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MAHAWELI ENTERPRISE DEVELOPMENT

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THE IMPACT ON SRI LANKA'S AGRICULTURAL SECTOR OF THE URUGUAY ROUND OF GATT

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INTERNATIONAL SCIENCE AND TECHNOLOGY INSTITUTE, INC.

WITH:

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CONSULTANTS TO THE MAHAWELI AUTHORITY OF SRI LANKA

Mahaweli Enterprise Development (MED)

The development of the natural and human resources of the Mahaweli river basin is a high priority of the Government of Sri Lanka. The construction of physical infrastructure, the settlement of the land and the formation of the agricultural production base are largely completed. The challenge now is to build a diverse, dynamic economy capable of steadily raising Mahaweli family incomes. In meeting this challenge, the private sector - farmers, entrepreneurs, companies, community groups, non-governmental organizations - has an important role to play.

MED is a project of the Mahaweli Authority of Sri Lanka and the United States Agency for International Development. MED promotes investment and employment generation by the private sector in non-farm economic activities and contract outgrower programs producing diversified crops. MED does this by: (i) developing technical, marketing, financial and other services which assist self-employed individuals, microenterprises and companies to start and improve their businesses; (ii) developing entrepreneur associations and other participatory groups; and (iii) carrying out studies and analyses to improve the frameworks for development in the Mahaweli areas.

The Employment, Investment and Enterprise Development (EIED) Division of the Mahaweli Authority is the MED implementing agency. Technical consultancy is provided by a consortium led by the International Science and Technology Institute, Inc. (ISTI), and including Agroskills, Development Alternatives, Ernst and Young, High Value Horticulture and Sparks Commodities.

PREFACE

This report assesses the effect of the Uruguay Round of GATT on Sri Lanka's agricultural sector production. In the process it describes the main provisions of the Agreement on Agriculture - market access, domestic support commitments, export competition commitments, dispute resolution - and other components of the Final Act of the Uruguay Round which affect agriculture, such as the Trade-Related Aspects of Intellectual Property Rights (TRIPS).

The report was the discussion document for the May 1994 Workshop convened by the Ceylon Chamber of Commerce and MED. The Workshop participants included the leading public sector officials responsible for GATT and the leaders of private sector associations. Three background papers prepared for the Workshop by Dr Anura Herath, Mr Douglas Jayasekera and Dr N.F.C. Ranaweera are attached as annexes.

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EXECUTIVE SUMMARY

The Uruguay Round, with the Final Act signed in Marrakesh on April 15, 1994, marks the biggest step taken in the liberalization of international trade away from protection and subsidies and towards a less distorted movement of goods and services. It brought about a quantum change in the coverage of GATT by bringing within its scope several major sectors hitherto beyond its purview, notably services, intellectual property rights, investment and agriculture. The regime applicable to agriculture was embodied in the Agreement on Agriculture, whose stated objective is "to establish a fair and market-oriented agricultural trading system".

The immediate motivators for the Agreement on Agriculture were: (i) the continual friction between the world's two main producers and exporters of agricultural products - the USA and the EU - and the frictions, in turn, between them and competitive agricultural producers such as New Zealand, Australia and Thailand; (ii) the heavy drain on national exchequers caused by domestic supports and export subsidies in the USA and EU; and, (iii) the desire of the major agricultural exporters to open the protected markets of Japan and Korea. The Agreement reflects compromises among developed countries, including phased reductions in tariffs, non-tariff barriers, domestic supports and export subsidies, with several concessions to soften their impact. Consequently, the impact of the Agreement on Sri Lanka and most countries will be gradual.

Economic liberalization and the reduction of subsidies were initiated in Sri Lanka in 1977 and intensified in the late 1980's. As a result, Sri Lanka's agricultural markets are fairly open, domestic and export subsidies are low, and the adjustments now required under GATT are minor. However, over the longer term, to take advantage of the possible expanded opportunities in agricultural export markets and to contend with the likely increased competitive pressures in domestic markets, measures should be taken to improve Sri Lankan agriculture and to enhance public and private sector collaboration in the areas of international agricultural trade governed by GATT rules.

Sri Lanka's current agricultural exports will have limited gains from the market access provisions of the Agreement. The main export, **tea**, is exported mainly to West Asian countries, most of which are not members of GATT and are therefore not obliged to make tariff reductions. Most of the remainder is exported to developed countries whose tariffs are zero for bulk tea, packeted tea and tea bags. **Rubber** is not covered by the Agreement. The main coconut export, **desiccated coconut**, is in a similar situation as tea; the main market is the EU, where tariffs are zero; and most of the remainder is exported to West Asia. **Fibre** exports are outside the scope of the Agreement. **Cinnamon quills** stand to benefit from tariff reductions by Mexico and Latin American countries. **Tobacco** exports will be subject to reduced tariffs, but the preferential margin they enjoy under the EU GSP will be narrowed by the MFN tariff cut. **Gherkins** will be subject to lower tariffs in the EU, but its preferential GSP margin will be reduced. The other main market, the USA, already has zero GSP tariffs.

Imports into Sri Lanka will not be affected by its own binding tariffs. The level of domestic market protection through tariffs is now sufficiently low as to be in conformity with GATT rules; in most cases they are lower. Due to rapid tariff reductions in recent years, the actual average tariff is lower than the bound rates. Non-tariff measures in Sri Lanka, chiefly discretionary licensing, to protect food crop production for the domestic market are gradually being replaced by tariffs. In the introduction of these tariffs, Sri Lanka will be able to maintain, and perhaps, raise the level of protection. Tariffs are in place for **rice** and **sugar**. The relatively low current level of protection, as well as the special provisions in the Final Act for developing countries and food importing countries, will largely shield Sri Lanka from the direct effects of the Final Act's market access provisions.

Domestic subsidies in Sri Lanka will not be affected because the subsidy levels are below the cut-off point at which there would be a reduction obligation. There are no significant export subsidies for our exports, and in any event export subsidy reductions will not arise.

The Sanitary and Phytosanitary Measures section of the Agreement appear to pose no problems for Sri Lanka. The new National Plant Quarantine Unit will be a valuable new facility for exporters and importers.

The TRIPS Article 27 on Patenting of Plant Varieties could have major implications for farmers if it results in plant breeders levying fees on seeds which farmers were formerly able to use from one crop to another free of charge. The report recommends a special Working Group to probe all the technicalities and frame legislation, as may be appropriate.

Monitoring and Dispute Resolution affect all sectors covered by the Final Act of the Uruguay Round. An important clause permits cross-retaliation, i.e., the right of aggrieved countries, in certain circumstances, to retaliate against a problem in one sector, e.g., services, by taking counter-measures in a completely different sector, e.g., agriculture.

The main opportunities for Sri Lanka's agricultural sector production appear to lie in the (i) increased demand for some Sri Lankan products (and potential products) in export markets due to price reductions resulting from tariff reductions under the market access provisions, and (ii) the increased demand for local products in local markets due to the stimulus of the price increases of major import items due to the combined effect of the reduction of domestic and export subsidies in the US and EU. The pattern of our exports and the phased reduction of tariffs and subsidies under the Agreement make unlikely any rapid shift in exports. Sri Lanka's agricultural exports are not sufficiently diversified to reap the full benefits of market access; planned diversification is therefore called for, starting with the intensification of production of the newer exports. On the import side, prices are expected to increase for items such as **sugar, milk powder, rice** and **wheat flour**, but the increase per year is estimated to be gradual. In the case of rice the effect of the Uruguay Round may be magnified by a world rice shortage anticipated by the year 2000. Should these anticipated increases in world price and demand materialize, there may be scope for increases in domestic production.

International trade is increasingly conducted by private enterprises within frameworks of rules agreed among governments after multilateral negotiations. Compliance with the rules is monitored through governmental mechanisms. For a nation and its enterprises to remain competitive, close collaboration between government and the private sector, including farmers, is essential in enabling government to negotiate the rules and enforce compliance on a well-informed basis and in allowing the private enterprises to respond efficiently to market opportunities. Proposals by some countries to introduce additional elements into the World Trade Organization's Programme of Work and to modify the effect of the Final Act through national legislation, point to the need to keep the entire Final Act and the WTO under continuous surveillance.

With agricultural markets in Sri Lanka and internationally more open and competitive, human and capital resources will flow to farms and crops which generate the highest returns. While the impacts will be gradual, as the liberalization process continues at the international level, Sri Lanka's farmers will come under mounting stress unless they gear to be competitive by increasing their productivity and selecting crops in which they have comparative advantages under the more open market conditions.

Under GATT, interventions to assist farmers which distort trade (e.g., price supports, acreage payments, input subsidies) and which many governments have historically engaged in, are to be reduced or phased out. However, interventions are acceptable under GATT in a number of areas (e.g., research, extension, pest and disease control, infrastructure investments) which are important to improving the productivity and competitiveness of Sri Lankan farmers and the agricultural sector.

The analysis considers GATT's impacts mainly in terms of price changes expected to result from the GATT. However, other changes, as yet unknown, will occur, for instance in technology areas, which may well alter the competitiveness of agricultural sectors in different parts of the world. The inevitability of such changes is a strong argument for maintaining as open and fluid a flow of information among all those involved in the public and private sectors whose actions may affect the competitiveness of Sri Lanka's farms.

The main recommendations are thus:

(i) the establishment of a "GATT (soon WTO) Watch" group consisting of private and public sector personnel covering several fields of expertise;

(ii) the inception of a regular flow of information to increase business and general awareness of GATT;

(iii) improved marketing, trade information and commercial intelligence systems;

(iv) continued actions by the public sector in the areas acceptable under GATT in support of increasing the productivity and competitiveness of the agricultural sector.

INTRODUCTION

1. BACKGROUND

The Uruguay Round of GATT, which was concluded in Geneva on December 15, 1993, considerably expanded the coverage of GATT.

One of the major sectors brought within the ambit of GATT for the first time was agriculture.

One of the reasons for the Agreement was that the world's main exporters of agricultural products, the USA and the EU, both resorted extensively to internal supports, export subsidies and import barriers, which led to friction between the two leaders and also between them on the one hand and competitive agricultural exporters such as Australia and New Zealand on the other.[1] High price supports in some countries led to surplus production which was dumped on world markets with the help of subsidies.[2]

It became evident that it was in the mutual interest of agricultural exporters to phase out the supports and barriers. The preamble to the Agreement states that its long-term objective is "to establish a fair ard market-oriented agricultural trading system .."

The provisions applicable to agriculture are set out mainly in the Agreement on Agriculture, which is incorporated in the Final Act of the Uruguay Round. Other accords included in the Final Act also impinge on agriculture, notably the Agreement on Trade-Related Aspects of Intellectual Property Rights, Including Trade in Counterfeit Goods (TRIPS), the Agreement on Subsidies and Countervailing Measures (SCM), and the Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries.

The Final Act was signed in Marrakesh, Morocco, on April 15, 1994. All the new systems of rules are expected to become effective from 1st January 1995 or as soon as possible thereafter.

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1. More openness in agricultural trade was supported by agricultural exporting countries in the Cairns Group, consisting of Australia, Argentina, Brazil, Canada, Chile, Colombia, Fiji, Hungary, Indonesia, Malaysia, New Zealand, the Philippines, Thailand, and Uruguay. Countries which resisted liberalization included the EU, Japan, Korea, Norway, Sweden, Iceland, and Finland.

2. The *Far Eastern Economic Review* of April 28, 1994 reported, ".. In their GATT submissions, industrial countries owned up to paying US $ 150 billion annually in 'production or trade-distorting' domestic farm supports and a further US $ 16.4 billion in export subsidies. Developing countries admitted to US $ 19 billion and US $ 1.7 billion respectively - proportionately much small figures .."

The object of this paper is to assess the impact of the Uruguay Round of GATT on Sri Lanka's agricultural sector. Both the Agreement on Agriculture and other parts of the Final Act affecting agriculture will therefore be considered.

Agriculture in the Sri Lankan Economy

The agricultural sector accounted for 17.9% of GNP in 1993, with the main sub-sectors being paddy (4.3% of GNP), tea (2%), coconut (1.9%), and rubber (0.5%). Other major sectors were manufacturing (19.4%), and wholesale and retail trade (21.9%).

Agricultural exports accounted for 22.9% by value of total exports in 1993. The main items were tea (14.4% of total exports), spices and other produce (4.2%), rubber (2.2%) and coconut products (2.0%).

Agricultural imports are not separately identified, but imports of Food and Drink plus wheat accounted for 13.3% of total imports in 1993. The main items were sugar (3.2% of total imports), wheat (2.9%), and rice (1.2%).

Agriculture Agreement Coverage

The Agreement covers products classified under Harmonized System Chapters 1 to 24 less fish and fish products, and a few items, mainly chemicals and fertilizers, from other HS Codes and Headings. Details are set out in Annex 1.

The main obligations imposed by the Agreement on Agriculture are incorporated in its sections on -

- Market Access
- Domestic Support Commitments
- Export Subsidy Commitments
- Sanitary and Phytosanitary Measures
- Consultation and Dispute Settlement

TRIPS

In addition, the Patents clause of a separate Agreement - the Agreement on Trade-Related Aspects of Intellectual Property Rights, Including Trade in Counterfeit Goods (TRIPS), contains a section on the protection of plant varieties which could affect agriculture.

Agreement on Subsidies and Countervailing Measures (SCM)

The SCM deals with the technicalities of subsidies and countervailing measures, and covers all the GATT accords. Sections on special treatment for developing countries are of particular interest to Sri Lanka, and are described later.

Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries

This Ministerial decision provides for relief measures for LDCs and net food-importing countries which find it difficult to maintain normal levels of commercial imports consequent to the Uruguay Round accords. The decision applies to Sri Lanka as a net food-importing country.

Method

Each of the sections above is dealt with in this report. Their provisions are described, and the effect of each section on Sri Lanka's exports, imports and domestic production is assessed ; or, where appropriate the overall effect is described. Summaries of exports and imports under HS Chapter headings 1 to 24, attached as Annexes 2 and 3, indicated the main categories of agricultural products to be investigated. Recommendations for action are set out in a concluding section.

2. MARKET ACCESS

The Agreement requires **aggregate import protection, i.e., tariffs plus tariff equivalents**, to be reduced in installments on average by 36% over six years for developed countries and by 24% over ten years for developing countries. No individual product reduction may be less than 15% for developed countries, or less than 10% for developing countries. The base period is 1986-88.

Non-tariff barriers (such as quotas, variable import levies, minimum import prices, import licensing, and non-tariff measures maintained through state trading enterprises) have to be **converted to tariffs**, a process termed **tariffication.** The method for converting Non-Tariff Barriers into **Tariff Equivalents** i.e., import duties determined so as to provide a level of protection equivalent to the existing level, is set out in the attachment to Annex 5 of the Agreement.

Where imports of a product subject to tariffication are less than 5% of domestic consumption in 1986-88, countries are required to establish **minimum** access import opportunities. The minimum access for imports will be 3% of base year domestic consumption in the first year, rising to 5% by the end of the implementation period. Imports under minimum access will be subject to a preferential duty up to the limit; additional imports over the limit will be subject to the tariff set through tariffication. Where imports of a product subject to tariffication exceed 5% of domestic consumption, the **current access** opportunity which existed in the base period has to be maintained. Tariffication will therefore maintain or increase, but not reduce, market access in the short term.

A **safeguard** mechanism is provided (Art.5)to temporarily impose additional import duties for agricultural products subject to tariffication in response to import surges or falls in price, if

1) the quantity of imports during the marketing year exceeds a trigger level varying between 105% and 125% of the average of the previous three years' imports.

or

2) the import price falls below the average price in the 1986-88 base period.

There are limits to the time such a safeguard may be imposed and the level of tariff safeguard used.

A **"special treatment"** clause (Annex 5 of the Agreement) enables countries to delay tariffication until the end of the implementation period provided

imports of the commodity are less than 3% of domestic consumption in the base period 1986-88

no export subsidies have been provided since the base period for the product

production controls are in force

the product is designated by the requesting member as being special, e.g., having food security or environmental production implications.

imports of 4% of domestic consumption in the first year, rising to 6% in the last year, must be allowed.

There is also provision for exemption from tariffication for measures developing countries may take for balance of payments reasons.

Effect of Market Access Provisions on Sri Lanka Exports

Tariff reductions abroad on our agricultural exports will benefit exporters in one of three ways -

1) If the importers take the benefit of the entire reduction, the reduced MFN tariff would lower landed prices and encourage increased imports from all sources, in which Sri Lankan exporters would share.

2) If the importers bid up our prices by the full extent of the tariff reduction, our fob/cif prices would rise by the amount of the tariff reduction, and the importer would import the same amount at the same landed price as previously.

3) If the importers take the benefit of part of the reduction and pass the remainder to the exporter in the form of higher fob/cif prices, a larger quantity than originally would be imported at a lower Sri Lankan fob price than in 2) above.

At the time of writing only overall tariff reduction information is available. Information on tariff reductions on specific agricultural exports to specific countries are contained in the schedules of commitments tabled at Marrakesh at the signing of the Final Act on April 15, 1994. Hopefully these will be available with the Dept. of Commerce shortly.

Market-aggregated, product category - specific information, was reported in a GATT Secretariat report, and is set out in Table 1 below. The phasing of reductions was not indicated.

TABLE 1

Developed Country Tariff Reductions on Agricultural Products

Product Category	% Tariff Reduction
<u>All Agricultural Products</u>	
Coffee, Tea, Cocoa, Sugar, etc.	32
Fruits and Vegetables	35
Oilseeds, Fats and Oils	37
Beverages and Spirits	39
Cut Flowers, Plants, Vegetable Materials	47
<u>Tropical Products</u>	
Tropical Beverages	45
Tropical Nuts and Fruits	36
Certain Oilseeds, Oils	38
Spices, Flowers and Plants	51

Source: Table 20, "An Analysis of the Proposed Uruguay Round Agreement With Particular Emphasis on Aspects of Interest to the Developing Countries":GATT Secretariat, November 29, 1993.

Sri Lanka's main agricultural exports are tea, rubber, coconut products, spices, tobacco, fruits and vegetables.

The leading agricultural export is tea. Exports by types of tea are set out in Table 2 below.

TABLE 2

Tea Exports Classified By Type, 1993			
Type	Quantity (tonnes)	Value (Rs. Mill)	FOB Price (Rs/kg)
Bulk Tea	129,093	10,813	83.76
Packeted Tea	74,870	6,669	89.07
Tea Bags	5,138	1,210	235.50
Instant Tea	733	314	428.38
Green Tea	1,170	120	102.56
Other	23	4	173.91
TOTAL	210,452	19,149	90.98

Source: Sri Lanka Tea Board, Sri Lanka Customs External Trade Statistics, Forbes & Walker Ltd.

More detailed figures are provided in Annex 4.

About 25% of **bulk tea exports** are made to advanced countries (EU, USA, Canada, Australia), which already have zero tariffs. Over 50% of bulk tea exports are made to West Asian and North African countries, most of which levy significant tariffs, but of which only Egypt and Kuwait are members of GATT. Egypt levies a 30% tariff on bulk tea; bulk exports to Kuwait are small and already enter duty-free. The remaining markets are large in number but small in offtake. It therefore appears that any benefit to bulk tea exports from the Uruguay Round will depend largely on whatever tariff reduction is made by the major market of Egypt.

