Member concerned for that purpose. Exporting country Members shall issue such certificates on demand for any of their exporters fulfilling normal requirements for export.]

## WORKING DOCUMENT No. 14

### SPECIAL AGRICULTURAL SAFEGUARD (SSG)

**Either:**

1. [Article 5 of the Agreement on Agriculture shall expire for developed country Members at the start of the implementation period.] [Developed country Members shall reduce the number of tariff lines eligible for the SSG to [ ] per cent of scheduled tariff lines, and] developing country Members shall reduce the number of tariff lines eligible for the SSG to [ ] per cent of scheduled tariff lines.

**Or:**

2. Pending full elimination of the SSG by developed country Members within four years of the commencement of the implementation period, those Members shall, on the first day of the implementation period, have reduced the number of tariff lines eligible for the SSG under the Uruguay Round Agreement on Agriculture (URAA) to no more than [2] [3] per cent of scheduled tariff lines. This number shall be reduced to no more than one half of that number two years later and full elimination shall occur two years after that. Furthermore, the terms and conditions of such an SSG for developed country Members shall be streamlined to ensure that:

- (a) in respect of the quantity trigger: it shall be available only where, over a rolling three-year average, imports are above a minimum threshold of [ten] percent of domestic consumption, have increased by at least 25 per cent in absolute terms and the ratio of imports to domestic consumption has increased by [0.35] or more. Where the applied rate is equivalent to the bound rate, the remedy shall be a maximum of an additional one third of the bound duty. Where the applied rate is less than the bound rate the remedy shall be the full margin between the bound rate and the applied rate or one third of the bound rate, (whichever is greater); and
- (b) in respect of the price trigger: it shall be invoked for no more than [two-thirds] of the eligible tariff lines in any given year within the implementation period and the restrictiveness of the present provisions under Article 5 shall be effectively halved by modifying the specific parameters currently provided in paragraphs (b) through (e) of paragraph 5 of Article 5.

3. For developing country Members [the terms and conditions of the SSG shall remain unchanged from the URAA terms and conditions except that the tariff rates concerned shall be updated to reflect the outcome of the Doha negotiations.] [ the above terms and conditions applicable to developed country Members shall be modified to be at least one-third more flexible as regards all the relevant parameters.]

## 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 [dutyable] 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	1/2 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<sup>1</sup>. 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<sup>2</sup>, 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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<sup>1</sup> 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.

<sup>2</sup> 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.

## WORKING DOCUMENT No. 16

### MARKET ACCESS - RECENTLY ACCEDED MEMBERS (RAMs)

1. Saudi Arabia, the Former Yugoslav Republic of Macedonia, Vietnam and Tonga, as very recently-acceded Members shall not be obliged to undertake any new tariff reduction commitments.
2. For all other RAMs, to the extent that, in implementing commitments undertaken in acceding to the WTO, there would be actual overlap with commitments to be otherwise undertaken in association with these Modalities, the start of implementation of commitments undertaken in association with these Modalities for such tariff lines shall begin 1 year after the end of implementation of accession commitment.
3. The implementation period for recently-acceded Members may be prolonged by up to [2] years after the end of the developing country Members' implementation period.
4. Recently-acceded Members shall be entitled to moderate the cuts they would otherwise have been required to make under the tiered formula by up to 5 *ad valorem* percentage points in each band. In addition, final bound duties at or below 10 per cent shall be exempt from reduction.
5. Small low-income, recently-acceded Members with economies in transition<sup>1</sup> shall not be required to undertake reductions in final bound tariffs.
6. More specific provisions can be found in the relevant sections of this document.

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<sup>1</sup> This is applicable to Albania, Armenia, Georgia, Kyrgyz Republic and Moldova.