

TRADE HOT TOPICS

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EU/U.S. Framework for WTO Agriculture Negotiations

by Allan Turnbull¹

1. INTRODUCTION

In November of 2001 the WTO Ministerial Conference agreed to launch a new round of global trade talks. The new round of multilateral trade negotiations has been labeled the Doha Development Agenda in recognition of the WTO's commitment to economic growth and reduction of poverty in developing countries.

2. OVERVIEW

With respect to agriculture, the Doha Declaration commits WTO members 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.

The Doha Declaration also reflects the agreement of WTO members 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. ... and confirm[s] that non-trade concerns will be taken into account in the negotiations as provided for in the Agreement on Agriculture.

Modalities for the further commitments, including special and differential treatment for developing countries, were to be established by 31 March 2003 in preparation for the Fifth Ministerial Conference in Cancun, Mexico in September 2003. "Modalities" is the word applied to describe the scope and approach to be used in the negotiations as well as the outcome members agree to pursue. Unfortunately, modalities for the agricultural negotiations were not achieved by the 31 March 2003 deadline.

In late July a WTO "mini-ministerial" conference was held in Montreal, Canada at which the U.S. and the EU agreed to seek common ground on trade in agriculture. On 13 August 2003 the U.S. and EU released a proposed framework ("EU/U.S. Framework") for the WTO agriculture negotiations that affirms the Doha Declaration provisions with respect to agriculture, and generally addresses market access, export subsidies and domestic support.

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3. MARKET ACCESS

Current Positions

To date, the Cairns Group² of agricultural export countries, the U.S. and the Like-Minded Group³ (LM) of developing countries would apply a Swiss⁴ formula to reduce average agricultural tariffs from 62% to 15% over five years, with a maximum tariff for any specific agricultural product of 25%. A Swiss formula approach targets the highest tariffs and would require greater reduction commitments in relation to agricultural products protected by high tariffs compared to such products protected by relatively lower tariffs.

By contrast, the EU, Japan, and other countries that include Switzerland, Norway, Korea and India, would apply a Uruguay Round formula approach to reduce average agricultural tariffs by 36% with a minimum reduction of 15% for each agricultural product. Unlike the Cairn's proposal, the EU approach allows for policy flexibility that enables countries to maintain high tariff peaks and tariff escalation to protect against imports of sensitive agricultural products, and still be able to meet their overall reduction commitments.

The LM Group proposes that developing countries be allowed to exempt key agricultural products from new reduction commitments and be able to renegotiate their bound agricultural tariffs to facilitate food security and rural development concerns.

With respect to quotas, the Cairns Group and the U.S. would like to increase the minimum access requirements or expand the tariff rate quotas, while other countries most notably Japan and Korea would seek to reduce minimum access quotas for certain sensitive agricultural products.

With respect to an agricultural safeguard, the LM group proposes to replace the special safeguard provision in the Agreement on Agriculture with a new measure that would only be available to developing countries, to address the general lack of availability and utility of the current agriculture safeguard mechanism for such members.

EU/U.S. Framework

The EU/U.S. Framework proposes a "blended formula" and other provisions in an effort to achieve the Doha declaration goal of a substantial improvement in market access for agricultural goods. The "blended formula" combines the Uruguay Round and Swiss approaches with certain duty-free access.

In that regard, the EU/U.S. Framework proposes that the Uruguay Round formula be applied to an undefined maximum percentage of tariff lines for import sensitive agricultural products that would result in tariffs for such products being reduced by an undefined average percentage, subject to a minimum reduction for each product, over an undefined implementation period. At the same time, however, the framework also calls upon members to improve minimum market access with respect to such import sensitive products through a combination of tariff cuts and improved tariff rate quotas.

With respect to the remainder of agricultural products, a Swiss formula of undefined reductions would be applied to an undefined portion of such agricultural products, and an additional undefined percentage of such products would be granted duty-free market access.

The EU/U.S. Framework also proposes an undefined maximum tariff for any agricultural product that would require members to reduce individual tariff lines at least to the maximum level or provide equivalent market access through improved tariff rate quotas. The concept of a maximum tariff would significantly impact upon countries such as Japan that applies a tariff of 490% to protect against imports of rice.

The use of the special agricultural safeguard that is currently set out in the Agreement on Agriculture, for the intended benefit of all members, remains under negotiation.

² The Cairns Group of agricultural export countries are committed to a market oriented trading system for agricultural products and is comprised of Argentina, Australia, Bolivia, Brazil, Canada, Chile, Colombia, Costa Rica, Guatemala, Indonesia, Malaysia, New Zealand, Paraguay, the Philippines, South Africa, Thailand and Uruguay.

³ The Like-Minded Group of developing countries is normally comprised of Cuba, Dominican Republic, El Salvador, Haiti, Honduras, Kenya, Pakistan, Sri Lanka, Uganda and Zimbabwe.

⁴ An approach first proposed by the Swiss about 30 years ago to negotiate tariff reductions for industrial goods.

4. EXPORT SUBSIDIES

Current Positions

To date, the Cairns Group, along with the support of many non-Cairns developing countries, have proposed to eliminate export subsidies over three years for developed countries and over six years for developing countries, with an initial down payment reduction of 50%. The EU, however, has resisted the elimination of export subsidies and proposed that they be reduced by 45% over a suitable transition period. The LM Group has called for exemptions from these commitments for developing countries.