About 60% of **packeted tea exports** are made to West Asian and North African countries, many of which have significant tariffs ranging up to 50%, but of which only Egypt and Kuwait are members of GATT. Egypt reduced its tariff on packeted tea from 50% to 40% from February 14, 1994; and Kuwait has a zero tariff. The prospects for reductions is therefore limited. A major new market - by far the largest in 1993 - was Russia, which accounted for nearly 30% of packeted tea offtake; Russia, while not a member of GATT, has a zero tariff on tea. The remaining exports are made to the advanced regions of the EU, the Nordic countries, Australia, New Zealand, and the USA which have zero tariffs. Packeted tea exports too will therefore not benefit to any significant extent from the market access provisions.

About 30% of **tea bag exports** are made to Australia, New Zealand, France and Germany, which have zero tariffs. About 15% is exported to the West Asian markets of Saudi Arabia and Kuwait, which also have zero tariffs. Egypt, which is a member of GATT, reduced its tariff on tea bags from 50% to 40% from February 14, 1994. The West Asian markets of Jordan, UAE and Yemen which are the main tariff-levying countries, are not members of GATT. No significant reductions can therefore be expected.

Instant Tea exports of 733 tonnes, with fob value of around Rs. 314 million, are exported to Germany and the Netherlands and subject to 6% tariffs. The remainder go to the USA, which has zero tariffs, and to Taiwan, which is not a member of GATT. Any benefit will depend on EU tariff reductions, but total instant tea exports are so small that any benefit would be negligible.

Overall, therefore, tea exports will benefit only marginally, if at all, from the market access provisions.

Rubber and rubber goods exports are classified under Chapter 40 of the HS and are therefore outside the scope of the Agreement.

Exports of kernel **Coconut Products** exports are set in Table 3 below.

TABLE 3

Exports of Kernel Coconut Products, 1993		
Product	Quantity (tonnes	Value (Rs. mill)
Coconut oil	2,581	116
Desiccated coconut	36,229	1,555
Copra	4,936	166
Fresh nuts	22 mill(Nos.)	224

Source: Coconut Development Authority

About 40% of exports of the major product, **Desiccated Coconut,** are made to the EU, which has zero tariffs under the GSP. West Asian and North African countries account for about 30% of exports; of these, only Egypt, with an offtake of 5,234 tonnes for Rs. 220 million, is a member of GATT, and has already reduced its tariff from 30% to 20% from February 14, 1994. Latin American countries account for about 10%. Any benefit would therefore depend on tariff reductions in Latin American countries.

Coconut Oil exports are now negligible, the main market being Bangladesh, which as a LDC has no obligation to reduce tariffs.

Copra exports are also negligible, the main market again being Bangladesh, which as a LDC has no obligation to reduce tariffs.

About 60% of exports of **Fresh Coconuts** exports are made to West Asian countries, of whom all the major buyers are not members of GATT. About 25% is exported to EU countries, whose tariff is zero.

Mattress Fibre and Bristle Fibre, the other major coconut products, are outside the scope of the Agreement, being in HS Chapter 53.

Exports of **Tobacco** (HS 2401) amounted to Rs. 1,766 million in 1993. The EU - the Netherlands, Belgium, Germany, and UK- accounted for over 90% of exports. Exports consisted mainly of "Tobacco, not stemmed/stripped" on which the EU MFN tariff is 23% and the GSP tariff is 7%. The MFN tariff reduction which the EU will have to make will therefore erode our GSP margin of preference.

The main **Spice** exports are **Cinnamon Quills (HS 09061001 and HS 09061002), Cinnamon Quillings, Cinnamon Chips, Pepper, Cloves, Nutmeg, Mace and Cardamoms.** A summary of exports by product is set out in Table 4 below.

The main markets for the major export, **Cinnamon Quills,** are Mexico (nearly 50% by value of offtake), USA (20%), Latin American countries - mainly Columbia, Peru, Chile, Guatemala, Ecuador - (10%), EU (5%). The Mexican tariff is 10%, and the USA and EU tariffs are zero. Any benefit for Sri Lanka will therefore mainly depend on the offers made by Mexico and the Latin American countries.

The second largest spice export is **Pepper**. The main markets are Pakistan (25%), India (12%), UAE (9%), USA (7%), Germany (7%) and Greece (6%). Pepper enters the USA and EU duty-free. The UAE is not a member of GATT. Any benefits will therefore depend on reductions made by Pakistan and India.

Cashew Nuts exports amounted to about Rs. 350 million in 1993. The main markets were the UAE, Saudi Arabia, Israel, Hong Kong, Kuwait and Qatar. About 70% of exports were to West Asian countries, which have zero or negligible tariffs, and about 10% to the EU. Of the West Asian countries only Kuwait is a member of GATT.

TABLE 4

Spice Exports by Main Products, 1993		
Product	Quantity (tonnes)	Value (Rs. mill)
Cinnamon quills	6,898	1,408
Cinnamon quillings	515	69
Cinnamon featherings	26	3
Cinnamon chips	472	13
Cinnamon, other	336	69
Cloves	1,160	65
Nutmeg	760	14
Mace	24	2
Cardamoms	14	8
Pepper	9,200	430

Source: Sri Lanka Customs External Trade Statistics, 1993

The main markets for **Processed Fruits and Vegetables** are Belgium, USA, France, UK and Netherlands. The main item in this sector is **Gherkins,** (HS 071140 and HS 210110), whose exports amount to about Rs. 400 million. Tariffs on Gherkins in Brine, the main export to the USA, are as follows:

	MFN Rate	MFN Offer	GSP Rate
Gherkins in Brine	12%	9.6%	zero

Our preferential margin will therefore be narrowed.
Gherkins are subject to the following high duties in the EU:

	MFN Rate	GSP Rate
Gherkins in Brine -	15%	12%
Gherkins in Vinegar -	22%	No GSP offer

More details for gherkin exports are contained in Annex 6.

The main markets for **Fresh Fruits and Vegetables** are the Maldives and some West Asian countries. The *Far Eastern Economic Review* of April 28, 1994 estimates that exporters of **pineapples, mangoes and bananas** would benefit from the reduction of industrial country tariffs by an average 43%. Sri Lanka exports of these products are relatively small - about Rs. 20 million for pineapples, mainly to West Asian countries which are not members of GATT; and less than Rs. 1 million for bananas, all to industrial countries; and less than Rs. 1 million for mangoes. The vegetable sector is reported to be increasing notably in international trade, with intensive promotion by Chile, Mexico, Kenya and South Africa, which is a pointer for Sri Lanka.

The **Floriculture** sector, which is relatively small at present, with exports of Live Plants and Cuttings, Foliage and Cut Flowers adding up to Rs. 270 million in 1993, could benefit from tariff reductions. About 70% of exports are made to the EU. The largest sub-sectors Live Plants and Cuttings and Foliage were performing very well in the EU until the introduction by the EU a few years ago of a zero tariff for our main competitors - Colombia, Costa Rica, Guatemala and Honduras - reportedly for a period of two years. The result was that our exports, facing a tariff of 12% in the EU, became uncompetitive in a market where margins are narrow and lost about Rs. 20 million per year. The zero tariff period for the Latin American countries is due to expire in August 1994, but they are expected to lobby for its extension. The reason for the introduction of the zero duty by the EU is reported to be to provide these Latin American countries with an incentive to switch from narcotics.

It is understood that the tariff for our Live Plants and Cuttings and Foliage is to be reduced by between 51% and 33% over a six year period including a reduction by 15% in the first year, by the EU under the market access provisions of the Agreement. This would involve a reduction of tariff from 12% to between 6-8% over the period, which would be insufficient to overcome the 12% disadvantage facing our exporters currently. The priority is press for the EU tariff structure to be rectified so that all exporters compete on level terms as they once did.

Floriculture is assessed as having high potential in view of the large variety of plants which can be grown in Sri Lanka, the very high local content and the potential high return per hectare. Statistics of exports to the main market are provided in Annex 7.

Tariffication

If non-tariff barriers are in use in some of our markets for agricultural exports, Sri Lanka could expect easier access in the long run as the NTBs are converted to tariffs or tariff quotas. No specific information is available at the time of writing.

MFN Tariff Reductions and GSP

A complicating feature of reductions in MFN tariffs in our markets, under the Agreement on Agriculture, is that under certain circumstances they may not confer any benefit. This is because under the GSP, our exports have the benefit of concessionary tariffs, which are lower than MFN rates, from all major developed countries, including the USA, EU and Japan. Thus Packeted Tea, Cinnamon, Desiccated Coconut, Artificial Flowers and Foliage, enter the EU duty free under the GSP; and Coconut Oil, Fresh Foliage, Passion Fruit Juice, Cut Flowers, Gherkins and Cloves enter the EU at concessional tariffs below MFN rates. Reductions of MFN duties on these products would therefore also automatically reduce our advantage (i.e., MFN rate minus GSP rate), and benefit non-GSP beneficiary exporters (mainly Korea, Hong Kong, Taiwan and Singapore. These NICs have been graduated out of the USA GSP, but remain beneficiaries under the EU and Japanese GSPs. The other possible beneficiaries of a GSP erosion would be certain East European countries, West Asian exporters, and the People's Republic of China. There are two other preferential schemes of which Sri Lanka is a member to which similar considerations apply. These are the Bangkok Agreement and the Global System of Trade Preferences (GSTP).

Tariff Awareness

In order to make use of the opportunities provided by the market access provisions for our exports, it is necessary to monitor tariff levels in the importing markets. It is unfortunate that several exporters of traditional agricultural products do not concern themselves with the tariffs even in markets to which they have been exporting for years. However, exporters of the newer agricultural products were very well informed, and continually pressing for tariff reductions.

Effect of Market Access Provisions on Sri Lankan Imports

Sri Lanka has offered to bind at 50% the tariffs on 2128 tariff lines.

The bound level is the maximum tariff level established by a country. A bound tariff cannot be increased without incurring liability to pay compensation.

Of the 2128 bound tariff lines, around a third are agricultural items. Among the tariff lines bound by Sri Lanka at 50% are a wide range of agricultural products including meats, fish, milk, milk powder, fruits, vegetables, nuts, spices, coffee, seeds, sugar, maize, starches, oils and fats, cocoa, pastries, fruit juices, and food preparations. Due to the level of tariffs in the base period and the subsequent lowering of tariffs as a matter of policy, the bound rate is slightly higher than the actual rates, and there will be no tariff effect on imports.

There are import controls (discretionary licensing) on Wheat, Wheat Flour, Maize, Big Onions, Red Onions, Chillies and Potatoes, because imports are needed only if there is crop failure or short supply at certain times of the year. These controls are used to encourage domestic production, including production in the Mahaweli area.

Import licensing is regarded as a non-tariff barrier, calling for tariffication. Already, proposals by the private sector for the removal of import licensing on these products and their replacement by import duties are under consideration.

Effect of Market Access Provisions on Sri Lankan Domestic Agriculture

The import controls referred to above in the preceding section are imposed to encourage domestic production, especially in the Mahaweli area. Removal of such controls would be a disincentive to domestic production of the protected crops, unless an equivalent tariff is introduced. Removal, also of course may increase the incentive to reduce other crops.

3. DOMESTIC SUPPORT REDUCTION COMMITMENTS

Countries are required to reduce trade-distorting domestic supports by 20% of the 1986-88 level, over 6 years, beginning 1995, (Art 6) in equal annual installments. For developing countries, the extent of reduction is 13.3%, over 10 years.

The quantum of support is measured by the Aggregate Measure of Support (AMS), calculated for each product. The AMS has three components - market price support, non-exempt direct payments to producers (such as marketing loans), and non-exempt other subsidies (such as storage payments, commodity loan interest subsidies). Market price support is measured by the gap between domestic and world market prices for a product multiplied by the quantity of production eligible for export, the figures being the average for the years 1986-88. (Annex 3 of the Agreement).

"Domestic support cuts are not actually made in the support price itself, but rather in the gap (the Aggregate Measure of Support-AMS) between the supported internal price and the external reference price ... In any case, the 20% cut in the gap by 1999 [sic] would result in annual reductions in the gap of 3.3% beginning in 1995 .... assuming that the domestic price is no more than a third higher than the external price, the effect is likely to be no more than a 1% reduction in the support price each year. [20% of 33% divided by 6 = 6.6% /6 or about 1%] ... The GATT agreement would allow any lost income to producers from these cuts to be offset by direct income payments that may be tied to environmental or other similar activities, but may not be tied to production."

[Source: American Farm Bureau Federation Summary of the Uruguay Round Agreement on Agriculture]

Domestic subsidies are generally market price support (such as guaranteed price) schemes, or any other subsidy; subsidies include both budgetary expenditures and revenues foregone. However, some subsidies are not subject to reduction in developing countries only, and some are not subject to reduction if they are not trade-distorting.

Domestic subsidies which are not subject to reduction in developing countries (Art 6) are -

a) direct or indirect government assistance to encourage agricultural and rural development, which are an integral part of development programmes in developing countries

b) investment subsidies which are generally available to agriculture

c) agricultural input subsidies generally available to low-income or resource poor producers

d) subsidies to producers to encourage diversification from growing illicit narcotic crops

e) product-specific domestic subsidies which do not exceed 10% of the value of production of the product

f) non product specific domestic subsidies which do not exceed 10% of the value of total agricultural production

The basis for the exemption of domestic subsidies from reduction commitments is set out in Annex 2 of the Agreement. The fundamental requirement is that they should have no, or minimal, effects on production; such measures are termed "green box" policies". Subsidies should be provided through a publicly funded programme not involving consumers, and not providing price support. Among such payments not liable to reduction are -

i) research
ii) pest and disease control
iii) training services
iv) extension and advisory services
v) marketing and promotion services
vi) capital expenditure on infrastructural services, such as electricity, roads, market and port facilities, water supply, dams
vii) public stockholding for food security purposes, including aid for private storage of products
viii) Domestic food aid for sections of the population in need.
ix) decoupled income support, i.e., support not related to production or prices.
x) government income-insurance programmes
xi) crop insurance schemes against natural disasters
xii) payments under clearly defined environmental or conservation programmes
xiii) payments under regional assistance programmes to producers in disadvantaged regions

All the exemptions set out above would be applicable to Sri Lanka.

Exemptions for Developing Countries

The major exemptions which will be available to Sri Lanka, as seen from the above list of subsidies, are set out below.

Agricultural and Rural Development, Investment Subsidies, Input Subsidies

Government support to encourage agricultural and rural development which are an integral part of the development programmes of developing countries, investment subsidies which are generally available to agriculture in developing countries and agricultural input subsidies which are generally available to low-income or resource-poor producers in developing countries, are exempt from domestic support reduction commitments. (Art 6.2). Subsidies on fertilizer, water and power would be exempt from reduction requirements.

Product Support Below 10% of Value of Production

Product-specific domestic support which does not exceed 5% (10% for developing countries) of the total value of production of the product, and non-product-specific domestic support which does not exceed 5% (10% for developing countries) of the total value of production of total agricultural production, will also not be subject to reduction requirements (Art 6.4).

Minimal Trade/Production Distorting Effects

Domestic supports are not subject to reduction if they have only minimal trade or production distorting effects. Examples ("green box" programmes) are disaster relief, domestic food aid programmes, food security stockholding, income insurance, structural adjustment and-long-term land retirement programmes, environmental payments, infrastructural works and services, direct or de-coupled payments to producers. General services to agriculture such as research, pest control, extension services, marketing and promotion services, infrastructural services, are also exempt. (Annex 2 of the Agreement).

Countervailing duties may be levied against domestic subsidies subject to reduction.

Countervailing duties shall not be levied against the exempt categories of support mentioned above. (Art 13).

Effect of Domestic Support Reductions on Sri Lanka Exports

Subsidies are payable for the production of tea, rubber, coconut, and spices. The subsidies payable on tea in 1993 were as follows:

	Rs. million
New Planting	50
Replanting	29
Tea Factory Development	45
CTC Factory Modernisation	134

Source: Central Bank Annual Report 1993.

With the value of tea production in 1993 being over Rs. 20,000 million, total subsidy payments are well below 10% of value of production and therefore do not incur any reduction obligation.

Rubber, as mentioned earlier in the Market Access section, is outside the scope of the Agreement.

The following subsidies were paid for **coconut products** in 1992:

	Rs. million
Rehabilitation	7.9
Replanting/underplanting	26.5
New Planting	8.3
Pasture	0.1

Source: Coconut Development Authority: Sri Lanka Coconut Statistics 1992'

With the value of domestic consumption plus exports exceeding Rs. 9,000 million, total subsidy payments are well below 10% of value of production and therefore do not incur any reduction obligation.

Minor export crops - including **cinnamon, cloves, pepper, coffee, cocoa, nutmeg, cardamom and citronella oil** - received subsidies under the Export Agriculture Crop Assistance Scheme of the Department of Agriculture. Total subsidies amounted to only Rs. 35 million, compared to a total value of production for these products of over Rs. 2,000 million. No reduction obligation arises.

Tobacco, a major export amounting to Rs. 1,945 million in 1993, receives no government subsidies.

Fruits and Vegetables, a significant export, receive no domestic subsidies.

Domestic support for all these products would not be subject to reductions because they are far below 10% of the value of production.

Sri Lanka's agricultural exports will therefore not be affected by the Domestic Support Reduction Commitments section.

Foreign countries' subsidy reductions are not likely to create any opportunities for Sri Lanka exports, because the products affected whose prices would rise are mostly temperate products. The most protected items are wheat, dairy products, sugar and meat. Rice is also subsidised in the USA and EU.

Effect of Domestic Support Reductions on Sri Lankan Imports

Elimination or reduction of agricultural subsidies (both domestic and export) abroad will lead to increases in world market prices for basic foodstuffs, especially prices of the most protected items (wheat, dairy products, sugar, meat); and of rice.

Sri Lanka imports significant quantities of sugar, milk powder, rice and wheat flour.

Some of Sri Lanka's major agricultural product global and individual countries' imports are set out in Tables 5 to 9 below.

TABLE 5

Imports of Selected Agricultural Products, 1993

Item	Quantity (Tonnes)	Value (Rs. million)
Sugar	393,539	5,621
Milk Powder	35,887	3,424
Rice	208,806	2,385
Palm oil	44,921	937
Wheat flour	34,420	552
Wheat	7,322	50

Source: Sri Lanka Customs External Trade Statistics, 1993

TABLE 6

Imports of Sugar from Main Sources, 1993		
Source	Quantity (Tonnes)	Value (Rs. million)
India	146,165	2,074
PRC China	124,150	1,758
Thailand	94,202	1,354
Brazil	18,290	262
Myanmar	9,316	122

Source: Sri Lanka Customs External Trade Statistics, 1993

Imports of **sugar** are made mainly from India, PR China and Thailand. China is not a member of GATT; no subsidy reduction requirement arises in India; and Thailand's subsidy status is not yet known. Indications are that the 1993 pattern of imports will continue. However, the USDA Economic Research Service estimates that world sugar prices will increase by 2-5% between 1994 and 2000, and by 4-8% from 1994 to 2005, largely due to the reduction of subsidised exports from South Africa and the EU.

TABLE 7

Imports of Milk Powder (Full Cream) from Main Sources, 1993		
Source	Quantity (Tonnes)	Value (Rs. million)
New Zealand	16,848	1,667
Denmark	5,034	495
Belgium	4,303	382
Netherlands	1,330	119
Germany	1,234	106
France	1,204	106
Australia	690	63
UK	528	47
USA	13	6

Source: Sri Lanka Customs External Trade Statistics, 1993

New Zealand is the main source of **full cream milk powder** imports, but sizeable quantities are imported from EU countries as well. The reduction of subsidies in the EU could lead to lower production and higher prices. If the New Zealand Dairy Board follows its usual policy of adjusting prices according to European prices, the import prices of all full cream milk powder exports would increase. Total expenditure on imports would depend on the elasticity of demand for full cream milk powder.

