

Articles

FROM S&D TREATMENT TO S&D AGREEMENT UNDER THEWTO: DEVELOPING FRIENDLIER GLOBAL GOVERNANCE OF TRADE FOR DEVELOPING COUNTRIES

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ABSTRACT

Since developing Members of the WTO are diverse in their positions and concerns, it would not be possible to form unified views for these countries on all issues. However, the need of S&D treatment for developing Members should be the same. The WTO has made a lot of effort to discuss and incorporate S&D provisions in different agreements. However, it has not yet engaged in significant efforts to consider the integration of S&D treatment and set more general rules for making S&D treatment more effective. In the meantime, S&D treatment becomes eroded when tariffs are lowered, and the single undertaking becomes an important part of trade negotiations.

In order to effectively deal with the situations and to help developing countries be able to engage in international trade, the paper suggests the formulation of a S&D agreement with a safeguard mechanism for development purposes on the one hand and a mechanism to review the plans submitted by developed

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Members for the purpose of implementing the S&D obligations and to extend the current non-reciprocity principle and the Enabling Clause to other fields, on the other hand.

The S&D agreement, with certain mechanisms suggested in this paper, is only to supplement the current S&D treatment. In other words, if the current S&D treatment is still valid, the S&D agreement would not affect the effectiveness of such treatments. However, if there is no S&D available under the current rules, developing Members can resort to rights under S&D to cope with their development problems and to increase their income and their competitiveness.

KEYWORDS: *S&D treatment; S&D agreement; global governance; enabling clause*

I. INTRODUCTION

About two-thirds of the 149 Members¹ of the World Trade Organization (WTO) are developing countries. Most of the developing Members of the WTO consider international trade to be their means to enhance their development and thus many of them are active in their participation of WTO activities and in negotiating for WTO rules and commitments.²

Since the developing Members of the WTO are diverse in their positions and concerns, it would not be possible to form unified views for these countries on all issues. However, the need of special and differential³ (S&D) treatment for developing Members should be the same. From the Asian perspective, most Asian WTO Members are developing ones, with Japan as the only exception. Thus if there is any common interest or position that we can find for the larger portion of Asian countries, it must be that they share the benefit from being given more stable and reliable preferential treatment as developing Members of the WTO.

In finding a distinctive characteristic of Asian WTO Members, it should

¹ The total number of WTO Members is 149 as of December 2005.

² See WTO website, http://www.wto.org/english/thewto_e/whatis_e/tif_e/dev1_e.htm (last visited June 30, 2005)

³ The term, S&D treatment, was emerged during the discussions in the 1960s. World Trade Organization, *Special and Differential Treatment: Synopsis of WTO Agreements and Related Topics*, at 3, MM/LIB/SYN4 (Oct. 23, 2000).