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Developments Since the Fourth WTO Ministerial Conference

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Agriculture

Doha Mandate

"Building on the work carried out to date and without prejudging the outcome of the negotiations we commit ourselves to comprehensive negotiations aimed at: substantial improvements in market access; reductions of, with a view to phasing out, all forms of export subsidies; and substantial reductions in trade-distorting domestic support. We agree that special and differential treatment for developing countries shall be an integral part of all elements of the negotiations and shall be embodied in the Schedules of concessions and commitments and as appropriate in the rules and disciplines to be negotiated, so as to be operationally effective and to enable developing countries to effectively take account of their development needs, including food security and rural development. We take note of the non-trade concerns reflected in the negotiating proposals submitted by Members and confirm that non-trade concerns will be taken into account in the negotiations as provided for in the Agreement on Agriculture."

(Doha Ministerial Declaration, para. 13)

Background

Agriculture and services are the only areas where negotiations on further trade liberalisation are mandated in the WTO Agreements themselves. These talks started on schedule in 2000, but no noticeable progress was made until broader negotiations were launched in November 2001.

At Doha, ministers struggled to find a compromise acceptable to all WTO Members, who were (and continue to be) utterly divided over how to deal with agricultural export subsidies. The EU — a liberal user of this export competition tool — rejected the draft language presented to ministers, which called for the reduction of export subsidies "with a view to phasing [them] out". The phrase emerged from prolonged negotiations with the qualification that the talks must be carried out "without prejudging the outcome of the negotiations." Thus, while many agricultural exporters rejoiced in finally getting a 'commitment' to the elimination of export subsidies, the EU and countries such as Japan, Norway and Switzerland have since stressed that Members are only committed to 'working in the direction of' such elimination and have not agreed to a deadline for reaching the goal.

Another ambiguous point is which export subsidies the negotiations would aim to phase out. In an uneasy compromise between the US position that the talks should focus on export subsidies and the EU demand that they cover all forms of export support (including export credit schemes, which the US is a main user of), the Ministerial Declaration speaks of "all forms of export subsidies." The negotiations are also to aim at "substantial reductions in trade-distorting domestic support." While some Cairns[1] and Like-minded Group[2] members regard this mandate as a potential gate for negotiations on all categories of subsidies, Members such as the Europeans and Japan maintain that it only refers to support notified under the Amber Box of trade-distorting subsidies (comprising production-linked subsides, price support, etc.).

See box on page 2 for details on agricultural support categories.

These countries stress that Green Box subsidies are explicitly exempted from the Doha mandate as the support under this category must — by definition — have "no, or at most minimal, trade-distorting effects."[3] However, the Cairns Group and several developing countries take the view that developed countries' Green Box expenditure totalling some US$78 billion per year[4] does distort trade by its sheer volume and therefore the criteria for eligible programmes should be more narrowly defined, and Green Box government spending should at least be capped.

The Doha language on special and differential treatment (S&D) is seen — especially by developing countries — as a commitment that future S&D provisions will be incorporated in the Agreement on Agriculture (AoA) in an enforceable manner, in contrast to what many view as 'non-operational' commitments in the Marrakech Decision for net food-importing developing countries, which only contains 'best endeavour' language. Many consultations were held in Doha on the creation of a 'Development Box' that would give greater latitude for developing countries' agricultural support measures. However, while proposals aimed at enhancing food security and rural employment in developing countries are still on the table, calls for an explicit Development Box have grown somewhat muted in recent months.

The Declaration also "takes note of non-trade concerns [NTCs] reflected in Members' proposals" and "confirms" that they will be taken into account in the negotiations. This wording was pushed by supporters of the concept of agricultural 'multifunctionality', such as the EU, Switzerland, Norway, Japan, Korea and Mauritius, which seek flexibility to address such issues as the environment, rural development and

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Agricultural Domestic Support Categories

Domestic support measures fall into three categories — commonly referred to as 'boxes' of different colours — according to their potential to distort agricultural trade.

The Amber Box includes most domestic support measures that are considered to distort production and trade. These measures are slated for reduction, with some Members pushing for their complete elimination.

Green Box measures should not have distorting effects in agricultural markets; at the very worst, their effects must be minimally trade-distorting. They include funds for research, allow for the promotion of food security stocks, direct payments to producers that are decoupled from current prices or production levels, structural adjustment assistance, safety-net programmes, environmental programmes and regional assistance programmes. These measures, which tend not to be aimed at particular products, must be funded from government revenue, and must not involve price support. The amount of Green Box subsidies is currently unlimited and no reduction commitments are required.