TABLE 8

Imports of Rice from Main Sources, 1993		
Source	Quantity (Tonnes)	Value (Rs.Million)
Vietnam	69,152	747
India	41,897	563
Pakistan	26,233	307
Thailand	18,558	214
Indonesia	22,933	240
Myanmar	20,298	208

Source: Sri Lanka Customs External Trade Statistics, 1993.

Imports of rice are set out in Table 8. Except for the main supplier, Vietnam, all the others are members of GATT. Their subsidy reduction commitments are not yet known. The USA, which accounts for about 20% of world rice exports, has no internal support reduction commitments. The EU, which accounts for about 7% of world rice exports, is expected to have to reduce its subsidised exports. An increase in world prices is therefore possible. If Sri Lanka achieves total self sufficiency from its present level of 85% it can escape the effects of an increase in international prices.

TABLE 9

Imports of Wheat Flour from Main Sources, 1993		
Source	Quantity (Tonnes)	Value (Rs. million)
USA	34,356	549

Source: Sri Lanka Customs External Trade Statistics, 1993

Estimates of the impact of the agricultural subsidy reductions abroad vary. According to the U.S. Advisory Committee for Trade Policy and Negotiations (15th January 1994), and the American Farm Bureau Federation Summary of the Uruguay Round Agreement on Agriculture, the effect is likely to be no more than a 1% reduction in the support price each year. According to the U.S. Agricultural Policy Advisory Committee (March 1994) commodity-specific and sector-wide subsidies are already 20% below the 1986-88 base, and no further reductions are required. The USDA Research Service estimates an increase of wheat prices by 2 to 3% by 2000. A *Financial Times* Survey of December 16, 1993 estimated a 10% increase in world agricultural prices, which they state were depressed due to export subsidies. While the American Farm Bureau Federation estimate is confined to the effect of US internal supports, the *Financial Times* estimate refers to world export subsidies. For Sri Lanka, this means that if the price of wheat flour, which is imported almost entirely from the USA, increases more than estimated by the USDA Research Service, we may face higher international wheat prices.

Effect of Domestic Support Reductions on Domestic Production

The Paddy Marketing Board operates a paddy purchasing scheme. In 1993, purchases at the guaranteed price of Rs. 155/- per bushel amounted to 46,000 tonnes, or about 2% of total production. No reduction obligation arises in view of the negligible percentage.

The Paddy Marketing Board operated a Floor Price Scheme for eight selected minor food crops during 1993. The crops were maize, kurakkan, groundnut, soyabean, gingelly, cowpea, green gram and black gram. Again, purchases were a negligible proportion of production, and no reduction obligation therefore arises.

If subsidy reductions abroad increase import prices of sugar, milk powder, rice and wheat flour sufficiently, domestic production of sugar and dairy products and/or substitutes, and of rice and substitutes for wheat, may be stimulated. The 1993 import prices of rice, sugar and wheat were as follows:

Rice -	Rs. 11,425/- per tonne c & f
Sugar -	Rs. 14,172/- per tonne c & f
Wheat -	Rs. 7,272/- per tonne c & f

Domestic production of rice and sugar is set out in Table 10.

However, any increase in prices caused by the Uruguay Round will be magnified by the effect of the world rice shortage by the year 2000 being forecast by the International Rice Research institute in the Philippines, particularly because world trade in rice is a very small proportion of world rice production, rendering prices volatile'

1. Stagnant Agriculture and the Growing Cereal Deficit: Dr. J.B Kelegama, Sunday Leader, June 19, 1994

TABLE 10

Domestic Production of Rice and Sugar, 1993		
Item	Production (tonnes)	Approx % of total demand
Rice	2,564,000	84
Sugar	68,603	15

Source: Central Bank Report 1993.

4. EXPORT SUBSIDY REDUCTION COMMITMENTS

The Agreement requires subsidies on agricultural exports to be reduced by

36% in value and 21% in tonnage for developed countries, over six years, in equal annual installments

24% in value and 14% in tonnage for developing countries, over ten years, in equal annual installments

nil for LDC's

from the base period 1986-90, or, where export subsidies have increased, the base period-1991-92.

Subsidy cuts must be 6% in value or 4% in tonnage terms in the first year, but can be as little as 3% by value or 1.75% in tonnage terms for each subsequent year, as long as the overall targets are reached over the applicable period.

Subsidies subject to reduction commitments are stated in Art. 9.1 to include -

a) direct government payments/subsidies contingent on export performance.

b) disposal of publicly-owned agricultural stocks at a price below the domestic market price.

c) export subsidies financed by virtue of government action, including subsidies financed by levies on the product concerned.

d) subsidies to reduce the cost of marketing exports of agricultural produce (other than generally available export promotion and advisory services) including transport and freight.

e) government-mandated internal transport/freight charges on terms more favourable than for domestic shipments.

f) subsidies on agricultural products contingent on their incorporation in exported products.

However, Art. 9.4 states that developing countries are not required to reduce subsidies (d) and (e) above.

The commitment on export subsidies includes undertakings not to introduce subsidies on commodities that did not receive subsidies during the base period. Export subsidies "of concern" will remain subject to countervailing duties.

In addition, Annex 1 of the Agreement on Subsidies and Countervailing Measures (SCM) lists the following as constituting export subsidies:

g) currency retention schemes

h) full or partial exemption, remission or deferral of direct taxes related to exports

i) the exemption or remission of indirect taxes on exported products compared to the indirect taxes on the same products sold for domestic consumption

j) import duty drawbacks in excess of the actual duties levied

k) government-arranged export credit insurance if the premium rates are inadequate to cover the long-term operating costs

However, Art. 27.2 of the SCM under its section headed Special and Differential Treatment for Developing Country Members, taken together with Annex VII of the SCM, provide that LDCs will be exempt from export subsidies, and that designated developing countries (including Sri Lanka) will be exempt until their GNP per capita reaches US $ 1,000. This means that Sri Lanka will be exempted from export subsidy reduction obligations until its GNP per capita reaches US $ 1,000. Sri Lanka's GNP per capita in 1993 was US $ 588. If growth from 1994 onwards can be maintained at 6%, GNP per capita will top US $ 1,000 by the year 2003, from which year Sri Lanka will be subject to export subsidy reductions on the items listed above except for d) and e).

Effect of Export Subsidy Commitments on Sri Lankan Exports

No agricultural exports appear to fall within the scope of export subsidy requirements. There are marketing subsidies for tea, which are exempt from reduction requirements; rubber and fibre are not covered by the Agreement; and there are no export subsidies for coconut products, spices, tobacco; there is a negligible export subsidy for fresh fruits and vegetables packed in imported packing material.

Effect of Export Subsidy Commitments Abroad on Sri Lankan Imports

Domestic support reductions and export subsidy reductions will together affect import prices. The most heavily subsidized products which are imported into Sri Lanka are sugar, full cream milk powder, rice and wheat flour.

Sugar is our largest agricultural import by value. The EU uses export subsidies for sugar and is obliged to reduce them, but is not a major supplier to Sri Lanka. The main sources in 1993 (Table 6) were India, the People's Republic of China, Thailand, Brazil and Myanmar. India has no subsidy reduction obligation; China is not a member of GATT; and the subsidy status of Thailand is not yet known. Indications are that the present pattern of imports will continue, but the expected reduction of subsidised sugar exports from the EU and South Africa is estimated by the USDA to increase world sugar prices by 4-8% between 1994 and 2005.

New Zealand is the major source of imports of milk powder, followed by the EU, as seen in Table 8 above. The impact on import prices of milk products will depend on the extent and phasing of EU subsidy reductions. Of course it is the combined effect of reductions in EU domestic and export subsidies which will ultimately affect import prices. It is understood that the New Zealand Dairy Board adjusts its prices according to the movement of European prices. The overall effect would therefore be a rise in price, with total expenditure on imports depending on the elasticity of demand for full cream milk powder.

An increase in import prices would help the domestic milk industry, which produces about 25% of the country's milk requirements and has to contend with severe competition from full cream milk powder imports.

US dairy products are subsidized under the Dairy Export Incentive Program (DEIP), but imports from the USA are negligible.

The USA accounts for nearly all of Sri Lanka's imports of Wheat Flour - 34,356 tonnes of cif value Rs. 549 million in 1993, imported on favourable terms under the USAID PL 480 programme. Wheat is covered by the US Export Enhancement Programme (EEP), which is subject to reduction. The US Department of Agriculture estimated in March 1994[4] that wheat prices would increase on 1994 levels by 2-3% by 2000 and 7-8% by 2005.

If these estimates are correct the effect on Sri Lanka's import expenditure on wheat should be small. But if the combined effect of the reductions in US wheat export subsidies and internal supports results in the run-down of surplus stocks and a higher than expected rise in prices, Sri Lanka will face higher international prices for Wheat.

The EU also currently uses export subsidies for wheat, and is obliged to reduce them. Imports from the EU are negligible, but any reduction in subsidised exports would increase world prices.

Relief for Net Food Importing Countries

Sri Lanka as a net food-importing country could have recourse to the Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries (Art. 16). The provisions of the Decision are described in the separate section on page 35.

Effect of Export Subsidy Commitments on Domestic Production

Since no Sri Lankan agricultural exports are subject to export subsidy reductions, there will be no effect on domestic production.

Export and domestic subsidy reductions are expected to be small and gradual, but the reduction of subsidised exports of sugar, milk powder, rice and wheat flour is likely to result in increases in world prices by the year 2005. The extent to which domestic production will be stimulated will be known only when foreign countries' domestic and export subsidy reduction commitments become available.

5. <u>SANITARY AND PHYTOSANITARY MEASURES</u>

Included in the Agreement on Agriculture is an Agreement on the Application of Sanitary and Phytosanitary Measures. These are measures adopted to protect human, animal or plant life or health from the risks arising from the spread of pests or diseases or from additives or contaminants found in food, beverages or foodstuffs. The object of the agreement is to ensure that such measures are not used as disguised barriers to trade. The establishment of a multilateral framework of rules guided by standards developed by international bodies is therefore encouraged.

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4. Effects of the Uruguay Round Agreement on U.S. Agricultural Commodities: United States Department of Agriculture Economic Research Service, March 1994.

The agreement recognizes that governments have the right to take sanitary and phytosanitary measures but that they should be based on science, applied only to the extent necessary to protect human, animal or plant life or health, be transparent, and should not be arbitrarily discriminate between countries where similar conditions apply.

Three international organizations are recognized for their expertise in setting standards - the Codex Alimentarius Commission (CODEX), concerned with protecting the health of consumers, ensuring fair practices in the food trade, and promoting the co-ordination of food standards; the International Office of Epizootics (OIE), concerned with health and sanitary requirements for the import and export of animals; and the International Plant Protection Convention (IPPC), concerned with developing plant quarantine requirements and other measures to prevent the international spread of plant pests and diseases. Countries are encouraged, but not required, to harmonize their measures on the basis of these bodies' international standards. Countries may adopt stricter standards provided they can be justified.

The Agreement establishes a Committee on Sanitary and Phytosanitary Measures, which would provide a forum for consultations, maintain contact with other relevant organizations, and monitor the process of international harmonization.

There is a school of opinion that harmonization of food standards could lead to lower safety standards in many countries, since many Codex standards are lower than national standards. The Sri Lanka authorities state that international harmonization would not pose any difficulties, since Sri Lanka national standards are sometimes higher than Codex standards.

There is no problem for plant quarantine requirements and other measures to check the spread of plant pests and diseases either, since Sri Lanka standards are basically in conformity with IPPC requirements. In addition, a new National Plant Quarantine Unit (NPQU), to be set up shortly, will be one of the most advanced in Asia.

Effect of Sanitary and Phytosanitary Agreement on Sri Lanka Exports

Exporters are affected only when their buyers require a phytosanitary certificate. Occasionally exporters of tea and spices are called upon to furnish certificates, and they have had no problems in obtaining them. Checks are also carried out in buyers' markets, particularly in Japan for most products, and in Australia and New Zealand for floricultural products. The establishment of the new NPQU is expected to reduce the level of checking overseas.

Effect of Sanitary and Phytosanitary Agreement on Sri Lanka Imports

Sri Lanka operates a Plant Quarantine system which is implemented by the Director of Agriculture. The system operates under the broad umbrella of the International Plant Protection Convention of 1952, which functions in accordance with FAO guidelines. The IPPC's regional commission, the Asian Pacific Plant Protection Commission, classifies pests that cannot be introduced to the region. The SPS is not expected to pose any problems for imports, since our standards basically conform to IPPC requirements.

Effect of Sanitary and Phytosanitary Agreement on Sri Lanka Domestic Production

None.

6. PATENTS ON PLANT VARIETIES

A section of the Agreement on Trade-Related Aspects of Intellectual Property Rights, Including Trade in Counterfeit Goods (TRIPS) impinges on agriculture. The relevant clauses of Article 27 from Section 5 - Patents, read as follows:

> "2. Members may exclude from patentability inventions, the prevention within their territory of the commercial exploitation of which is necessary to protect .. human, animal or plant life.."
>
> "3. Members may also exclude from patentability:
>
> (a) diagnostic, therapeutic and surgical methods for the treatment of humans or animals;
>
> (b) plants and animals other than microorganisms , and essentially biological processes for the production of plants and animals other than non-biological and microbiological processes. However, members shall provide for the protection of plant varieties either by patents or by an effective sui generis system or by any combination thereof. The provisions of this sub-paragraph shall be reviewed four years after the entry into force of the Agreement establishing the MTO."

In addition, Article 28 provides that patents shall cover both products and processes. This would shut out the possibility of producing a patented product by another process. Article 34 requires countries to provide that in certain circumstances the burden of proof shall be on the alleged infringer.

The background needs explanation. Before the Green Revolution, farmers relied on seeds which they themselves had developed over generations to suit indigenous conditions. The Green Revolution saw the advent of hybrid seeds evolved by plant breeders to increase yield. With the emphasis on yield, farmers increasingly turned to these seeds. Over the years, however, it became apparent that the new seeds, while increasing yield, had lower resistance to pests and disease. Plant breeders therefore continually manipulated the composition of the seeds (the "microbiological processes" of TRIPS Article 27) to try and remove their deficiencies, but they usually surfaced after a while. In the meantime, the traditional seeds had become extinct, so that farmers were heavily dependent on the plant breeders.

During this process the plant breeders sought protection for their new hybrids, with only partial success. The International Union for the Protection of New Varieties and Plants (UPOV) Convention provided protection for plant breeders, but preserved farmers' rights, as described later. Indian patent law did not provide such protection. The Sri Lankan Code of Intellectual Property Act No. 52 of 1979, at Chapter XI, has the following clause on the patenting of plant varieties:

Section 59(3) ".. The following .. shall not be patentable-

(a) plant or animal varieties or essentially biological processes for the production of plants or animals other than micro-biological processes and the products of such processes."

Section 81 of Act No. 52 of 1979 provides for the granting of both product and process patents. The Indian Patent Act of 1970 is reported to restrict both product and process patents.

As Dr. Ranaweera observes, "The large investments being made in plant genetic research by biotechnology companies are part of a global trend towards the commercialization and privatization of research into genetic resources. Such companies need to safeguard the returns on their investment, and are pressing for intellectual property protection over their inventions, including those that consist of life forms...'

The TRIPS clause evoked a violent reaction from Indian farmers, apparently on the grounds that -

a) multinational plant breeders would be able to patent seeds by genetically modifying farmers' seeds

b) the farmers' contribution, i.e., the development of these seeds over generations through indigenous knowledge, to the point where they served as raw material for modern plant breeding and biotechnology, would be ignored and unrewarded

c) the patents would greatly increase the cost to farmers and researchers of acquiring new seeds

d) the patents would affect the traditional practice of farmers retaining and exchanging seeds between themselves.

The following extract from an Indian magazine sets out the Indian view.

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3 *The GATT Agreement and its Impact on Domestic Agriculture: Dr.N.F.C.Ranaweera*, paper presented at a Workshop on The GATT Agreement and Its Impact on Sri Lanka's Agricultural Sector, May 18, 1994.

"…. the Dunkel Draft provides that protection has to be provided '…. either by patents or by an effective sui generis system or by any combination thereof ….' Critics argue that the effective sui generis system does not …. allow any flexibility to individual countries to protect the rights of farmers and scientists but represents an internationally accepted system known as the plant-breeder's rights (PBR) developed by the International Convention on Protection of New Varieties - better known as the UPOV Convention of 1961 - mainly for the commercial plant breeders (the multinational corporations or MNCs) in the developed countries. These rights were strengthened further in 1991 - so much so that farmers who were allowed to breed protected varieties of plants on their own holdings will now have to pay royalty to the original plant breeders. Researchers will also be denied the use of protected plant varieties. Apart from the unethical aspect of these patents or PBRs (much of these improvements are on the basis of the gene stock carefully nurtured by the farmers over thousands of years), they would, if implemented, significantly curtail the farmer's right to use and propagate seeds - and to exchange them - without incurring substantial additional costs.

There is …. a view that countries which are not signatories to UPOV may be allowed the option of joining the earlier UPOV Convention which recognizes the farmers' exception - i.e., the right of farmers to retain seeds for non-commercial propagation at no extra cost …. there are grey areas …. - mainly because of differences ….. between the USA and the EC - which might give developing countries some manoevrability…" [4]

Indian government officials have expressed the view, however, that TRIPS provides sufficient latitude for national legislation which can safeguard farmers' and researchers' rights.

As further background, extracts from a recent research paper are reproduced below.

"Historically, farmers have collected and stored their own seed, selecting among local planting materials, taking advantage of natural outcrosses and mutations in plants, and exchanging seed with one another. Only with the advent of the science of genetics and modern advances in seed technology were more formal institutions established to supply farmers with seed with genetic or physiological properties superior to that produced and disseminated through traditional systems..The dominant pattern among the developing countries is use of farmer-saved seed, especially for staple food crops..Even in India and Thailand, where the national seed systems have advanced considerably, almost all of the seed planted for major food crops is farmer-saved or derived from local, informal sources. Farmers apparently purchase replacement seeds from commercial sources only once every eight years or so in India and once every three or four years in Thailand.." [5]

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4. Probe India, January 1994

5. *The Roles of the Private and Public sectors in Enhancing the Performance of Seed Systems, by Steven Jaffee and Jitendra Srivastava*, in World Bank Research Observer, Vol.9, No.1, January 1994.

Effect of TRIPS Patent Clause on Sri Lanka

In considering the effect of the TRIPS Patent clause on Sri Lankan agriculture, it is important to note relevant previous and concurrent developments. Chief among these are the Global Biodiversity Convention and the UPOV Convention. Their relationship to the GATT Patents is described in the quotations below.

