

Chair's Reference Paper¹

Rev.1²

EXPORTING STATE TRADING ENTERPRISES

Structure for Discussion

1. Members shall ensure that agricultural exporting state trading enterprises are operated in conformity with the provisions specified below and, subject to these provisions, in accordance with Article XVII, the Understanding on the Interpretation of Article XVII and other relevant provisions of GATT 1994, the Agreement on Agriculture and other WTO agreements.

2. For the purpose of this Article, an agricultural exporting state trading enterprise shall be considered to be:

any governmental or non-governmental enterprise, including a marketing board, which has been granted [or which enjoys *de facto* as a result of its governmental or quasi-governmental status] exclusive or special rights [or] privileges [or advantages with respect to exports of agricultural products], including statutory or constitutional powers, in the exercise of which the enterprise influences through their export sales the level or direction of agricultural exports.

3. In order to ensure the elimination of trade-distorting practices with respect to agricultural exporting state trading enterprises as defined above, Members shall eliminate by the end of 2013: (*in parallel with the elimination of all other forms of export subsidies*)

- (a) export subsidies, as defined by Article 1(e) of the Agreement on Agriculture provided to or by exporting state trading enterprises, consistent with Members export subsidy commitments, and the provisions of Article 9.4 of the Agreement on Agriculture;
- (b) government financing of exporting state trading enterprises, [including, *inter alia*], preferential access to capital or other special privileges with respect to government financing or re-financing facilities, borrowing, lending or government guarantees for commercial borrowing or lending, at below market rates; [and]
- (c) government underwriting of losses, either directly or indirectly, [including] losses or reimbursement of the costs or write-downs or write-offs of debts owed by export state trading enterprises on their export sales.[; and]
- (d) [other?]

Monopoly Powers

4. In order to ensure that trade-distorting practices of export state trading enterprises are eliminated,

¹ The headings used in this reference paper are indicative only.

² This is a revision of the Chair's Reference Paper issued on 11 April 2006, under n°2653.

[Members shall ensure that the use of monopoly powers by such enterprises is not exercised in a manner which, either *de jure* or *de facto*, effectively circumvents the provisions set out in paragraph 3(a)-(c)]

Or

[the use of monopoly powers shall be [prohibited] [phased-out] by the end of 2013 after which Members shall not restrict the right of any interested entity to export, or to purchase for export, agricultural products].

An alternative option that Members may wish to consider as a possible approach to dealing with the issue of monopoly powers would be to have specific commitments listed in Members Schedules.

Special and Differential Treatment with Respect to Monopoly Powers

5. Developing countries which provide special privileges to agricultural exporting state trading enterprises to preserve domestic consumer price stability and to ensure food security (*will receive special consideration for maintaining monopoly status – to be developed relative to the outcome of the discussions on paragraph 4*).

6. In addition to the provisions of paragraph 5, any agricultural exporting state trading enterprise maintained by a developing country, for which monopoly powers have been granted, and whose share of world exports of the agricultural product or products concerned is less than [...] percent (*shall be... – to be developed relative to the outcome of the discussion on paragraph 4*), such that the entity's share of world exports of the product or products concerned does not exceed that level in [...] consecutive years.

As I mentioned in my previous Reference Paper, in the absence of a decision regarding the monopoly status for developed countries agricultural exporting state trading enterprises, it is difficult to determine the precise nature, and need for, any provisions for developing countries. It should be noted that paragraph 5 is directly related to the provisions of paragraph 25 of the Agreed Framework, while paragraph 6 is intended to be an additional provision to address the concerns relating to very small state trading enterprises (in terms of world share of trade) which I had detected a degree of support for as a result of the consultations that I have held.

Notification and Transparency

7. Any Member that maintains an agricultural exporting state trading enterprise shall notify [to the Committee on Agriculture] [on an annual basis] relevant information regarding the enterprises operations, including (*to be developed*).

It is clear from the discussions that some Members believe sufficient notification and transparency procedures will be an important element in ensuring the parallel elimination of all forms of export subsidies and trade-distorting practices of agricultural exporting state trading enterprises. There have been some proposals made regarding notification procedures though at this stage there has not been an adequate debate in this area for me to put down with any degree of proficiency where the ground swell of support is on this issue.

Implementation

To-date, the discussions have not focused on issues relating to implementation (the phasing-in of rules on exporting state trading enterprises in parallel with the elimination of all forms of export subsidies). While important in its own right, it is difficult at this stage to move ahead with this issues until we have clarity on the operational disciplines for agricultural exporting state trading enterprises. That said, special and differential treatment for developing countries with respect to the phasing-out of export subsidies will need to be taken into account.