Blue Box measures are an exemption from the general rule that all subsidies linked to production must be reduced or kept within defined minimal (*de minimis*) levels. The measures typically include production-limiting programmes, i.e. payments made according to acreage — for instance, compensation for leaving part of the land fallow — or animal numbers on condition that milk/meat production quotas are not exceeded. The only Members that have notified Blue Box measures to the WTO are the EU, Iceland, Norway, Japan, the Slovak Republic, Slovenia and the US, which no longer provides Blue Box support.

food security through agricultural production. The EU and Switzerland are also trying to address their particular agricultural NTCs including the use of the precautionary principle[5] to ensure food safety, mandatory labelling, animal welfare and the extension of geographical indications (GIs) through the agriculture negotiations.

The 'precautionary principle' refers to action taken to avoid the potentially harmful consequences of an activity despite the absence of scientific certainty about those consequences.

Mandated Deadlines

- By end-February 2003, circulation of first draft modalities;
- By 31 March 2003, agreement on "modalities for further commitments" (para. 14).
- By the fifth WTO Ministerial Conference (10-14 September, in Cancun, Mexico), submission of Members' comprehensive draft Schedules;[5]
- By 1 January 2005, conclusion of negotiations as part of the single undertaking agreed in Doha.

Current State of Play

On 18 December, Stuart Harbinson, Director of the WTO Director-General's Office and former Permanent Representative of Hong Kong to the WTO, who chairs the agricultural negotiations, circulated an 'overview paper' outlining the current status of negotiations on establishing numeric targets, formulas and other 'modalities' for countries' commitments by 31 March 2003. The term 'modalities' refers to the negotiations' scope and the methodology (i.e. approach) to be followed, as well as the end-result that Members agree to seek through the negotiations.

In his general observations, included in the 89-page compendium, Mr Harbinson pointed to "substantial progress" on some issues such as tariff quota administration and export credits. However, he went on to list six key points relating to outstanding issues, including:

- significant differences in interpreting the Doha mandate;
- the different levels of detail in the modalities proposals;
- developing countries' split on special and differential treatment (S&D);
- the concept of graduated treatment for certain groups of developing countries, acceding countries and Members in transition;
- the role of non-trade-concerns (NTCs); and
- some Members' linking the agriculture negotiations to progress in other negotiating areas.

Moreover, he urged countries to immediately focus on the many outstanding issues and questions regarding market access, export competition and domestic support.

Market Access

Discussions have mainly revolved around the reduction formula to use. Currently, the are two main proposals on the table:

- A 'Swiss formula'-like approach — supported by the Cairns Group of agriculture exporting countries, the US, the Like-minded Group (LMG) of developing countries and some others — which would bring down all tariffs to a maximum of 25 percent.
- A 'Uruguay Round approach', which is linear, i.e. the same percentage reductions no matter what the starting tariff rate is. This approach is proposed *inter alia* by the EU, Norway, Switzerland, Japan, Korea and Mauritius, as well as India. In a proposal endorsed by members states in late January 2003, the European Union suggests an overall average reduction of 36 percent and a minimum reduction per tariff line of 15 percent (as was done in the Uruguay Round).

As a means of S&D, the Like-minded Group demands that developing countries seeking to address food security and rural development concerns could exempt certain key agricultural products from new reduction commitments, as well as renegotiate low tariff bindings.

Directly under the market access pillar, the EU has proposed to create a register of agricultural geographical indications (GIs) to be included in the AoA — a suggestion which most trading partners strongly reject. Even Switzerland, a stout advocate of GI extension, would prefer to deal with it at the TRIPs Council.

Article 23 of the Agreement on Trade-related Aspects of Intellectual Property Rights (TRIPs) provides stronger protection to geographical indications on wines and spirits than that afforded to other GIs under Article 22. 'GI extension' refers to some WTO Members' current effort to extend Article 23 type protection to other products than alcoholic beverages.

See also Doha Round Briefing No. 5 on Intellectual Property Rights.

On tariff rate quotas (TRQs), most Members (Cairns Group countries, the US, China, etc.) would like to expand TRQs with the final objective of a tariff-only regime, while others such as Japan and Korea are rather seeking to recalculate (i.e. reduce) some quotas to reflect more up-to-date levels of domestic consumption. Australia and others, however, oppose anything that would allow quotas to be narrowed.

Tariff rate quotas are two-stage tariffs: imports up to the quota level enter at a certain duty; imports beyond this quota are subjected to a higher tariff rate.