> "The Global Biodiversity Convention which ..became operational on December 29, 1993 states:
>
> > 'Reaffirming that states have sovereign rights over their own biological resources and
> >
> > Reaffirming that states are responsible for conserving their biological diversity and for using their biological resources in a sustainable manner'
>
> Since Sri Lanka is a signatory to both these declarations, it is essential that legal, scientific and administrative measures are initiated without delay to ensure that these agreements are strengthened and not allowed to erode the food security of the nation and the livelihood of the 1.8 million farmer families in Sri Lanka. It is also important that any legislation formulated to take follow-up action on the GATT agreement and the Biodiversity Convention is mutually consistent and reinforcing.." [6]
>
> "The precursor to these activities was the UPOV Convention (International Union for the Protection of New Varieties and Plants) which ensured that the member states of the Union acknowledged the achievements of breeders of new plant varieties by making available to them an exclusive property right..
>
> From 1961 to 991 the UPOV Convention provided breeders and farmers with the privilege of using protected varieties for specific purposes. However,with the growing privatization of plant breeding research on the one hand, and the increasing size of farm holdings ir industrialized countries on the other, the demand for eliminating the breeders exemption and the farmers privilege grew.
>
> This resulted in a modification of the UPOV Convention in 1991 in two significant respects. First, UPOV strengthened the position of PBR holders by eliminating the breeders exemption for an essentially derived variety..
>
> Secondly from the inception of UPOV in 1961, farmers have been allowed to use their own harvested material of the protected varieties for the next production cycle on their own farms...the 1991 UPOV Convention contains an optional exception which provided

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6 *The GATT Agreement and Its Impact on Domestic Agriculture: Dr. N.F.C.Ranaweera*, paper presented at a Workshop on The GATT Agreement and its Impact on Sri Lanka's Agricultural Sector, May 18, 1994.

that it was up to a national government to decide whether to permit farmers to use the seed of a PBR protected variety for propagation purposes on their own holdings (Art. 15.2 of the 1991 UPOV Convention).

During the last few years, discussions at various fora such as the FAO Commission on Plant Genetic Resources, Keystone International Dialogue on Plant Genetic resources (1988-91) and UNCED have clearly brought about consensus on the need for developing .. methodology for recognizing and rewarding the intellectual contributions of .. tribal women and men in relation to Plant Genetic resources .." [7]

Some countries and regions have taken steps to protect their genetic stock and/or recognize farmers' contributions. ".. the State of Queensland in Australia has passed legislation giving it intellectual property rights over genetic information embodied in the plants and animals found within Queensland... A proposal for varietal protection currently under consideration by the European Parliament includes provision for farmers' privilege in saving seed. Further, it exempts 'small farmers' defined as farmers with holdings of about 20 hectares producing about 92 tonnes of cereals per year from payment of remuneration to breeders. Most of our farmers in Sri Lanka are 'small farmers'.. In India, the Madras Consultation of January 1994 on Plant variety protection mechanisms has proposed that the legal instrument [to recognize farmers' contribution] be titled 'Plant Varieties Recognition and Rights Act .. Australia and Canada have..enacted PBR legislation (1989 and 1990 respectively). Both .. have large government financed plant breeding programmes .." [8]

With this background, there is a clear need to develop a Plant Breeders Rights system tailored to the requirements of Sri Lanka, which has over 5,200 species of plants, including about 3,350 flowering plants, about a third of which are endemic to Sri Lanka. Major food plants of significance to national food security amount to about 750.

The effects of the GATT Patents clause are described by Dr. Herath as follows:

"The extension of IPR to biological products raises new economic and farming system problems. Two forms of IPR are relevant to plant genetic resources: patents and plant breeders rights. A patent protects a product or process..Patents usually permit the holder to forbid commercial use, sale or manufacture of the protected product or process by others for a period of 17-20 years.

Plant breeders rights allow a protected variety to be used without permission from the holder and without the payment of royalty for the purpose of breeding other varieties. Under the new patent law of GATT this right is not exclusively preserved. This will have a negative impact on the development of new high breed varieties, because a variety

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7 Dr. N.F.C.Ranaweera, op cit.

8 Dr. N.F.C. Ranaweera, op. cit.

which is required as a parent could be obtained only after a payment of royalty to the holder. Particularly,a public institute such as the DEA [Department of Export Agriculture] will have difficulties in securing funds for royalty payments. The immediate result will be a limited access to a common pool of genetic resource, which is an essential condition for plant breeding." [9]

To quote Dr. Ranaweera again, "Presently, almost 95% of the crop varieties grown in our country are the products of the research carried out in the Agriculture Research Institutes in the Department of Agriculture or the Crop Institutes. Sri Lanka's plant breeding enterprise is primarily in the public sector. While the individual strengths of our breeding centres may vary, their collective strength is considerable. If we nurture this scientific strength carefully and fully involve the rural sector in building the edifice of a decentralized, high quality seed industry, we can meet the seed requirements of our farmers. If we do not have a protection system, the work of Sri Lankan plant breeders will be available to others free, while we will have to pay royalty for what we get from outside.." [10]

Since the TRIPS Patent clause could have adverse effects on our agriculture, and since the whole subject of plant patents is complex, with a considerable history previous to the GATT initiative, a strong technical, scientific and legal content, and concurrent developments in other fora, it is recommended

1) that a working group, drawing on the Department of Agriculture, the Universities, the Crop Research Institutes, lawyers specialized in patents, and any others who can contribute, should be set up as a matter of urgency to recommend legislation which among other things would retain the breeders exemption, strengthen farmers privilege, and protect our genetic stock

2) that legislation should be enacted within five years of the entry into force of the Agreement Establishing the WTO, which is the period for which Sri Lanka, as a developing country, is not obliged to apply the provisions of TRIPS (Art.65.1 and Art. 65.2 of TRIPS).

3) that the legislation should bear in mind that Sri Lanka is a signatory not only to the Uruguay Round of GATT but also to the Global Biodiversity Convention of 1993.

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9 *The Effects on the Export Agricultural Sector*: Dr. Anura Herath, paper presented at a Workshop on the GATT Agreement and its Impact on Sri Lanka's Agricultural Sector, May 18, 1994.

10 Dr. N.F.C.Ranaweera, op. cit.

7. AGREEMENT ON SUBSIDIES AND COUNTERVAILING MEASURES (SCM)

The SCM deals with the technicalities of subsidies and countervailing measures, including definitions; prohibited, actionable and non-actionable subsidies; the calculation of subsidy amounts; procedures to be followed in instituting and maintaining countervailing measures; and special treatment for developing countries. The SCM covers all the accords under the Uruguay Round.

Of particular relevance to Sri Lanka's agricultural sector is Art. 27.2. of the SCM, which, taken together with Annex VII of the SCM, effectively exempt Sri Lanka from export subsidy reduction commitments for many years. Details were described in the section on Export Subsidy Reduction Commitments on page 24.

8. DECISION ON MEASURES CONCERNING THE POSSIBLE NEGATIVE EFFECTS OF THE REFORM PROGRAMME ON LEAST-DEVELOPED AND NET FOOD-IMPORTING DEVELOPING COUNTRIES

This Ministerial decision provides for relief measures for LDCs and net food-importing countries which find it difficult to maintain normal levels of commercial imports consequent to the greater liberalization of trade in agriculture. The situation envisaged is one where the availability of basic foodstuffs at reasonable prices is reduced, and such countries find it difficult to finance normal levels of import of basic foodstuffs.

Accordingly, the decision calls for food aid commitments sufficient to meet the needs of developing countries during the reform programme; seeks to provide an increasing proportion of basic foodstuffs on concessional terms; and calls for aid programmes to provide technical and financial assistance for improving agricultural productivity and infrastructure. Sri Lanka, as a net food-importing country, would be entitled to the relief measures under this Decision if it encountered difficulties in importing basic foodstuffs.

9. MONITORING AND DISPUTE RESOLUTION

A Committee on Agriculture will monitor the implementation of commitments undertaken under the Agreement, to review notifications of new or revised support measures, and other matters of concern (Art. 17,18). The Committee will operate in conjunction with the secretariat of the new World Trade Organization (WTO) created by the Uruguay Round.

Disputes will be settled under the Understanding on Rules and procedures Governing the Settlement of Disputes, which covers all the agreements negotiated in the Uruguay Round, including the agreements on agriculture, sanitary and phytosanitary measures, and intellectual property.

Consultations and dispute settlement procedures will be those currently available under existing GATT rules as modified by the Uruguay Round Understanding on Rules and Procedures Governing the Settlement of Disputes. This Understanding covers time limits for dispute resolution, appeals procedure, rights to panels, rights of appeal, adoption of panel reports unless there is a consensus to reject a report, and authorized retaliation, including cross-retaliation. Currently, there is no time limit on dispute settlement actions, there is no right to a panel, and any panel report can be rejected by a single country.

The provision for cross-retaliation is new and controversial, providing for retaliation across sectors and across agreements.

This would mean, for example, that an alleged violation of a provision of say the General Agreement on Trade in Services (GATS) relating to say banking could lead to retaliation against say agricultural exports, falling under the purview of the Agreement on Agriculture.

10. RECOMMENDATIONS FOR ACTION

The GATT Agreement on Agriculture covers the important topics of tariff reductions, tariffication, the reduction of domestic and export subsidies, and sanitary and phytosanitary measures; and the Agreement on TRIPS includes the controversial Plant Patent clause.

The government policy of liberalization and economic reform since 1977, which was greatly accelerated since 1989, itself involved the removal of many import controls, and the continuing reduction of tariffs and subsidies. These conditions, combined with the structure of the agricultural export and import trade and the pattern of exports and imports, and the several concessions available to developing countries, shield the agricultural sector from adverse effects from the Uruguay Round of GATT.

However, it became apparent during this study that there are several areas in which improvements need to be made to ensure that we continue to avoid any possible adverse consequences and, more importantly, take advantage of the opportunities provided by the phased reduction of tariffs over the next decade.

The most alarming defect is the abnormally low awareness at all levels of the private and public sectors about GATT, and indeed about other smaller systems such as the Generalized System of Preferences (GSP), the Global System of Trade Preferences (GSTP), the Bangkok Agreement, and the proposed South Asian Preferential Trade Area, in which Sri Lanka is also involved. The number of persons in Sri Lanka who have any detailed knowledge of GATT can probably be counted on the fingers of one hand.

This situation calls for two urgent and concurrent courses of action. First, a team of at least twenty persons should be built up, with the existing centre of expertise, the Department of

Commerce, at the core. This "GATT Watch" group, would include private and public sector personnel, and should harness expertise in the fields of agriculture, fiscal planning, international trade law, export marketing, imports, trade statistics, and information technology. Members of the group should be required to specialize in specified important areas both within and beyond the scope of the Agreement on Agriculture. A special arrangement needs to be made in relation to the TRIPS Plant Patents clause, because, as explained in the section on Patents on Plant Varieties, the issue is complex and legislation needs to be introduced. Second, a readable bulletin on GATT affairs, based on GATT's own Newsletter, but highlighting features of special interest to Sri Lanka, should be issued at a minimum frequency of one every two months in order to build up general awareness about GATT. In view of the technical nature of much of the subject matter, and the daunting nature of much of the existing literature (e.g., the Final Act of the Uruguay Round), this will require specialized analytical and communications skills.

As a corollary of these courses of action, Chambers of Commerce and Industry should be assigned the task of organizing their members so as to obtain a continuous inflow of information, independent of government channels, which could serve as supplementary input for government policy-makers. It is well known that the in the advanced countries their private sectors spearheaded some of the new initiatives in the Uruguay Round, and provided powerful and expert support to their government delegations. We should aim at reaching a similar position.

This brings us to the question of trade information and commercial intelligence. Although trade information has improved over the past few years, it is still available too late to the general public; it is available earlier in computer printout form, but at high cost and in a layout which makes it difficult to read. Tighter deadlines, higher standards of production, and more flexible tabulations need to be introduced. This would involve upgrading of Customs statistics, and networking with focal points such as the EDB Trade Information Service, the Sri Lanka Business Development Centre, and the leading Chambers. There is already a Customs project for computerization which aims at Electronic Data Interchange with users such as government agencies concerned with trade, Chambers of Commerce and Industry, and major individual companies. The ongoing project could be used, with the assistance of the GATT Watch group, to meet the needs of GATT analysis.

A specific GATT-related need in the area of trade information is for the Government to obtain quickly the schedules of commitments made under the Uruguay Round, which should nave been completed by the date of signing of the Final Act in Marrakesh on April 15, 1994. Presumably the GATT Secretariat would have these available in computer diskettes, and Sri Lanka should be entitled to copies. The data would be essential for further work on the effects of the Uruguay Round not only on Agriculture but on Industry and Services as well.

The level of commercial intelligence is also inadequate. Information available in various bodies about tariffs is often outdated, perhaps because the original documents are costly to obtain and because the information flow from trade representatives abroad needs to be improved. The private sector too needs to reorientate itself on such matters; for example, several exporters are not aware of the tariffs in markets to which they have been selling for years, which raises the important question how Sri Lanka could benefit from lower tariffs when some exporters are not even aware what the tariff is. This points to a certain apathy and a need to sharpen the marketing skills of exporters - skills which will also be needed to meet increased competition from other developing country exporters. It is noticeable however that exporters of the newer agricultural products, such as processed fruits and vegetables, and horticultural products, are far more alert to the problems posed by tariffs than exporters of traditional products.

In view of the prospect of increases in world prices of sugar, milk powder, rice and wheat flour, the feasibility of increased domestic production in these areas and/or substitutes as well as of diversified crops should be examined.

While we incur no subsidy reduction obligations on agriculture under GATT at present, it would be advantageous to have in place an early warning system, and an advisory service, perhaps from the GATT Watch group, to alert government and the private sector to the implications of alternative measures of assistance to agriculture.

In sum, while we ensure that we do not incur subsidy reduction obligations, we should aggressively improve the market- and information-orientated measures which are necessary to take full advantage of global tariff reductions; and prepare for the domestic agricultural opportunities which may arise due to the world price increases mentioned above.

COVERAGE OF AGREEMENT ON AGRICULTURE

The Agreement covers products classified under HS Chapters 1 to 24 less fish and fish products, and a few other HS Codes and Headings.

Chapter headings 1 to 24 as summarized in the Sri Lanka Customs document "External Trade Statistics" are -

1. Live Animals
2. Meat and Edible Meat Offal
3. Fish and Crustaceans, Molluscs and Other Aquatic Invertebrates
4. Dairy Produce Birds Eggs Natural Honey Edible Products of Animal Crigin n.e.s.
5. Products of Animal Origin, n.e.s.
6. Live Tree and Other Plants Bulbs Roots and the Like Cut Flowers and Ornamental Foliage
7. Edible Vegetables and Certain Roots and Fibres.
8. Edible Fruit and Nuts Peel of Citrus fruit or Melons
9. Coffee,Tea, Mate and Spices
10. Cereals
11. Products of the Milling Industry Malt Starches Wheat Gluten
12. Oil Seeds and Oleaginous Fruits Miscellaneous Grains Seeds and Fruit Industrial or Medicinal
13. Gums, Resins and Other Vegetable Saps and Extracts
14. Vegetable Planting Materials Vegetable Products n.e.s.
15. Animal or Vegetable Fats and Oils
16. Preparations of Meat and Fish or Crustaceans
17. Sugar and Sugar Confectionery
18. Cocoa and Cocoa Preparations
19. Preparations of Cereals, Flour, Starch or Milk
20. Preparations of Vegetables, fruits, Nuts or Other Parts of Plants
21. Miscellaneous Edible Preparations
22. Beverages, Spirits and Vinegar
23. Residues and Wastes From The Food Industries
24. Tobacco and Manufactured Tobacco Substitutes

The HS Codes and Headings also covered by the Agreement are -

HS Code	29.05.43	mannitol
HS Code	29.05.44	sorbitol
HS Heading	33.01	essential oils

HS Headings	35.01 to 35.05	albuminoidal substances, modified starches, glues
HS Code	38.09.10	finishing agents
HS Code	38.23.60	sorbitol n.e.p.
HS Headings	41.01 to 41.03	hides and skins
HS Heading	43.01	raw furskins
HS Headings	50.01 to 50.03	raw silk and silk waste
HS Headings	51.01 to 51.03	wool and animal hair
HS Headings	52.01 to 52.03	raw cotton, waste and cotton carded or combed.
HS Heading	53.01	raw flax
HS Heading	53.02	raw hemp

The coverage of the Agreement on Sanitary and Phytosanitary Measures will not be limited to the above products.

N.B.

Rubber and rubber products (HS Ch. 40), bristle, mattress, and twisted fibre (HS Ch. 53.05) are outside the coverage of the Agreement.

SRI LANKA EXPORTS SUMMARY FOR HS CHAPTERS 1 TO 24, 1993

HS Chapter	Description	Value (Rs. mill)
1	Live Animals	-
2	Meat and Edible Meat Offal	56
3	Fish and Crustaceans, etc	2,113
4	Dairy Produce, Eggs, Honey, etc.	79
5	Products of Animal Origin, n.e.s.	63
6	Live Trees and Plants, Cut Flowers Ornamental Foliage	287
7	Edible Vegetables, etc	495
8	Edible Fruits and Nuts	2,261
9	Coffee, Tea, Spices	21,855
10	Cereals	32
11	Milled Products, Starches, etc	336
12	Oil Seeds, Miscellaneous Fruits, Grains	300
13	Gums, Resins, etc	13
14	Vegetable Planting Materials, Veg. n.e.s.	263
15	Animal & Vegetable Fats and Oils	239
16	Preparations of Meat, Fish, Crustaceans	11
17	Sugar & Sugar Confectionery	9
18	Cocoa and Cocoa Preparations	8
19	Preparations of Cereals, Flour, Starch	48
20	Preparations of Vegetables, Fruit, Nuts	173
21	Miscellaneous Edible Preparations	449
22	Beverages, Spirits, Vinegar	24
23	Food Residues, Animal Fodder	-
24	Tobacco Manufactured Tobacco Substitutes	1,948

Source: Sri Lanka Customs External Trade Statistics, 1993

SRI LANKA IMPORTS SUMMARY FOR HS CHAPTERS 1 TO 24, 1993

HS Chapter	Description	Value (Rs. mill)
1	Live Animals	44
2	Meat and Edible Meat Offal	60
3	Fish and Crustaceans, etc	1,967
4	Dairy Produce, Eggs, Honey, etc.	3,602
5	Products of Animal Origin, n.e.s.	87
6	Live Trees and Plants, Cut Flowers, Ornamental Foliage	22
7	Edible Vegetables, etc	2,275
8	Edible Fruits and Nuts	301
9	Coffee, Tea, Spices	803
10	Cereals	3,174
11	Milled Products, Starches, etc	651
12	Oil Seeds, Miscellaneous Fruits, Grains	219
13	Gums, Resins, etc	53
14	Vegetable Planting Materials, Veg. n.e.s.	256
15	Animal & Vegetable Fats and Oils	2,326
16	Preparations of Meat, Fish, Crustaceans	502
17	Sugar & Sugar Confectionery	5,762
18	Cocoa and Cocoa Preparations	59
19	Preparations of Cereals, Flour, Starch	308
20	Preparations of Vegetables, Fruit, Nuts	85
21	Miscellaneous Edible Preparations	536
22	Beverages, Spirits, Vinegar	767
23	Food Residues, Animal Fodder	826
24	Tobacco Manufactured Tobacco Substitutes	1,385

Source: Sri Lanka Customs External Trade Statistics, 1993

TEA EXPORTS

TABLE 1

TEA EXPORTS CLASSIFIED BY TYPE, 1993			
Type	Quantity Tonnes	Value Rs. Mill	FOB Price (Rs. per kg)
Bulk tea	129,093	10,813	83.76
Packeted tea	74,870	6,669	89.07
Tea bags	5,138	1,210	235.50
Instant tea	733	314	428.38
Green tea	1,170	120	102.56
Other	23	4	173.91
Total	210,452	19,149	90.98

Sources: Sri Lanka Customs External Trade Statistics, 1993, Sri Lanka Tea Board, Forbes & Walker Ltd.

TABLE 2

BULK TEA EXPORTS (HS 09024001) TO MAIN MARKETS, 1993, AND TARIFFS

Market	Quantity (tonnes)	Value (Rs.mill)	Import Duty	Other Taxes
Syria	16,197	1,234	7%	nil
UK	13,297	1,057	nil	nil
Egypt	11,620	836	30%	
Jordan	9,374	630	17% + 60 dinars/t	
UAE	9,278	831		
Pakistan	8,013	609	40%	21.7%"
Iran	7,558	700	31 rials/kg	3r/kg"
Japan	4,820	588	2.5	
Russia	4,782	390	nil	
Germany	4,702	465	nil	nil
USA	3,944	329	nil	nil
Netherlands	3,056	266	nil	6%"
Chile	2,959	238		
Italy	2,683	226	nil	9%"
South Africa	2,389	210	nil	5%"

Sources: Sri Lanka Customs External Trade Statistics, 1993, International Tea Committee.

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7. 15% sales tax, 5% Iqra surcharge, 1.7% octroi

8. Commercial profits tax

9. Value Added Tax

9. Value Added Tax

11. Import surcharge

TABLE 3

PACKETED TEA EXPORTS (HS 09023001) TO MAIN MARKETS, 1993 AND TARIFFS

Market	Quantity (tonnes)	Value (Rs.mill)	Import Duty	Other Taxes
Russia	20,103	1,548	nil	
Jordan	14,277	1,099	17% + 70 dinars/t	
UAE	8,194	725		
Libya	7,925	719	nil or 20%[12]	neg.
Saudi Arabia	6,381	735	nil	nil
Yemen	3,081	239	15%	10%[13]
Turkey	2,871	237		
Syria	1,526	151		
Kuwait	1,271	131	nil	
Germany	1,046	99	nil	

Sources: Sri Lanka Customs External Trade Statistics, 1993, International Tea Committee.

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12. Nil for imports by supplier corps, 20% for other imports

13. Defence Tax 5%, Statistical Charge 2%, Exchange Difference 3%

TABLE 4

TEA BAG EXPORTS TO MAIN MARKETS, 1993, AND TARIFFS

Market	Quantity (tonnes)	Value (Rs.mill)	Import Duty	Other Taxes
Australia	1,134	275	nil	nil
Saudi Arabia	657	143	nil	nil
Poland	480	99		
Jordan	371	52	17% + 70 dinars/t ?	
France	216	57	nil	nil
UAE	172	35		
Kuwait	166	37	nil	nil
Hungary	165	58		
New Zealand	141	24	nil	
Canada	123	36	nil	
Germany	100	28	nil	
Egypt	82	15	40%	
Yemen	60	12	15%	10%[14]

Sources: Sri Lanka Customs External Trade Statistics, 1993, International Tea Committee.

TABLE 5

INSTANT TEA EXPORTS TO MAIN MARKETS, 1993, AND TARIFFS

Market	Quantity (tonnes)	Value (Rs.mill)	Import Duty	Other Taxes
Germany	352	138	6%	nil
Netherlands	127	59	6%	6%[15]
France	122	57	6%	

Source: Sri Lanka Customs External Trade Statistics, 1993, International Tea Committee.

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14. Defence Tax 5%, Statistical Charge 2%, Exchange Difference 3%

15. Value Added Tax

COCONUT PRODUCTS EXPORTS

Coconut products constitute one of the three traditional staple agricultural exports, the other two being tea and rubber.

Statistics of coconut product exports are set out in Table 1.

TABLE 1

Coconut Product Exports, 1993

Product	Quantity (tonnes)	Value (Rs. mill)
Desiccated Coconut	2,366	1,555
Fresh C'nuts	22.3 million (Nos.)	224
Copra	4,936	166
Coconut Oil	2,581	116
Coconut Cream	473	31
Mattress Fibre	22,633	175
Bristle Fibre	6,558	171
Twisted Fibre	23,797	258
Coir Yarn	1,316	31
Coir Twine	1,425	66
C'nut Shell Charcoal	2,995	38
C'nut Shells & Flour	1,077	15
Activated Carbon	13,605	749
Coconut Ekels	12,073	117
C'nut Finished Goods	54 million (Nos)	434
Other By-products	9,012	74
TOTAL		4,222

Source: Coconut Development Authority

FRUITS AND VEGETABLES

Exports of fruits and vegetables have increased significantly over the past few years. In 1993, exports were as follows:

Fresh Fruits and Vegetables - Rs. 259 million
Processed Fruits and Vegetables- Rs. 628 million.

The main markets for fresh fruits and vegetables were the Maldives and some West Asian countries. Tariffs are 15% in the Maldives, 12% in Saudi Arabia, and zero in the Gulf.

The main markets for processed fruits and vegetables were Belgium, USA, France, UK and Netherlands. The main item in this sector is gherkins, which enter the USA duty-free but are subject to high duties in the EU (details below).

A summary of exports of processed fruits and vegetables, classified by product categories, is set out in Table 1 below.

TABLE 1

Exports of Processed Fruits and Vegetables by Product, 1993		
Product	Quantity (tonnes)	Value (Rs. mill)
Gherkins in Brine	9,846	309
Gherkins	2,184	83
Passion Fruit	129	7
TOTAL	12,160	400

Source: Sri Lanka Export Development Board.

Gherkins Total Exports

Sri Lanka exported 12,235 tonnes of gherkins in 1993, up from 8,853 tonnes in 1992. The trend of exports over the past five years has been steadily upward. Exports to the main markets are set out in Table 2 below.

TABLE 2

GHERKIN EXPORTS TO MAIN MARKETS, 1993	
Market	Tonnes
Belgium	2,801
USA	2,137
France	2,047
Netherlands	1,555
UK	1,466
Canada	619
Australia	527
Japan	453
Spain	367
Turkey	138
New Zealand	112
Italy	13
South Korea	1
Total	12,235

Source: Sri Lanka Customs External Trade Statistics, 1993.

Exports to EU Countries

Exports of Gherkins in Brine and Gherkins in Vinegar to the EU account for about 66% of total gherkin exports.

Tariffs in the EU are -

	MFN Rate	GSP Rate
Gherkins in Brine (HS 07114000) -	15%	12%
Gherkins in Vinegar (HS 200110)-	22%	No GSP offer

Sri Lanka faces competition from countries which face no tariffs, such as Turkey, and from counties which have generous preferential tariff quotas, such as Morocco.

EU importers prefer sources which produce year-round, such as Sri Lanka.

The EU market has great potential, because the labour intensive nature of gherkin plucking makes the operation uncompetitive in the EU countries. However, Sri Lanka exports to the EU are constrained by the high tariffs.

The reduction or removal of import duty into the EU would enable Sri Lanka to compete on equal terms and would probably lead to an increase in exports and consequently acreage under gherkins.

Exports to USA, Canada and Australia

There are no import duties on imports of Sri Lanka gherkins. Exports to these countries account for about 25% of total exports.

The USA's MFN rates on fresh gherkins will be reduced from a range of 6.6% to 3.3% to a range of 5.6% to 1.5% ; and on pickled gherkins from 12% to 9.6%. Sri Lanka's GSP margin will therefore be reduced.

Effects of Tariff Reductions required under Uruguay Round

The effect of tariff reductions would therefore depend on whatever tariff reductions would be made by EU countries.

PLANTS AND FLOWERS

TABLE 1

EXPORTS OF LIVE PLANTS AND CUTTINGS (HS 0602) TO MAIN MARKETS, 1993		
Market	Quantity (tonnes)	Value (Rs. mill)
Netherlands	123	50.9
Germany	64	19.5
Japan	22	11.8
Denmark	49	11.7
UK	18	6.8
France	13	3.0
Pakistan	4	3.0
Singapore	12	3.0
Lebanon	3	1.2
UAE	4	1.2
TOTAL	348	120.3

Source: EDB Trade Information Service

TABLE 2

EXPORTS OF FOLIAGE, BRANCHES, ETC (HS 0604) TO MAIN MARKETS, 1993		
Market	Quantity (tonnes)	Value (Rs. mill)
Netherlands	146	40.6
Germany	138	29.0
Switzerland	180	12.5
Japan	48	9.3
Italy	94	5.6
Denmark	17	2.5
Kuwait	5	2.2
UK	1	1.7
Australia	1	1.5
TOTAL	670	111.0

Source: EDB Trade Information Service

TABLE 3

EXPORTS OF CUT FLOWERS (HS 0603) TO MAIN MARKETS, 1993		
Market	Quantity (tonnes)	Value (Rs. mill)
Japan	12	8.5
Hong Kong	5	6.2
Australia	6	5.0
Thailand	7	4.3
UAE	4	3.5
Bahrain	5	1.7
Maldives	3	1.6
TOTAL	60	34.5

Source: EDB Trade Information Service

TOBACCO

Exports of Tobacco (HS 240110, 240120), 1993	
Market	Value (Rs. million)
Netherlands	1,034
Belgium	455
Germany	162
UK	30
Dominican Republic	21
Belarus	18
Others	46
TOTAL	1,766

Source: Sri Lanka Customs External Trade Statistics, 1993.

AN OVERVIEW OF THE URUGUAY ROUND AGREEMENT, AND THE PROVISIONS FOR THE AGRICULTURAL SECTOR - DOUGLAS JAYASEKERA

The Uruguay Round of Multilateral Trade Negotiations which was launched in 1986, were finally concluded after seven long years in 1993 - three years behind schedule.

The complexity of the negotiations was such, that this was not entirely unexpected. The Uruguay Round, dealt not only with Tariff and non-tariff barriers to trade, which is the traditional domain of the GATT, but ventured further afield to cover the integration of Textiles and Clothing into the GATT; Trade in Agriculture; Trade in Services; Trade Related Intellectual Property Rights; Trade Related Investment Measures etc. In other words, the Uruguay Round dealt with the whole gamut of trade, investment, technology and services. The Uruguay Round has entered substantially into the hitherto, sovereign economic space of countries.

The Uruguay Round Agreements have been accepted and signed, despite misgivings in many countries, particularly developing countries. The Uruguayan Foreign Minister, who presided at the Morocco Ministerial Meeting in April 1994, captured the mood of many countries, when he spoke of "a sense of shared disappointments".

Nevertheless the Uruguay Round is in place, and would be implemented from 1995. It is a fait accompli, and one has to learn to live with it. Many countries have accepted the Uruguay Round Agreements with a sense of distrust and resentment, while others have accepted them somewhat effusively. I think as a small trading nation, Sri Lanka has to look at the Agreements pragmatically, and study the Agreements in some detail and in depth, in order to maximise any opportunities which may exist, in the interpretation and implementation of the Agreements.

Trade in Agriculture has had a long and chequered history. Because of the pressure and importance of farm lobbies, and their significant presence in local and national elections, the Agriculture Sector has been able to obtain a considerable amount of protection from most Governments. Agriculture was accorded a special status within the GATT, and domestic farm programmes were regarded as sacrosanct.

Agriculture here refers to temperate zone agriculture such as wheat, maize, rice, sugar, soya, sorghum, diary products etc. Agricultural trade amounts to around 13% of merchandise trade, a significant, though declining share.

Most of the significant protection to agriculture was accorded by the countries of Western Europe, North America and Japan. The protection and subsidies granted by these countries, had over the years become a severe drain on their exchequer. It has also caused disputes and friction among the main protagonists. These countries were looking for a way out from the cycle of protection and subsidies. The opportunity presented itself with the launching of the Uruguay Round in 1986. The Ministerial Declaration of 1986 aimed to liberalise agricultural trade and make it more orderly and predictable. With this in view, the 1986 Declaration called for the reduction of import barriers, the phased reduction of all direct and indirect subsidies, and to bring all measures affecting market access and export competition under strengthened, and more operationally effective, GATT rules and disciplines.

Almost 120 countries participated in the Uruguay Round Negotiations. However, the agricultural negotiations were dominated by the U.S.A. and the European Union, with the Cairns Group and Japan playing supportive roles. The Cairns Group of 14 countries comprised both developed and developing countries, and consisted of, among others, Australia, Argentina, Brazil, Canada, New Zealand, Thailand, Indonesia, Malaysia and Uruguay. The Cairns Group is responsible for about 25% of global farm exports.

The inclusion of agriculture into the Uruguay Round, brings farming into a set of international rules for the first time. The Agreement on Agriculture under the Uruguay Round, which was concluded on 15 December 1993, and formally signed on April 15th, 1994, covers products classified under the H.S. (Harmonised System) Chapters 1 to 24, plus a few others such as essential oils, hides and skins, silk, wool, cotton etc. Fish and fish products, rubber and rubber products and fibre are outside the scope of the Agreement. The Agreement comes into force in 1995, January 1st or soonest thereafter.

The main provisions of the Agreement are the sections on:

- Market Access
- Domestic Support Reduction Commitments
- Export Subsidy Commitments and Sanitary and Phytosanitary Measures.

In addition the Patents Clause of the Agreement of Trade Related Intellectual Property Rights (TRIPS) contains a section on plant varieties which could affect agriculture.

These market access provisions of the Agreement require that aggregate import protection i.e. tariffs and tariff equivalents, should be reduced in equal installments on average by 36% over six years for developed countries, and by 24% over ten years for developing countries. No individual product reduction may be less that 15% for developed countries, or less than 10% for developing countries. The base period is 1986 for existing tariffs, and 1986-88 for tariff equivalents. Non tariff barriers such as quotas, import licensing, variable import levies, minimum import prices, etc., have to be converted to tariffs, by a process termed tariffication. Developing countries may claim exemption from tariffication, for measures they may take for balance of payments reasons under Article XV111 of the GATT. There is also provision for exemption from tariffication in the case of imports comprising less than 3% of domestic consumption in 1986-88. Tariff reductions were to be supplemented by minimum access provisions, applying to all national markets, set at 3% of the importers' base year domestic consumption, in the first year, rising to 5% by the end of the implementation period. This appeared to be aimed specifically at Japan and the Republic of Korea, which had maintained total import prohibitions on imports of rice. The Japanese and Korean Governments had to survive sustained opposition to these market opening moves. In fact the Korean Prime Minister and a number of his colleagues resigned over this issue, in response to widespread protests by farmers. There are safeguard mechanisms provided for import surges caused by tariffication. There are also special treatment clauses which enable countries to delay tariffication until the end of the implementation period.

To assess the effect of the market access provisions on Sri Lanka's agricultural exports, more detailed information at a disaggregated level is required, than what is now available. What is now available is information relating to overall tariff reductions. The more specific information had not reached us, though it should have been contained in the Schedules of Commitments tabled at the formal signing of the Agreement in Morocco last month. From the information available, it would appear that exports of bulk tea from Sri Lanka would not be affected by the market access provisions to any significant extent, since most of our exports are to West Asian and North African countries, most of which are not members of the GATT, and are not therefore obliged to take on any commitments under the Uruguay Round. The exception in this region is Egypt, which is a GATT member. The other significant market for bulk teas are the developed countries of the European Union, U.S.A., Australia, which already have zero tariffs, either under MFN or GSP. Again as far as packeted teas are concerned, the prospects for reductions are limited, since more than 50% of our exports are to West Asian and North African countries, which do not have to take on any commitments to reduce. The exception again is Egypt, which reduced its duty from 50 to 40% in February 1994. A major market which emerged in 1993 was the former U.S.S.R. The countries of the C.I.S. are not members of the GATT either, and did not participate in the Uruguay Round negotiations. About 60% of Desiccated coconut exports are to the European Union, which offers GSP zero tariffs. Another 25% goes to West Asian and North African countries, of which only Egypt is a GATT member and has any obligations. Egypt reduced its tariffs from 30% to 20% in February 1994. Exports of Tobacco unmanufactured, from Sri Lanka have increased appreciably in the last couple of years. Almost 90% of exports are to the European Union, where there is a GSP preference, which is likely to be eroded by any MFN tariff reductions. Processed fruits and vegetables have also emerged as a significant export for Sri Lanka. The main markets are in the European Union and U.S.A. The main item in this sector is Gherkins. The offer made by the U.S.A. to reduce its MFN tariff from 12% to 9.6% will erode the GSP duty free preference, granted to Sri Lanka, and other developing countries.

From the above description of reduction and commitments on certain of our export products, it is clear that a MFN tariff reduction is not an unmixed blessing. MFN reductions though welcome in some cases, in others may have the effect of eroding the GSP preferences, which we already enjoy. This is a matter for further study, as and when, further detailed desegregated information becomes available. In addition to the GSP, Sri Lanka is a beneficiary under the Bangkok Agreement, where cloves come to mind immediately, and also under the GSTP - the Global System of Trade Preferences among developing countries. As an example, Egypt and Sri Lanka are both members of the GSTP. The MFN tariff preferences which Egypt, for example, has reduced on Tea and Desiccated coconut - are they at the expense of GSTP preferences? This should be a subject for further detailed study.

As to the effects of market access provisions on Sri Lanka's imports, Sri Lanka has offered to bind at 50% the tariffs on 2128 tariff lines. A bound tariff, if revised upwards, could result in compensation to the principal suppliers of that product. The Sri Lanka bound rate is higher than the actual rate, hence there will be no immediate effect on imports. However once the implementation of the results of the Uruguay Round commences, Sri Lanka would have to reduce its aggregate tariffs by 24% over 10 years. The base year for reducing tariffs is 1986, and hence the 24% target over ten years may have already been achieved by Sri Lanka. This is in the context of a further reduction in tariffs announced in the 1994 Budget, where the maximum rate which is now at 45%, is to be reduced to 35% in 1995. A reduction in the maximum rate would be accompanied by reductions in the other rates too.

The discretionary licensing which Sri Lanka has on certain essential foodstuffs - onions, potatoes, chilies, etc. - would probably qualify for exemption from tariffication. The exemption provisions of Article 5, particularly those relating to food security may apply in Sri Lanka's discretionary licensing of vital food supplies.

In addition to market access reductions, the Agreement on Agriculture requires countries to reduce trade distorting domestic supports by 20% of the 1986-88 level over 6 years. The obligation on developing countries is 13.3% over 10 years. As far as developing countries are concerned, Government support to encourage agricultural and rural development, investment subsidies, and agricultural input subsidies, which are generally available to low income or resource poor producers, are exempt from domestic support reduction commitments. It is very likely that subsidies on fertilizer, water and power, could be covered under these exemptions. Any domestic policies outside the above exceptions, would have to exceed 5% of the total value of production of a product or product sector, to be subject to reduction commitments. In the case of developing countries, the ceiling is 10%. Given the magnitude of our agricultural production, the possibility of our domestic input support policies reaching 10% are virtually non existent. The support given to the Tea, Coconut and Spices are well below 10% of the total value of production of these products, and hence should be exempt from domestic support reductions commitments.

The Agreement requires subsidies on agricultural exports to be reduced by 36% in value, and 21% in tonnage, for developed countries over 6 years; and 24% in value, and 14% in tonnage, for developing countries over 10 years. These reductions are from the base period 1986-88, or where export subsidies have increased, the base period is 1991-92. Subsidies include direct government payments/subsidies, contingent on export performance; and subsidies on agricultural products, contingent on their incorporation in exported products. As far as Sri Lanka's agricultural exports are concerned, there are no significant subsidies. There is a negligible duty rebate on packing materials for fruits and vegetables. The effect of Export Subsidy Commitments abroad on Sri Lanka's imports, are somewhat unclear at the moment. According to a GATT Secretariat Report, the Agreement will result in 50 million tons less of subsidised wheat on the world markets, from 1995 - 2000. Subsidised exports also include 600,000 tons of butter, 60,000 tons of cheese, 1.2 million tons of beef, 19 million tons of coarse grains, and 1.8 million tons of sugar. The removal of such vast quantities of subsidised exports which are overhanging the market, is likely to result in increased prices, at least in the short to medium term. The highest increases in world prices are likely to be for products, which have benefitted from a high degree of protection, such as wheat, diary products, sugar and meat.