The Like-minded Group further wants to replace the current special agricultural safeguard (SSG) with a new mechanism that would apply exclusively to developing countries. The current SSG is only available for 'tariffied' products, i.e. those on which Members converted non-tariff market access restrictions into ordinary customs duties in the Uruguay Round. Due to this condition, the special safeguard is of limited use to developing countries, most of which had hardly any non-tariff measures in place before the Round — and thus few products to 'tariffy'. The Cairns Group supports the elimination of the SSG for developed countries, but could consent to a new safeguard for developing countries under agreed circumstances.

Recourse to the SSG provisions allows countries to levy an additional, time-limited import duty to protect domestic producers in case of a sudden surge in imports of certain products.

In addition, Argentina, Indonesia and the Philippines have brought up the ideas of a Special and Differential Countervailing Measure and a Food Security Mechanism. Nevertheless, some Members including the US and the EU reportedly reject these proposals as both schemes would lack any sort of 'injury test'.

Export Competition

The Cairns Group — with the support of many non-Cairns developing countries — wants to phase out export subsidies within a three-year term (six years for developing countries), with an initial 'downpayment' reduction of 50 percent. The US proposes a five-year period, but without the downpayment reduction, while the EU suggests cutting export subsidies by 45 percent, and eventually eliminating them on certain products "provided that no other form of export subsidisation, including export credits and deficiency payments, is given for the products in question by other Members. Such products should include products of particular significance for developing countries." The Like-minded Group has called for exemptions for developing countries based on the provisions for special and differential treatment in Article 27 and Annex VII of the Agreement on Subsidies and Countervailing Measures. Cairns Group developing countries, however, oppose this arguing that it would worsen distortions and damage South-South trade.

Two general approaches have emerged on how to discipline the use of export credits: first, a 'rules-based' approach proposed by the US and Cairns Group countries to determine which types of credit are on commercial terms, and which types should be outlawed (e.g. be bound and new ones forbidden). European Members such as the EU, Norway and Switzerland prefer a dual approach by establishing rules to determine which credits are on commercial terms, in which case they would be unrestricted. Other credits would be subject to the same reduction commitments as export subsidies.

Domestic Support

On Green Box support (mostly decoupled and at most minimally trade-distorting payments), the EU, Japan, Korea, Norway, Switzerland and Mauritius — known as the 'Friends of Multifunctionality'[6] — and transition economies have called for more flexibility to pursue non-trade issues such as the environment, rural development, food security and animal welfare. A number of developing countries have also asked for more flexibility to address development concerns including food security and rural development. The Cairns Group and some others, however, remain concerned that many of the proposals advocating greater leeway would add new trade-distorting subsidies to the Green Box. Instead, Cairns and some developing countries such as India have demanded overall caps on Green Box spending (e.g. five percent of annual agricultural production), limits on specific types of programmes, or removing some income support programmes from the Box.

Regarding trade-distortive support, the Cairns Group, the US, China, India and some others advocate the eventual elimination of the Amber Box, at least for developed countries that exceed their *de minimis* levels of support of five percent of agricultural production. Proposals have ranged from elimination for developed countries in three years (China) or five years (Cairns Group and Turkey) to reduction to five percent of production in five years plus an agreed date for elimination to be negotiated (US). The Cairns Group (except Canada) has also proposed that developed countries make an initial downpayment reduction of 50 percent. In contrast, advocates of multifunctionality maintain that the Doha mandate only envisages 'substantial reductions' in Amber Box support, which the EU proposes to cut by 55 percent. Members also disagree on whether the present system of reduction commitments based on 'total aggregate measurement of support' (AMS) should be maintained — as suggested by multifunctionality Members — or whether new cuts should be made on a disaggregated, product-specific basis as proposed by the Cairns Group (except Canada).

In addition, the liberalisers (the Cairns Group and other developing countries, as well as the US) want to move partly decoupled payments with production limitation requirements from the Blue Box into the Amber Box, which is subject to reduction commitments. They contend that such measures are still trade-distortive, and that the Blue Box exempting them from WTO disciplines has outlived its usefulness. The EU, Japan and Switzerland see the Blue Box as a staging post in the move away from trade-distorting subsidies and argue that it is necessary to allow reform to take place in their countries.

Special and Differential Treatment

In general terms, there is broad consensus that developing countries will be allowed lower levels of commitments and longer implementation periods, while least-developed countries will continue to be exempted from any reduction commitment. Developing countries such as those from the LMG have also emphasised the need to maintain — and eventually expand — AoA Article 6.2, which exempts developing countries from reduction commitments on certain developmental domestic support measures.