What would be the position of developing countries like Sri Lanka, which are dependent on food imports, in case world market prices rise? The Agreement on Agriculture will take account of the negative effects of the reform programme on net food importing developing countries, like Sri Lanka. There is provision for food aid, provision of basic foodstuffs in full grant form, and aid for agricultural development.

The Agreement on Agriculture also includes a section on the application of Sanitary and Phytosanitary Measures. These measures are adopted to protect human, animal or plant life. Such measures should not be used as disguised barriers to trade. Three international organisations are recognised for their expertise in setting standards - the Codex Alimentarius which will promote the coordination of food standards; the International Office of Epizootics concerned with health and sanitary requirements for the import and export of animals; and the International Plant Protection Convention (IPPC) concerned with developing plant quarantine requirements to prevent the international spread of plant pests and diseases. Countries are encouraged to harmonise their standards on the basis of these international standards.

Not everybody seems happy about the manner in which standards are to be harmonised. Many national standards are for example, higher than Codex food standards. Those who wanted to press for higher standards seem frustrated. Ralph Nadar has been quoted in the 'Financial Times' as stating that many U.S. standards are stronger than Codex standards. He fears that the harmonisation could undermine bans on hormone treated beef, restrictions on food irradiation, meat and poultry inspection, and nutritional labelling. As far as our authorities are concerned, they state that international harmonisation would not pose any difficulties, since in most cases our standards are based on international standards, and in some cases they are even stronger.

The Trade Related Intellectual Property Rights (TRIPS) Agreement, which is a part of the Uruguay Round Agreement, also has an impact on agriculture. The TRIPS agreement excludes from patentability plants and animals, but micro organisms and micro biological processes must be patented. So far as plant varieties which include seeds are concerned, they must be protected either by a patent or by an effective sui generic system (i.e. a system of its own, unique) or by a combination of both, as each country may choose.

In addition, it is stated that patents shall cover both products and processes. Farmers have a role, particularly in developing countries, in maintaining biodiversity among the plant genetic resources used for food and agriculture. They have developed thousands of seed varieties adapted to local needs. The growth of the biotechnology industry has given rise to demands from the developers of new plant varieties, for more effective intellectual property protection over their inventions, and the genetic resources they contain. Farmers have no alternative to these hybrids, because their traditional varieties are becoming extinct, after 30 years of green revolution technology. Hybrids are in gene banks and this has caused a great deal of uproar and bitterness, particularly among the Indian farming community. It is not clear whether this would be an acute problem to our farmers. I believe Dr. Ranaweera would be addressing this problem more comprehensively and the relevance of the Sri Lanka patent law to the on going controversy. It appears that the Sri Lankan law does provide protection to new hybrids, unlike the Indian patent law.

There will be a Committee on Agriculture to monitor the implementation of the Agreement on Agriculture. Disputes will be settled on the basis of the rules and procedures currently available under the GATT, as modified by the Uruguay Round understanding which set up a World Trade Organisation, to oversee the implementation of the Uruguay Round Agreements, as a whole. The Uruguay Round Agreements provide for cross retaliation, providing as it does for retaliation across sectors and across agreements. This would mean that any violation of a provision in the sector of agriculture, could lead to retaliation in, for example, the sector of services. This is a new and controversial development, which is feared in many countries, given the manner in which the more developed countries have conducted their business previously.

Annex 10

THE GATT AGREEMENT AND ITS IMPACT ON SRI LANKAN AGRICULTURAL SECTOR

EXPORT AGRICULTURAL SECTOR

by

Anura Herath[1]

INTRODUCTION

The purpose of this paper is to highlight the impact of the Uruguay Round of General Agreement on Trade and Tariff (GATT) on the Export Agriculture Sector. The paper focuses on spices (pepper, cinnamon, cardamom, cloves, nutmeg and mace), beverage crops (coffee and cocoa) and essential oils (cinnamon leaf and bark oil, citronella oil etc.) collectively known as Export Agriculture Crops (EAC).

Specifically the paper focuses on the possible implications of the following five provisions in the agreement on the EAC sector:

[1] Market Access Provision;
[2] Domestic Support Provision;
[3] Export Subsidy provision;
[4] Sanitary and Phytosanitary Measures; and
[5] Patents on Plant Varieties

The analysis is mainly descriptive and conceptual. An empirical treatment requires very specific information which is lacking at present. However, the implications are, as far as possible, supported by the data available locally.

THE PROVISIONS AND THE IMPACT ON EAC

[1] Market Access Provision:

Provisions Relevant to the EAC Sector:

- Convert all non-tariff barriers (NTBs) to tariff equivalents (variable levies and quotas are included). Tariff quota will operate as follows. For a given commodity, the same level of imports will be allowed to enter as entered during the base period (1986-88 average) under low or non-restrictive tariffs. Once that level of imports is reached in a given year, a higher tariff will be implemented to limit additional imports.

- Reduce tariff (including tariff equivalents mentioned above) by 36% on a simple average basis over the period 1995 to 2000 (but no tariff may be reduced by less than 15% for developed countries and 10% for the developing countries).

- Establish a special quantity-triggered and price triggered import safeguard for agricultural products subject to tariffication. This is a special safeguard mechanism to temporarily limit the imports. If (1) the volume of imports during the marketing year exceeds a certain amount, or (2) the import price of the commodity in question falls below the average price during the base period, a tariff safeguard measure could be employed.

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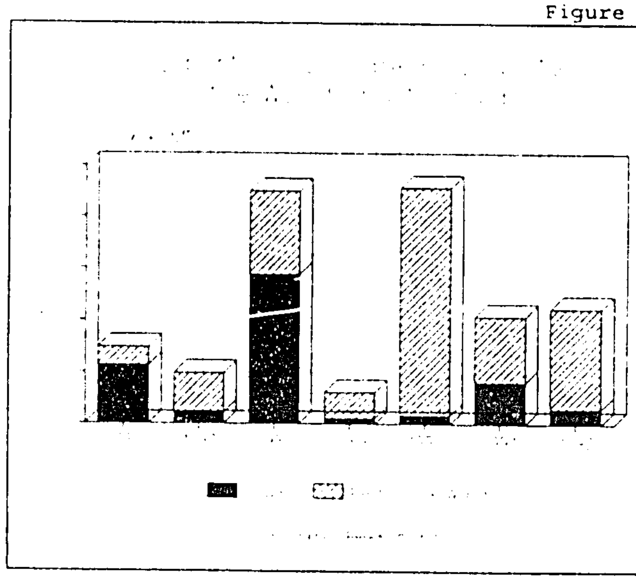
Impacts on the EAC Sector:

♦ **Removing NTBs:**

This provision, in general, will have a positive impact on the EAC exports. Presently all our EAC exports, except for <u>cloves</u> have access with no transparent non-tariff barriers. If at all the quality standards have acted as a non-tariff barrier. Therefore, an increase in the amount of the exports cannot be readily expected.

However, the case of the clove trade with India is different. Presently India has a non-tariff barrier in addition to the tariff barrier for Sri Lankan clove. Cloves is included in the national List of Concessions under the BANGKOK AGREEMENT. Under this agreement the rate of import tariff as of 1993 is 45%. The non-tariff barrier is essentially an import licensing mechanism (Appendix 1 shows the conditions). Perhaps this non-tariff barrier acted as a deterrent to the import of cloves to India from Sri Lanka as is shown in Figure 1.

Figure 1



The market share of India has come down from about 60% to about 14%, during the period 1986 to 1992. This is a considerable market loss. The other main market for Sri Lankan clove was Indonesia, which is inactive at present and most probably will be in the future too. Hence the issue of re-gaining the lost Indian market for clove is important. The market access provision, if it is enforceable for the clove market in India, will improve the situation considerably by removing the non-tariff barrier. However, the provision of the ability to introduce the import safe-guard measure has to be taken into consideration. The clove import prices in India during the base period was considerably higher than the present price. This could enable India to apply a special safeguard mechanism to limit the clove imports albeit it is temporary.

♦ **Reducing Tariff:**

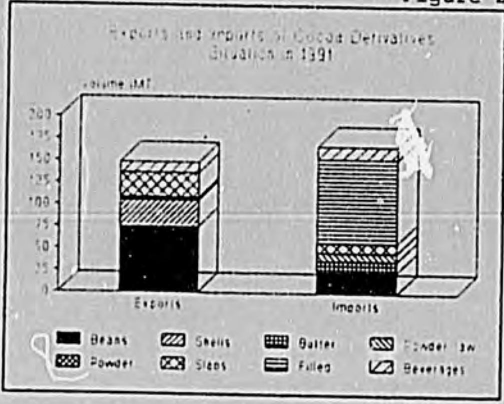
POSITIVE IMPLICATIONS

This provision in general will improve the market access for EAC with respect to many countries (Appendix 2 shows the present tariff rates for EAC) since these commodities have to meet various levels of tariff measures. The improvement will be considerable for commodities which are facing non-GSP rates with respect to some countries (see Appendix 2). See Box 1 for the proportion of EAC exports with no GSP.

It is also an encouragement for value added commodities such as various cocoa derivatives. Figure 2 shows the value added cocoa derivatives that Sri Lanka has exported in 1991 (1992 and 93 picture is shown in Figure 3). The tariff for these products are considerably higher than that for cocoa beans (see Appendix 2). The GSP is not available for these commodities.

The direct impact of the tariff concessions for these value added products will be an increased market access which will have far-reaching indirect implications on many other issues. These issues include employment generation, income distribution through involvement of different strata of labour and, in total, the multiplier effect in economic development. Rural areas will be benefited through monetisation when a sector like cocoa, which has a rural base for cocoa bean production, is developed. However, the full benefit of the provision could be realised only if the raw material for value added products (cocoa beans) are obtained from a domestic production base rather than from imports (imports of cocoa beans to Sri Lanka will also be easier with these provisions).

Figure 2



The other value added products in the EAC sector are clove oil, cinnamon leaf and bark oil, pepper oil and oleoresin, and cardamom oil. These products do not have GSP concessions and also face higher tariff than that for the corresponding primary commodities. The reduction tariff will elevate the market access to these products. The full advantage of this increased market access could be obtained through improving the quality of products and market exploration; both for primary and value added commodities of the EAC sector. It is expected that the DEA (quality) and EDB (markets) will be active in this respect.

NEGATIVE IMPLICATIONS

Cocoa Industry

Some negative implications of the tariff reduction could be expected in the cocoa industry. Until 1991 the import of cocoa beans was restricted through a 60% import tariff (the present levels are shown in Appendix 2).

At the request of the main chocolate manufactures of Sri Lanka, this tariff barrier was softened to 35% in 1992. The basis for the request for a tariff concession, was the fact that it is difficult to get cocoa locally (which is partly correct). The impact of the tariff concession is clearly shown in Figure 3: there was a considerable quantity of cocoa beans imported to the country for chocolate production.

Figure 3

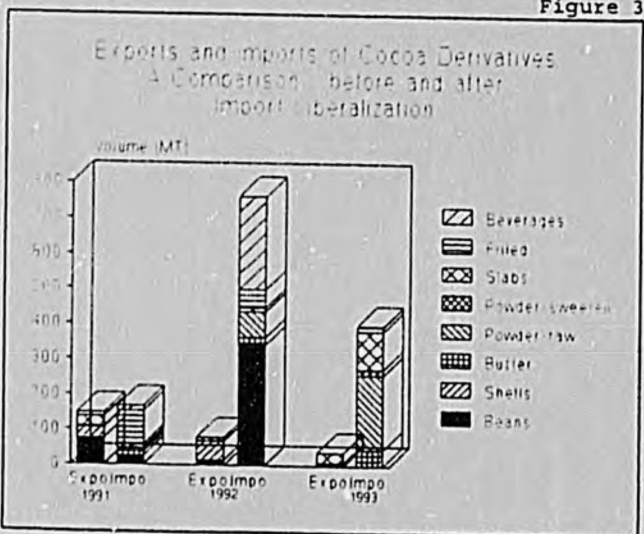
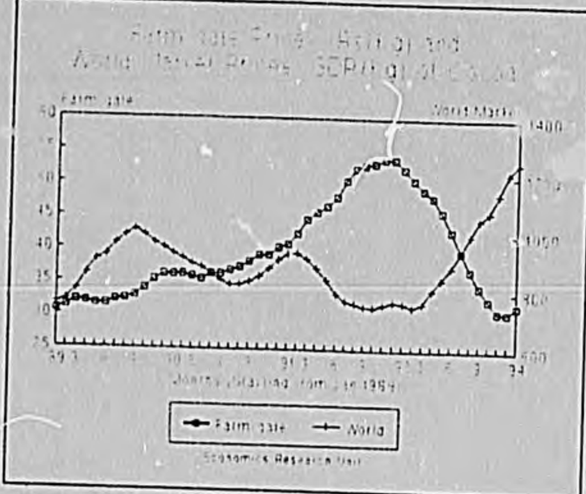


Figure 4



The main impact of this event was the reduction in the local market price of cocoa in 1992, even when the world market prices were inclining (see Figure 4). As the bulk of cocoa beans is locally consumed for chocolate manufacturing (about 60% of the production), the depressed local market price is a deterrent to the growth of the industry. Since the production base is in the rural areas, this affects rural monetisation and consequently rural economic development. Seen from this light, if the easier trade access is used to continue the import of cocoa beans to Sri Lanka, then it would hamper the development of the local cocoa industry. At present there are about 12,000 ha of cocoa which distributed among nearly 24,000 farm families. On average, cocoa generates about 20% of the family income of these families. Hence the impact of a partial collapse of the cocoa industry on the grower families income will be considerable. This warrants a scheme to monitor the import level, and assess whether it is a significant deterrent to the development of the industry. If it is so, safeguard measures have to be adopted.

Cinnamon Exports

Cassia, mainly exported from Indonesia and China, is a close substitute for cinnamon. A significantly larger amount of cassia than of cinnamon comes to the world market (see Box 1).

Box 1

World Exports of Cassia and Cinnamon (MT)

Year	Cassia	Cinnamon
1987	27,674	7,827
1888	29,190	7,049
1889	30,803	7,820
1990	29,992	6,560
1991	36,822	7,889

Source: Commonwealth Secretariat

In most cases the importing countries are common for cinnamon and cassia. In the event of the tariff for cassia vis-vis cinnamon, being lowered from the present level (a possibility as cassia leads the market in quantity terms), there would be a series threat to the Sri Lankan cinnamon trade is our major EAC. The threat is enhanced by the fact that (a) the Cost of Production (COP) of cassia is less than that of cinnamon, and (b) at present the quality of Sri Lankan cinnamon is said to be inferior. In these circumstances, it is important to establish at least similar tariff rates for cinnamon and cassia, in order to avoid a possible downturn in the cinnamon industry.

Generalised System of Preference (GSP)

Many of the primary agricultural commodities including EAC enter into the developed countries' markets with GSP concessions. Box 2 shows the major EACs and their volumes exported under GSP.

Box 2

Proportions of Major EACs Exported with Zero Tariff Under GSP and the With Various Tariffs 1992 Export Volumes

Commodity	% Zero Tariff	% with Tariff
Pepper	39%	61%
Cinnamon	59%	41%
Cocoa	15%	85%
Coffee	6%	94%
Clove	11%	89%
Cardamom	51%	49%
Nutmeg	2%	98%

Source: Custom Returns

The volume exported with zero tax is considerable for ceratin commodities such as pepper, and cinnamon etc. Under the new agreement the GSP is annually reviewed in Washington and the provision of the concession depends on the review decisions. The EACs which has zero tariff at the moment (see appendix 1) will have to face a tariff (may be a small one) in the future in the event of reducing or abolishing the preferential margin under GSP. This increases the competitiveness with the other producing countries, particularly developed and newly industrial countries (NIC) in the world market.

In this competition, the quality of the product becomes a vital factor to enter into the world market. Many of the Sri Lankan EACs are at the moment in a poor situation with respect to quality. Some are known to be well below the world standard. Under this scenario EAC export will face a considerable problem. The strategy to face increased world competition is to educate and encourage, even with financial assistance at the initial stage, the producers to improve the quality of the products.

Impact of the Base Period for Tariff Quota

In order to enjoy the full benefit of the conversion of the non tariff barriers to tariff, the amount of export during the base period has to be either equal or higher than the present export level. Figure 5 shows the average export levels of major EAC during the base period and after the base period. Cinnamon, pepper, Clove and nutmeg have higher export levels now (1990-93 average) than during the base period (see Appendix 3 for details). This is because the production of EAC in general has increased in the recent past (after 1990), due to the impact of various development programmes launched in this period. A further production improvement could be expected in the future for crops such as pepper, cinnamon, coffee and clove. These increased amounts may have to face a tariff restriction.

(2) Domestic Support Provision

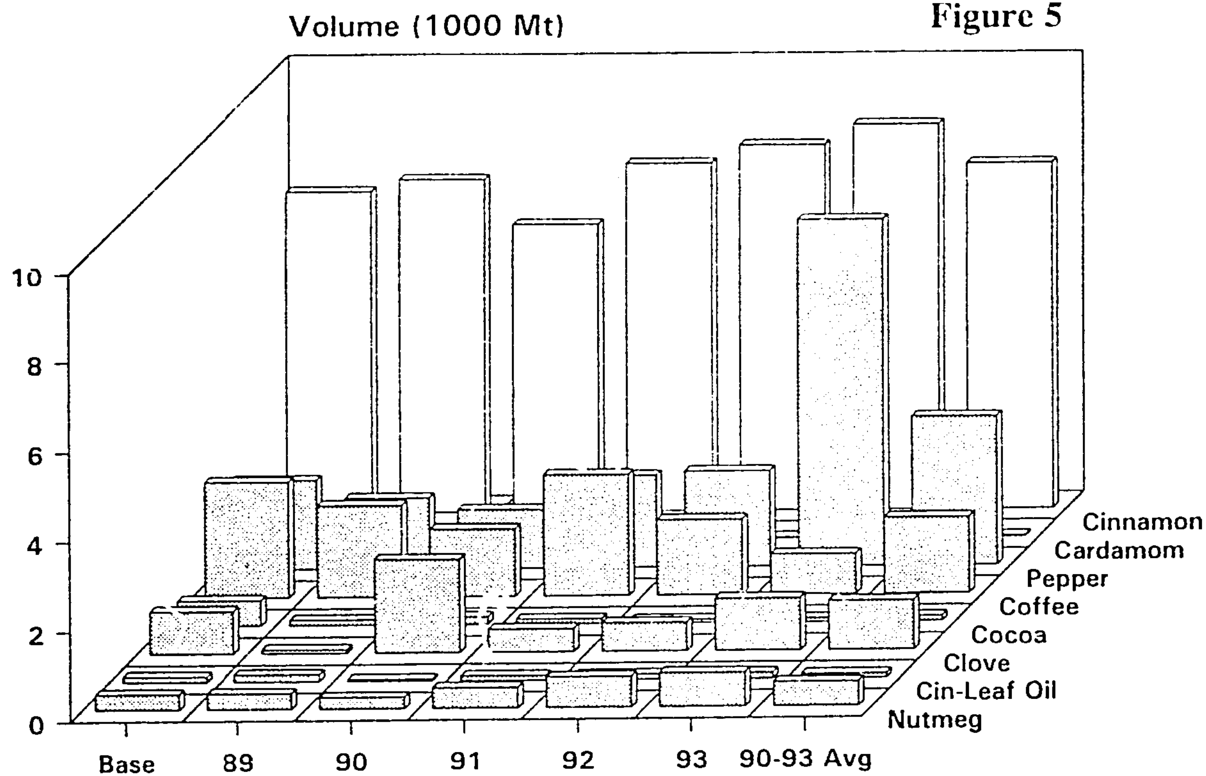
This falls into two categories: those that are non-trade distorting and, therefore, not subject to GATT disciplines (GREEN POLICIES); and those that are trade distorting and, therefore, subject to gradual reduction (AMBER POLICIES). Under the provision the trade distorting subsidies will be subject to 20% reduction. Domestic support that do not exceed 5% of the total value of production of a product or product sector will not be subject to reduction requirements.

The Relevant Issues for the EAC Sector

The policies for which an interpretation is necessary under this provision include: (a) financial assistance given for the producers (which comes under input subsidies according to the provision); (b) general service-oriented policies such as research, training, extension and advisory service, and promotion and demonstration programmes.

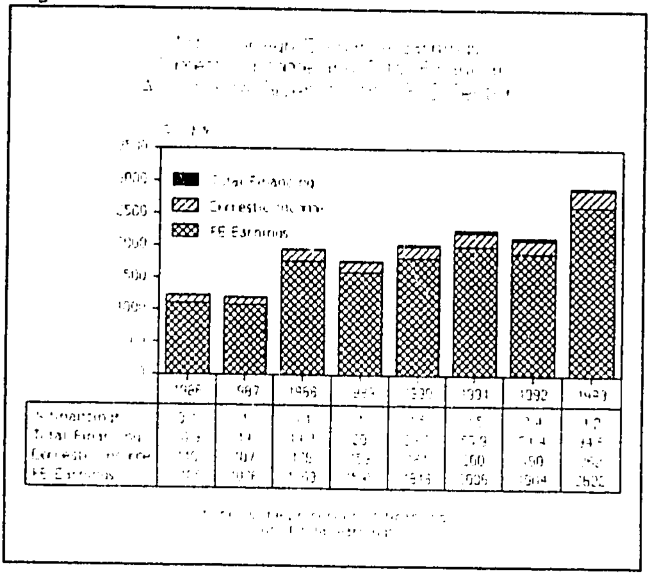
A Comparison of Export Volume of EAC during the Base Period (1986-88) and After the Base Period

Figure 5



The issue (b) is completely unaffected by the provision as it is a green policy in GATT terminology. The issue (a), however, needs an interpretation. There are financial assistance schemes implemented by the DEA to finance farm inputs such as fertiliser and planting material. It can be very clearly shown that these financial assistance programmes are well within the permissable level of internal support provision. Figure 6 shows the total earnings, both the foreign exchange earning and the domestic earning, generated by the EAC sector and the total financial assistance given to the sector. The quantum of financial assistance is considerably lower than the allowable 5% limit.

Figure 6



The income generated by the sector as the return to the assistance given is much higher than what is presented in Figure 6 when the perennial nature of the EAC is considered. The bulk of the assistance goes to cover about 50% of the initial cost of crop establishment. This is a capital cost as far as EACs are concerned. The corresponding return to this cost financing is obtained not only in the current year, but also for many years to come (eg. pepper for about 20 year-period after establishment, coffee and cocoa - 25 years, cinnamon - 30 years etc.). Once financial assistance is given to cover crop establishment, no further financial assistance is given to these crops. This is completely different from giving financial assistance to the annual crops in which financial assistance given in a particular year has to be set against the total income obtained in that year. From this point of view, the proportion of financial assistance given to the EAC sector is considerably lower than what is presented in Figure 6. Therefore the present scheme of assistance in the EAC sector will have no room whatsoever for disciplining under the GATT provision.

(3) Export Subsidy Provision

According to the provision all practices considered to be direct export subsidies will be disciplined. Developing countries are required to cut export subsidies by 24% in budgetary terms and 14% in tonnage terms. The policies that are considered to be export subsidies include: direct subsidies; disposal of government stocks below market prices; producer-financed export subsidies; marketing subsidies and subsidies for commodities contingent on their incorporation in exported process products.

Relevant Issues for the EAC Sector

The price subsidy granted to the clove and nutmeg producers contingent on the exports under the Security Price Scheme of the DEA can be interpreted as a producer-financed export subsidy. This scheme is presently under review and probably the result of the review may be complete abolition of the scheme or an introduction of assistance in some other form to cushion the low prices. There are no other policies falling into this category.

There is a positive impact of this provision on the spice and allied products sector when the world scene is considered. At present there are export subsidies for clove and pepper in Indonesia which is the largest producer of these two commodities in the world. The gradual removal of these subsidies would increase the world prices of clove and pepper at the initial period. This is a positive gain for Sri Lanka as the proportion of her exports of clove and pepper are about 80% and 75% respectively (almost a net exporter).

In the event that the producer-financed export subsidies are disciplined, Sri Lankan producers have to be more efficient to meet the new world competition. Although at the initial period the EAC producers may find higher prices than at present, the prices of EAC may gradually come down as a result of market forces. The inefficient producers, many of the Sri Lankan EAC producers fall into this category, may not be able to face these lower prices. Therefore it is imperative that the production base of EAC has to be improved from the less efficient productivity stage to a more efficient one. The institutional support and a fresh approach to the challenge is urgently required.

(4) Sanitary and Phytosanitary Measures

Sanitary and Phytosanitary measures (SPS) refer to a procedure or requirement taken by Governments to protect human, animal,or plant life or health from the risks arising from the spread of pests or diseases or from additives or contaminants found in food, beverages,or feed stuffs. The final act establishers a multinational mechanism to ensure that health related measures are not used as disguised barriers to trade. The SPS agreement allows countries to adopt regulations in these areas but requires that they be based on valid scientific grounds.

Implications on the EAC Sector

The agreement with regard to SPS measures can be interpreted as an open ended one. It says that measures be based on the scientific evidence. Almost all the EAC products (coming from plantations / cultivations), which are exported at present have inorganic compounds such as remnants of inorganic fertilizer, pesticide, etc. Inorganic substances are used in the processing of almost all the EAC products exported as semi-processed commodities (i.e. dried, fermented or distilled). Unless there is a transfer from inorganic-farming to organic-farming it is almost impossible to eradicate chemical substances in the final product. Similarly, unless very advanced techniques of processing and storing are used, the EAC commodities will contain minute amounts of chemical substances. When these commodities are exported, even a micro trace of inorganic substances could be considered as harmful, if a country wants to restrict import. Since the agreement is not very transparent on this control, the provision can be rather restrictive.

At present some of the EAC products such as coffee, pepper and cocoa face the problem of maintaining International standards. In the event of the standards under SPS being stricter, it will be very difficult for Sri Lankan exporters to meet the SPS requirements. Since the agreement does not provide a period within which a country can progressively increase the restrictions, the developing countries like Sri Lanka will face a problem of improving quality standards within a very limited period. This may result in loosing some of the International markets for the EAC which will in turn affect local prices and supply conditions. If that happens it will be a serious discouragement for the development of the EAC industry.

Two suggestions are proposed to tackle this problem. Firstly the EAC producers should be educated and made to realise the importance of maintaining the quality standards of EAC products. Training and

Education programmes tailored to this requirement should be implemented. Organic farming systems should, as far as possible, be encouraged. The DEA has a great responsibility in this respect. The exporters of EAC commodities also have an important role to play in maintaining the quality standards of their exports. It is reported in many instances (one eg. is de Silva, 1986)[2] that the exported consignments have not met the quality standards required. It is a national requirement to minimise such incidence and it will be the responsibility of the exporters to adopt such measures. The other issue connected with the quality is the prices offered at the farm-gate for different quality products. At present there is hardly any difference in the prices of different grades of products at the farm-gate level although the difference exists at the exporter level. This is a disincentive for producers to make an attempt to produce higher quality products (Grade 1 pepper, coffee and cocoa etc.). Since the exporters are the final end of the EAC marketing channel, they have to create an attractive price difference which will flow down to the farm-gate level. Under the new provision this becomes a necessary and important issue.

The impact of these measure on quality improvement, however, will be felt after a period of time. Therefore, the second suggestion is made, namely, if a country needs to impose a quality standard which is stricter than the current International standard, the country is requested to impose it in different stages, restrictions being progressively increased. This provision will, hopefully, allow the exporting country to adapt to the new standard.

[5] Patent on Plant Varieties

This provision allows countries to patent new inventions including life forms such as new plant varieties, new breeds etc. The rationale of this provision is to make sure of an adequate financial return to the investment which is being made in plant genetic research by bio-technology companies and public institutes. This is an extension to already existing Intellectual Property Rights (IPR) measures.

[6] Implication on the EAC Sector

The extension of IPR to biological products raises new economic and farming system problems. Two forms of IPR are relevant to plant genetic resources: patents and plant breeders rights. A patent protects a product or process which is the result of an inventive step and which is new, useful and non obvious. The relevant products in the EAC sector are new selection of pepper varieties called "Swarna Lanka" and selection of low elevation cardamoms. Patents usually permit the holder to forbid commercial use, sale or manufacture of the protected product or process by others for a period of 17 - 20 years.

Plant breeders rights allow a protected variety to be used without permission from the holder and without a payment of royalty for the purpose of breeding other varieties. Under the new patent law of GATT this right is not exclusively preserved. This will have a negative impact on the development of new high breed varieties, because a variety which is required as a parent could be obtained only after a payment of royalty to the holder. Particularly, a public institute such as the DEA will have difficulties in securing funds for royalty payments. The immediate result will be a limited access to a common pool of genetic resource, which is an essential condition for plant breeding.

According to the provision, in a patenting application, protection can be claimed even for an individual genetic

[2]de Silva, M.P. (1986) "The World Cinnamon Market and Sri Lankan Strategy", Study Report, Department of Export Agriculture.

characteristics. A situation could arise where, if a protected gene finds its way into another variety, the patent holder could exercise their claim over the resulting variety (Focus on GATT, 1994).[3] This rather restrictive provision limits both the flow of acceptable varieties to farmers and contribution to bio-diversity. A possible implication of this condition is that about 45,000 Sri Lankan growers of "Panniyur" and "Kuching" varieties of pepper, and "Catimore" variety of coffee would have to pay a royalty to Indian pepper and coffee breeders! This calls for a provision to maintain the farmers' privilege of permitting farmers to plant either with saved seeds in successive season or with vegetative propagation methods such as propagation through plant cuttings, tissue culture etc. (both are relevant to the EAC sector).

A positive impact of patenting new plant varieties is that it may encourage the forest conservation. One of the objectives of forest conservation is to preserve the bio-diversity by safeguarding indigenous plants. This has an implicit opportunity cost. The forest products (mainly timber and even non-timber products) are not extracted from conserved forest areas. As a return to this cost, the indigenous plants which are generated as a result of conservation could be brought under patent coverage. The use of these plants for any purpose then will only be allowed with a royalty payment.

[3]Focus on GATT (February, 1994) "Patenting Plants: The Implications for Developing Countries".

Appendices

Appendix 1: Export of Clove From Sri Lanka to India: Conditions for the Non-tariff Barrier

"Licenses for import of cloves may be granted to the extent of 150% of the CIF value of licenses issued in 1990-1991 or 1991-1992 (excluding the licenses granted under the Advance Licensing Scheme), whichever is higher, subject to fulfilment of export obligation for twice the value of the import license granted in the preceding year. Only value of import of cloves will qualify for determining the import entitlement. The minimum CIF value of the license shall be Rs. 10,000/-. Export of items mentioned in the list below alone shall qualify towards fulfilment of export obligation. Export obligation fulfilled under any other scheme shall now, however, qualify for purposes of import entitlement of 150% will be applicable in respect of applications made during 1993-1994 licensing period".

ITEMS OF EXPORTS QUALIFYING FOR FULFILMENT OF EXPORT OBLIGATION ON LICENSES FOR CLOVES

(i) Cardamom (small)
(ii) All spices / spice products in approved consumer packs of 1,000 grams of less except spice oils and oleoresin and saffron.
(iii) Herbal spices such as rosemary, thymes tarragon, sage etc.
(iv) Vanilla
(v) Black cumin
(vi) Starriness
(vii) Kokum
(viii) Garlic
(ix) Cardamom (large)
(x) Bishopsweed
(xi) Caraway
(xii) Cumin seed
(xiii) Ani seed
(xiv) Dill seed
(xv) Pomegranate seed and
(xvi) Horse-radish

Source: Department of Commerce, Ministry of Trade and Commerce

Appendix 2: Rate of Import Tariff on EAC Commodities - General Rates and Rates Under GSP

CODE No:	COMMODITY	Philippine	EEC		USA		Colombia	Canada		S Arabia	Austria		Japan	
		General	General	GSP	General	GSP	General	General	GSP	General	General	GSP	General	GSP
9.01-1	Coffee not decaffeinated	35	5	4	Free	2	10	Free		12	12	Free	Free	
9.01-2	Coffee decaffeinated	35	10	8.5	Free	Free	15	Free		12	12	Free	Free	
9.01-3	Coffee husks and skins	35	7	no	Free	Free	10	Free		12	12	Free	Free	
9.01-4	Coffee substitutes contain	35	15	no	3.3	Free	20	6.61	Free	12	19.5	Free	35	Free
9.05-0	Vanilla	30	11.5	no	Free	Free	10	Free		12	10	Free	Free	
9.06	Cinnamon and cinnamon-tree flowers:													
9.06-1	Neither crushed nor ground	20	8	Free	Free	Free	10	Free			30	Free	Free	
9.06-2	Crushed or ground	20	9	Free	Free	Free	15	5	Free		45	Free	Free	
9.07-0	Cloves (whole fruit, clove)	20	10	No	Free	Free	10	Free		12	13.5	Free	4.2	Free
9.08-1	Nutmeg	20	Free	no	Free	Free	10	Free			13.5	Free	20	Free
9.08-2	Mace	20	4	Free	16.5	Free	10	Free			13.5	Free	20	Free
9.08-3	Cardamoms	20	20	Free	Free	Free	10	Free		Exempt	13.5	Free	20	Free
18.01-	Cocoa beans, whole or broken, raw or roasted	30	6.7	no	Free	Free	10	Free		12	4	Free	Free	
18.03	Cocoa paste, whether or not defatted:									12				
18.03-	Not defatted	30	12	no	Free	Free	15	Free			15	No	20	3.5
18.03-	Wholly or partly defatted	30	12	no	0.82	Free	15	Free			15	No	20	7
18.04-	Cocoa butter, fat and oil	30	9	no	Free	Free	15	Free		12	5	Free	10	No
18.05-	Cocoa powder	30	12	no	0.82	Free	20	10	5	12	27	No	30	10
18.06-	Cocoa powder, containing	35	29.6	no	Free	Free	20	10	5	12	32	No	35	12.5
18.06-	Other preparations in blocks	35	22.3	no	Free	Free	20	Free		20	32	No	35	No
18.06-	Filled	50	22.3	no	7	Free	20	12.5	5		32	No	40	No
18.06-	Not filled	50	22.3	no	5	Free	20	12.5	5		32	No	40	12.5
18.06-	Other	50	22.3	no	7	Free	20	12.5	5		32	No	40	12.5

Appendix 3: Export Volumes and Values of EAC

Commodity	Units	1977	1978	1979	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993
CINNAMON	MT	6445	6529	6949	7907	8582	5721	4867	7741	7590	7589	7414	6811	7542	6501	7889	8298	8754
	Rs(Mn)	80	173	203	227	424	289	202	286	318	328	448	675	1060	1188	1436	1409	1803
CLOVE	MT	1224	230	638	887	1064	760	1363	725	219	606	314	1921	87	2082	521	636	1163
	Rs(Mn)	61	28	93	184	249	213	369	187	37	158	38	248	13	232	58	56	65
COCOA	MT	1323	1040	610	916	902	697	807	591	1091	680	817	185	123	175	109	79	92
	Rs(Mn)	39	50	32	33	31	22	27	28	57	35	37	8	6	9	4	4	8
COFFEE	MT	986	2319	2602	909	2037	2920	3124	3678	5268	2640	882	4202	2035	1496	2711	1677	902
	Rs(Mn)	32	85	106	40	65	110	163	234	292	225	46	232	94	45	[illegible]8	48	47
PEPPER	MT	632	1241	976	647	2052	1238	1120	2202	1215	1271	2015	2692	1576	1305	2058	2146	7829
	Rs(Mn)	60	36	23	19	52	34	38	93	112	160	286	292	152	117	139	121	385
CARDAMOM	MT	86	149	179	164	216	231	136	118	232	27[illegible]	192	139	126	33	29	21	15
	Rs(Mn)	11	40	55	44	53	48	42	72	76	64	35	22	19	9	7	6	8
NUTMEG	MT	153	395	328	278	283	318	260	405	315	382	222	451	366	268	469	697	770
	Rs(Mn)	2	9	7	10	9	8	8	13	10	24	20	49	39	22	23	42	3[illegible]
MACE	MT			33		24	35	44	24	16	2	29	39	25	2	21	67	24
	Rs(Mn)			1		1	2	3	2	4	1	9	11	7	1	2	5	2
Total EAC	Rs(Mn)	324	519	624	661	1002	848	986	1070	1021	1105	1076	1763	1595	1818	2006	1904	2622

Annex 11

GATT Agreement and its Impact on Domestic Agriculture[1]

N.F.C. Ranaweera[2]

INTRODUCTION

The General Agreement of Tariffs and Trade (GATT) is a multilateral accord, subscribed to by 115 nations, which together account for nearly 90 percent of world trade. Its basic aim is to liberalize world trade and place it on a secure basis, there by contributing to economic growth and development.

The effects of this liberalization of world trade has its ramifications internationally across different continents and countries and also within a country itself. The impacts would be different for individual countries which cannot be precisely predicted at present. However, It is generally anticipated that the gains to the developing countries will be smaller than the developed countries and poorer nations as well as those in Sub Saharan Africa could possibly be absolute losers.

Of course, there is a certain degree of enthusiasm in the developing world, particularly in the Industrial sector that due to increased market shares for industrial items they could increase their share of world trade. Whether this euphoria could be shared in the agriculture sector is unclear. The agreement is received by many as an attempt by the developed world to price open developing country markets for their own product services and investment. In any event there will be far reaching effects of GATT on the economies of the developing world.

A number of developing countries including Sri Lanka which were engulfed in economic crises and large scale international debts in the nineteen eighties were compelled to adjust to structural adjustment programmes which involved the weakening of their bargaining positions viz a viz developed countries. These programmes necessarily involved internal and external liberalization and discouraged protective measures as economic strategies.

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1. Paper presented at Workshop on a "The GATT agreement and its impact on Sri Lanka Agricultural Sector" organized by the Ceylon Chamber of Commerce, May 18, 1994, Colombo.

2. Director, Socio Economics and Planning Centre, Department of Agriculture, Peradeniya.

With the implementation GATT agreement which is the free trading of commodities, ie., trade under conditions of low or no tariffs and other protective barriers it is assumed that economies should stimulate production and employment.