In addition, newly-acceded Members and transition economies have repeatedly argued for other forms of special and differential treatment (S&D). For instance, Mauritius — the speaker for 'small, vulnerable economies' (SVEs) — has insisted that SVEs need special treatment beyond that generally available for developing countries, including trade preferences and longer adjustment periods.[7]

Touching on a very divisive systemic issue, EU-candidate Bulgaria has called for S&D to be based on 'objective criteria' such as level of development and per capita income. This idea of differentiation ('graduation') — also promoted by the EU and others in the overall 'single undertaking' framework — is fiercely rejected by Cairns Group developing country Members and the LMG (see Doha Round Briefing No. 13 on Special and Differential Treatment).

Finally, it is worth noting that despite their calls for S&D in the agricultural sector, developing countries now only rarely refer to an explicit 'Development' or 'Food Security Box'. Interestingly, the proposal recently adopted by EU ministers does offer a "Food Security Box" to developing countries which contains a special safeguard, an increase of the *de minimis* level (10 percent for developing countries) and more flexibilities to support food security and agricultural diversification.

Implementation Issues

The section on agriculture of the Decision on Implementation-Related Issues and Concerns (WT/MIN(01)/W/10) deals most prominently with the Green Box. Para 2.1 urges "restraint in challenging measures notified under the green box by developing countries to promote rural development and adequately address food security concerns." Despite its 'best endeavour' nature and lack of specifics, it does provide some clout for pushing for this in the negotiations. The Decision also takes note of the report of the Committee on Agriculture (G/AG/11) regarding the implementation of the Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-developed and Net Food-importing Developing Countries, and approves some of its recommendations. The Committee has just recently approved a follow-up report to the General Council (G/AG/14).

The list of outstanding implementation concerns agreed in Doha* contains one agricultural issue: the question whether — in the event that domestic support prices are lower than the external reference price (so-called 'negative AMS') — Members shall be allowed to increase their non-product specific Aggregate Measurement of Support by an equivalent amount (tiret 6). This issue is being discussed within the agriculture negotiations.

* *Compiled in WTO document JOB/)1/152/Rev.1, available at http://www.ictsd.org/ministerial/doha/docs/imp_iss.pdf.*

Endnotes

1 The Cairns Group is comprised of 17 agricultural exporting countries that are committed to a market-oriented agricultural trading system. The member countries are Argentina, Australia, Bolivia, Brazil, Canada, Chile, Colombia, Costa Rica, Guatemala, Indonesia, Malaysia, New Zealand, Paraguay, the Philippines, South Africa, Thailand and Uruguay.

2 The informal Like-minded Group of developing countries usually includes Cuba, the Dominican Republic, El Salvador, Haiti, Honduras, Kenya, Pakistan, Sri Lanka, Uganda and Zimbabwe.

3 Annex 2, paragraph 1 of the WTO Agreement on Agriculture.

4 Informal WTO estimate, January 2003.

5 Schedules are detailed lists of every single Member's tariff concessions, its commitments limiting subsidisation covering agricultural products, commitments on tariff rate quotas, the use of agricultural safeguards, etc. These concessions and reduction commitments will be an integral part of a re-negotiated Agriculture Agreement.

6 These six countries form the core group of the Friends of Multifunctionality ("MF6"). Several other Members — mostly developing countries and economies in transition — support certain arguments put forward by the MF6 grouping to various degrees.

7 According to para. 35 of the Doha Declaration, the General Council must make "recommendations for action" to the WTO's fifth Ministerial Conference based on the work programme established in Doha to "frame responses to the trade-related issues identified for the fuller integration of small, vulnerable economies into the multilateral trading system."

Proposals can be searched through codes G/AG/NG* or TN/AG* at: http://www.docsonline.wto.org

Please note that during the last two years Members have submitted most of their negotiating proposals as informal 'non-papers', which are not posted on the WTO website. Nevertheless, some Members have made certain papers publicly available, including:

- the EU at: http://europa.eu.int/comm/agriculture/external/wto/officdoc/index_en.htm;
- the US at: http://www.fas.usda.gov/itp/wto/; and
- the Cairns Group at: http://www.cairnsgroup.org/proposals/index.html.

More information on international agriculture trade and sustainable development can be found at the new agriculture section on the ICTSD website at http://www.ictsd.org/issarea/agiculture/index.htm.

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