The major area of focus of the concluded talks are the following:

1. Market access
2. Agreement on trade
3. Domestic support provisions
4. Export subsidy provisions
5. Sanitary and phytosanitary measures
6. Patent on plant varieties

This presentation will attempt to discuss the specific areas which will have a direct or indirect effect on domestic agriculture sector in Sri Lamka.

The domestic agriculture sector in Sri Lanka is primarily involved in the production of the main food commodities required by the population. This includes Rice, other field crops, horticultural crops (fruits and vegetables). Recently ome of these crops are produced for export as well. The main goal of the government is to achieve self reliance in the major food items and to this end, a number of strategies have been developed to increase local production of food. Consequently in order to protect the domestic agricultural sector, selective tariff and other mechanisms have been developed. The main actors involved in this process are the 1.8 million farm families. Their livelihood and income generating ability need to be of primary concern within the broad context of the agricultural activities that will have a bearing on the decisions under GATT.

Market Access :

In Sri Lanka at present tariff and non tariff measures are used primarily to protect local production of the primarily food commodities. Tariff measures are used for Rice and Sugar and non tariff measures such as quotas, discretional liciencing and state trading measures are used in the importation of food items such as chillies, onions and potatoes.

In Sri Lanka at the moment the only tariff measures that exists are for the importation rice with a tariff of 35% on CIF and sugar with a tariff of Rs. 3.00 per kg. In the case of rice, if imports have to be resorted to, a reduction in the tariff is made in order to stabilize consumer prices. All other commodities imported to supplement shortfalls in local production when required, such as chillies, onions, maize, mung beans and potatoes are imported through licensing and import quotas which are non tariff barriers..
With the GATT agreement all NTBs will have to be abolished and converted into a specific tariff measures. Once tariffs are determined there can be legitimate measures to cut imports or fix tariffs in a manner that imports will be more expensive. In other words, tarrification while getting rid of some of non tariff measures will also allow Sri Lanka to fix rather high tariffs thereby protecting domestic agriculture.

In the implementation of the tariff measures for such imports a possible option can be the following:

- Establish a band of prices which will clearly indicate the minimum cost at which farmers could cultivate their crops and the market prices required to provide them with a reasonable income. If the prices drop below the minimum then the Government intervenes with the support price.

  Similarly a consumers price threshold should be established at a higher level and if it is felt that the local production for a particular season will indicate that the price level goes beyond the minimum threshold then the Government should resort to importation in order to stabilize the market. An understanding of the cost of production in other countries as well as many subsidies provided there - will help in the determination of tariffs at entry to Sri Lanka so as to provide a competitive nature for production by the Sri Lankan Farmer.

Any other imports can be on the basis of fixed tariffs which will make the imported price competitive with the local market price and not detrimental to the farmers who grow these crops..

EXPORT SUBSIDIES :

The Final Agreement identifies export subsidy policies subject to reduction commitments and requires countries to cut both the quantity of subsidized exports and the budgetary outlay for such subsidies. The quantity cuts are the more effective form of discipline, ensuring that the market impact of export subsidies will decline. The budgetary outlay cut is a supplementary discipline, generally not as effective by itself as the quantity cuts.

The domestic food agriculture sector is not affected with such subsidies as none are provided at the moment.

INTERNAL SUPPORT :

The Final Act identifies trade-distorting (amber) domestic policies, which will be subject to reduction commitments. The support provided by these policies will be measured on a common basis ------- the Aggregate Measurement of Support (AMS) and be subject to reduction commitments. Non-trade-distorting (green) domestic policies will not be subject to reduction commitments.

Trade distorting policies (Amber) are identified as

- Price supports
- Marketing items
- Acreage payment
- Payments based on number of livestock

- Input subsidies (seeds, fertilizer, irrigation etc)
- Subsidized loan program

The above programmes are theoretically a transfer of funds from consumers to producers and therefore distort free trade.

Price Support

At present government does have a minimum price support programme through the salvage price scheme. This ensures farmers that they can sell their produce at a guaranteed minimum price to the Paddy Marketing Board which is a purchaser of last resort. This is true however only to a limited extent in practise, since most of the produce is sold to the private trade. The principle of maintaining this price support scheme is to prevent market collapse and farmers to be faced with a situation where they have to sell at below cost of production. However once a band system of prices are established, it would reduce the chances of market collapse occurring since remedial measure can be taken early.

Input Subsidies

At the moment there is no direct subsidy to farmers on any of the inputs such as seeds, fertilizer and chemicals. It is now proposed though to provide free fertilizer to farmers who cultivate extents of land less than 3 acres from the maha season of 1994/95. Such a subsidy will mostly help encourage local production and increase the productivity of the different crops. What has to be accepted is that Sri Lankas performance in the agricultural sector in terms of productivity per unit of land is not as strong as it should be.

Green Policies:

Government programs provided as

- General Services (Research, Pest and disease control, agriculture extension advisory services, marketing promotion etc)
- Domestic food aid - food stamps
- Crop Insurance & income safety - programs
- Environmental or conservation programs
- Regional assistance program from national program

are activities which are tax payer funded and are not covered the GATT agreements.

SANITARY AND PHYTOSANITARY :

The Final Agreement call for countries to employ a scientific basis for determining all health-related measures that affect trade. It encourages the greater use of international standards (such as those of the Codex Alimentarius Commissions and others) but recognizes the right of members to maintain standards stricter than those of international organizations, provided such standards are based on science.

Sri Lanka, in order to facilitate safe movement of plants and plant products, has a front line legal defence system called "PLANT QUARANTINE". The legal authority for implementing plant quarantine is vested with the Director of Agriculture. A clear understanding of the plant quarantine regulations will help all those who are involved in the export and import of plants and plant products, to obtain their materials quickly and without introducing any serious pests into the country. Sri Lanka operates its Plant Quarantine measures under the broad umbrella of the International Plant Protection Convention of 1952. (It should be noted though that Sri Lanka had its own legislation for Plant Protection since in 1901 which prevent the introduction of coco disease). The convention works within the broad guidelines of FAO and also has its own regional commissions. eg. Asian Pacific Plant Protection commission. This commission meets every 2 years and classifies pests that cannot be introduced to the region eg. Due to the South American leaf blight prevalent in South America all South American plants are prevented from entering the region.

In order to prevent or minimize the dissemination of plant pests through international trade, the Convention prescribes the immediate and rapid exchange of information on the requirements and/or plant protection restrictions imposed by Member Governments.

To facilitate the circulation of such information, as well as the reporting on the incidence and outbreak of pests and measures for their control, the Convention requests that contracting governments cooperate with FAO in establishing a centralized information centre or world reporting Service. The FAO Digest of Phytosanitary Regulations represents one of the first attempts to establish such an information system. It is expected that the publication of the plant quarantine requirements of the various member countries will likely stimulate the improvement of existing rules and regulations and to lead to a fuller international cooperation and understanding in plant protection among the international community. Member Governments are encouraged to cooperate fully with FAO in promptly communicating all amendments and changes to their regulations for appropriate updating of the Digest and dissemination of the information to other governments.

PATENTS ON PLANT VARIETIES:

The agreed version of the GATT negotiations (Uruguay Round) approved on December 1993, under Section 3 of Article 27 on "Patentable Subject Matter" states:

"Members may also exclude from patentability:

(a) diagnostic, therapeutic and surgical methods for the treatment of humans or animals:

(b) plants and animals other than microorganisms, and essentially biological process for the production of plants or animals other than non-biological and microbiological processes.

However, members shall provide for the protection of plant varieties either by patents or by an effective sui generis system or by any combination thereof. The provisions of this sub-paragraph shall be reviewed four years after the entry into force of the Agreement Establishing the WTO"

The Global biodiversity Convention which also became operational on December 29, 1993 states:

"Reaffirming that states have sovereign rights over their own biological resources and Reaffirming that States are responsible for conserving their biological diversity and for using their biological resources in a sustainable manner"

Since Sri Lanka is a signatory to both these declarations, it is essential that legal, scientific and administrative measures are initiated without delay to ensure that these agreements are strengthened and not allowed to erode the food security of the nation and the livelihood of the 1.8 million farm families in Sri Lanka. It is also important that any legislation formulated to take follow-up action on the GATT agreement and the Biodiversity Convention is mutually consistent and reinforcing.

The large investments being made in plant genetic research by biotechnology companies are part of a global trend towards the commercialisation and privatisation of research into genetic resources. Such companies need to safeguard the returns to their investment, and are pressing for intellectual property protection over their inventions, including those that consist of life forms.

The systems of intellectual property protection vary greatly around the world, some being tailored to meet the cultural difference in attitudes to such property rights as well as to meet the needs of nations at different stages of economic development. In many nations, and especially in the agriculture sector, informal innovations - ie. without the protection of Intellectual Property Rights (IPRs) - is still very important.

With the new innovations in the agricultural sector particularly with the involvement of Biotechnology, there has been this request for a "harmonization" of IPR's - something that both developed and developing countries can together benefit. The USA particularly was emphatic in this aspect.

While IPRs are not new, their extension to biological products raises new economic, political and ethical questions. As far as agriculture is concerned two forms of intellectual property protection are relevant to plant genetic resources: patent rights and plant breeder's rights.

Patent Rights

A patent right protects a product or process which is the result of an inventive step and which is new, useful and non-obvious. In return for patent protection, the invention must be disclosed to the public. Patents usually permit the holder to forbid commercial use, sale or manufacture of the protected product or process by others for a period of 17-20 years. Patent systems are determined by national legislation and vary form one country to another in, for example, the length of the period of monopoly rights and in coverage. Many governments exclude pharmaceutical and food products, primarily so that their nationals can benefit from existing technologies.

The provision for Patenting or the introduction of patenting systems of protectionism of plant breeders are unchanged. It is necessary that national legislation be brought in order to protect the farmers and breeders rights.
The precursor to these activities was the UPOV Convention (International Union for the protection of new varieties and plants) which ensured that the member states of the Union acknowledge the achievements of breeders of new plant varieties by making available to them an exclusive property right, on the basis of a set of uniform and clearly defined principles. To be eligible for protection, varieties have to be -

(i) Distinct from existing, commonly known varieties,

(ii) Sufficiently homogeneous

(iii) Stable and

(iv) New in the sense that they must not have been commercialised prior to certain dates established by reference to the date of the application for protection.

From 1961 to 1991 the UPOV Convention provided breeders and farmers with the privilege of using protected varieties for specific purposes. However, with the growing privatisation of plant breading research on the one hand, and the increasing size of farm holding in industrialised countries on the other, the demand for eliminating the breeders exemption and the farmers privilege grew.

This resulted in a modification of the UPOV Convention in 1991 in two significant respects. First, UPOV strengthened the position of PBR holder by eliminating the breeders exemption for an essentially derived variety. This is defined as a variety predominantly derived from another (initial) variety which retains the expression of the essential characteristics from the genotypes of combination of genotypes of the initial variety. One consequence of the change is that the breeder who inserts a single new disease resistance gene into a PBR protected variety, will now have to obtain permission from the holder of the original rights before marketing the new variety.

Secondly from the inception of UPOV in 1961, farmers have been allowed to use their own harvested material of the protected varieties for the next production cycle on their own farms. On farm seed saving is still a practice in UPOV countries. Due to lack of consensus among the UPOV members the 1991 UPOV convention contains an optional exception which provided that it is upto a national government to decide whether to permit farmers to use the seed of a PBR protected variety for propagation purposes on their own holdings (Article (15,2) of the 1991 UPOV Convention.

Farmers Rights

Indigenous knowledge systems are similar to general scientific information in that they are part of public knowledge. Intellectual property rights have so far been applied to novel and discrete intellectual goods rather than to public goods such as knowledge systems. In the past the knowledge systems of rural and tribal families, although they are often characterised by a high degree of inventiveness, was ignored. While the knowledge itself may not be patentable, the products of that knowledge namely, "folk" variety, land races and genetic diversity at the intra-specific level, provide the raw material for modern plant breeding and biotechnology. Because of the importance of genetic stocks and information in crop improvement, the State of Queensland in Australia has passed legislation giving it intellectual property rights over genetic information embodied in the plants and animals found within Queensland.

During the last few years, discussions at various fora such as the FAO Commission on Plant Genetic Resources, Keystone International Dialogue on Plant Genetic Resources (1988-91) and UNCED have clearly brought about a consensus on the need for developing an implementable methodology for recognising and rewarding the intellectual contributions of known and unknown rural and tribal women and men in relation to Plant Genetic Resources. Farmers rights can also be an effective means to improve the institute conservation of crop genetic resources. Such institute maintenance of intro=-specific variability will complement ideally on-going preservation efforts through ex situa gene banks. Agenda 21 of UNCED provides for the establishment of a Global Trust Fund for Genetic Resources, primarily to support programmes relating to capacity building for germplasm conservation by rural communities. While negotiations for such international initiatives should go on, no further time should be lost in the development of a PBR system relevant to Sri Lanka.

Sri Lanka is among the many mega diversity areas with reference to genetic wealth. Biodiversity is normally classified under three major categories - ecosystem diversity, representing the principal biogeographic regions and habitats, species diversity, representing variability at the level of families, genera and species, and genetic diversity, representing the large amount variability occurring within a species. For example, the rice species, Oryza sativa, has over one lakh varieties. Until the advent of molecular biology and genetic engineering, plant breeding depended for it success on access to genetic variability within a species. Genetic engineering has however rendered the transfer of genes across sexual barriers possible and has thus enhanced the economic value of biodiversity.

In Sri Lanka over 5200 species of plants, among them about 3350 belong to the category of flowering plants lists. The major food plants of significance to the national food security system are however less than 15 percent. Only about a third of our flowering plants are endemic to Sri Lanka. This is because in the past, plants and animals moved freely across the globe and were domesticated by different societies. Several of our major food plants like, maize as well as plantation crops like, tea, coffee and rubber came from outside the country. The era of free movement and free exchange of plant material will now come to an end, with the coming into force of the Global Biodiversity Convention and the GATT (Uruguay Round) Trade Agreement. Hereafter, plants will also need passports, in addition to phytosanitary certificates to move across political frontiers.

Habitat variability promotes species richness. However, the level of variability among and within species, the role rural and tribal men and women have played in maintaining and multiplying variability, is a critical one. There must be an instrument to recognize this contribution in Sri Lanka. In India, the Madras Consultation of January, 1994 on Plant variety protection mechanisms has proposed that the legal instrument be titled "Plant Varieties Recognition and Rights Act" inorder to stress its uniqueness in terms of a methodology for recognising and rewarding the contributions of rural and tribal families in providing parental material for successful crops varieties.

Presently, almost 95 percent of the crop varieties grown in our country are the products of the research carried out in the Agriculture Research Institutes in the Department of Agriculture or the Crop Institutes. Sri Lanka's plant breeding enterprise is primarily in the public sector. While the individual strengths of our breeding centres may vary, their collective strength is considerable. If we nurture this scientific strength carefully and fully involve the rural sector in building the edifice of a decentralised, high quality seed industry, we can meet the seed requirements of our farmers. If we do not have a protection system, the work of Sri Lankan plant breeders will be available to others free, while we will have to pay royalty for what we get from outside. Overrating the capacity of multinationals and underestimating the work of our plant breeders and farmer-innovators. The Madras draft act of India is an example which shows how a formidable breeder-farmer coalition can be promoted to add the dimension of ecological sustainability and social equity to those of productivity and profitability in plan breeding. Breeders exist only to serve farmers and hence the rights of breeders and farmers should not be projected as though they are antagonistic.

Genetic material from Sri Lanka has been and is being used in plant breeding programmes in other countries. Similarly, land races and folk varieties from other countries are being used extensively in our breeding programmes. It is difficult to operate an international recognition and reward system under a national law. A proposal for varietal protection currently under consideration by the European Parliament includes provision for farmers' privilege in saving seed. Further, it exempts "small farmers", defined as farmers with holdings of about 20 hectares producing about 92 tonnes of cereals per year, from payment of remuneration to breeders. Most of our farmers in Sri Lanka are "Small farmers".

A Plant Breeders Rights (PBR) System for Sri Lanka

Any PBR legislation developed for our country should contain the following features :

(i) Retain breeders exemption
(ii) Strengthen farmers privilege , and
(iii) Provide an implementable mechanism for giving operational content to the concept of Farmers rights.

Among developed countries, Australia and Canada have only recently enacted PBR legislation (1989 and 1990 respectively). Both these countries have large government financed plant breeding programmes.

With reference to Farmers Rights it is obvious that the pedigree of a successful crop variety may contain land races or "folk" varieties, drawn from several parts of a country and often from several countries. For example, many recently bred rice varieties have in their parentage land races drawn from over 6-7 South East Asian countries. It is difficult to operate under a national law a system of Farmers Rights which is international in scope with reference to the conferment of rights. Hence, any Sri Lankan PBR legislation will have to restrict itself to rewarding rural and tribal communities within Sri Lanka for their contributions to successful plant breeding.

The agreements on Trade Related Aspects of Intellectual Property Rights (called TRIPS) embodied in the final draft of the Uruguay round negotiations of GATT does not stipulate that nations should adopt in their sui generis system the standards of the UPOV Convention. This is in contrast to other stipulations such as conformity to the Paris Convention (1967) on industrial property., the Berne Convention (1971) on copy right and the Washington treaty (1989) on integrated circuits. By making this exception the GATT agreement recognises the complexity of the task and the need for ensuring that any legislation on plant variety protection should stimulate and not retard investment in plant breeding research and strengthen and not erode national food security. Hence, we can develop a system characterised by ease of implementation, transparency in operation and social equity.

Possible Impacts of new GATT measures to Sri Lanka

It cannot be forgotten that the Uruguay round of talks has been undertaken at a time when most of the developing countries including Sri Lanka are undergoing structural adjustments to their economies. Even though the agreement is now fiat accompli, Sri Lanka cannot afford to opt out of the multilateral agreement. It will be required that national legislation can and must be fully exploited to prevent ambiguity leading to misinterpretation and escape roots where they exist.

Effects of Market Access: Even though Sri Lanka can introduce tariff measures to protect certain aspects of the food agriculture sector, there still can be other areas where the economy will have to allow the introduction of a large number of food items to Sri Lanka without tariffs.

Sri Lanka will have to carefully monitor the effects this will have on local production, both in the food crop and horticulture sectors of the economy. Unrestricted imports at low or no tariffs can definitely erode the benefits to the small sector of this country. Restrictions of imports do not necessarily lead to increase in local productivity and quality. This will be the challenge for the future. Once consumers are aware of the better quality that will be brought from outside at reasonable prices it will necessarily have to encourage the local producer to improve his standards of productivity.

On the other hand lower tariffs in other countries will provide an opportunity for Sri Lankan agricultural produce to enter international markets, to a greater extent than at present. However this facility will be available to all other countries. Therefore there will be a greater sense of competitiveness and quality that will be required to access larger markets.

Subsidy Reduction: Reduction of direct subsidies in the developed nations - could result in the increase in price of some food items, particularly sugar, wheat grain. this will probably in the short term, in the long term prices being stabilized. Moreover this could act as an incentive for local producers to embark on more Research and Development and there by increase productivity of some of these crops.

Breeders and Farmers Rights: Sri Lanka will need to examine this aspect early and provide the necessary protection needed for theses Rights.

In summary, Sri Lankas gains in the food agriculture sector will not be significant in the short term. It could however be significant if the country could be an efficient and high quality producer of agricultural commodities.

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