With respect to export credits, the Cairns Group and the U.S. had proposed that a determination be made of which types of export credit are made on commercial terms and that non-commercial export credits be then prohibited. In contrast, the EU and other countries proposed that the use of export credit on commercial terms be unrestricted and that non-commercial export credits be subject to the same reduction commitments as applied to other export subsidies.

EU/U.S. Framework

The EU/U.S. Framework proposes that export subsidies be eliminated over an undefined period for undefined agricultural products that are of particular interest to developing countries.

For the balance of agricultural products budgetary outlays for export subsidies and the quantity of agricultural products that benefit from export subsidies are to be reduced by an undefined amount over an undefined period.

With respect to export credits the framework mirrors the proposal for elimination of export subsidies. In that regard, the framework proposes that the trade distorting aspect of export credits be eliminated for the same undefined agricultural products that are of particular interest to developing countries, by a reduction in the repayment period to an unspecified number of months, to be phased-in over the same undefined period.

For the balance of agricultural products the framework proposes that the trade distorting aspect of export credits be reduced in a manner that is equivalent to the export subsidy reduction commitments for the same products.

The export credit provisions would appear to allow the U.S., a major user of export credits and food aid to promote its agricultural exports, a somewhat limited continuation of its current export credit programs. Subsidies in the form of export credits are only a subset of the Article 10 export subsidies that are all, as a practical matter, largely unregulated under the current Agreement on Agriculture.

The framework also proposes that there should be disciplines established to prevent commercial displacement through the use of food aid, and disciplines established to govern export state trading enterprises. With respect to state trading enterprises, the intended disciplines are defined to include elimination of single desk export privileges, prohibition of special financing privileges and disciplines on pricing practices. The state trading enterprise provisions of the framework will be particularly significant to countries such as Australia and Canada, both members of the Cairns Group, that use such entities to export agricultural products.

5. DOMESTIC SUPPORT

Current Positions

With respect to amber box or trade-distorting domestic support, the Cairns Group, the U.S., China, India and other members had proposed that developed countries be limited to *de minimis* levels of support equal to 5% of agricultural production over a suitable phase-in period, followed by eventual elimination of trade-distorting domestic support altogether. The Cairns Group, except Canada, proposed that an initial down payment reduction in amber box domestic support of 50% be immediately implemented. The Cairns Group, the U.S. and other members also proposed elimination of the blue box exemption that is currently available for certain production-limiting programs.

In contrast, the EU and other members had proposed that trade-distorting or amber box domestic support be reduced by 55% over a suitable transition period. The EU proposal relies upon the Doha Mandate that calls for substantial reductions in trade-distorting domestic support, and not the complete elimination of amber box measures. Moreover, the EU, Japan, and other countries seek a continuation of the blue box exemption which they consider to be a necessary mechanism to assist in the transition towards green box domestic support. Some members also questioned whether the current system of reduction commitments for trade-distorting domestic support, based on a total aggregate measurement of support, should be disaggregated and new

reduction commitments negotiated on a product specific basis to reduce the level of flexibility that is currently available.

With respect to green box domestic support, that is defined to be at most of minimum trade distortion, the EU, Japan, Switzerland and other countries had proposed that green box measures be expanded to include domestic support designed to address non-trade concerns such as environmental protection, rural development and food security.

The Cairns Group has tended to view the EU “multifunctionality” approach as a means to add new levels of trade-distorting domestic support to the protected green box category. In view of the high levels of green box domestic support that are already provided by developed countries, the Cairns Group, India and other countries had proposed to tighten-up the definition of green box measures considered to be non-trade distorting domestic support, eliminate some measures from that category, and to impose a cap on the maximum level of green box measures that could be spent on agriculture in any year.

EU/U.S. Framework

The EU/U.S. Framework proposes to achieve substantial reductions in trade-distorting domestic support by a reduction in the level of amber box domestic support within an undefined range, and by an undefined reduction in the levels of trade-distorting domestic support considered to be *de minimis* from the current levels of 5% for developed and 10% for developing countries.

The framework proposes an exception for “less trade distorting domestic support”, similar to the current blue box support, for direct payments to producers provided that:

- such payments are based on fixed areas and yields; or
- such payments are made on 85% or less of the base level of production; or
- livestock payments are made on a fixed number of head; and
- the total of such payments are subject to a cap of 5% of the total value of agricultural production by the end of an undefined period.

The proposed definition of “less trade distorting” domestic support would appear to be able to facilitate the current U.S. counter-cyclical program payments to agricultural producers.

The framework also provides that the total level of trade distorting domestic support, comprised of amber box, blue box and *de minimis* support, is to be reduced to a level that is “significantly less” than the aggregate level of such trade distorting domestic support determined for 2004.

The framework does not address non or minimal trade distorting green box domestic support which suggests that, contrary to the Cairns Group, the EU and U.S. do not propose to tighten the criteria used to determine green box support and do not propose any cap on the aggregate level of such support.

Developing Countries

In regard to market access, the EU/U.S. Framework acknowledges that there should be increased market access for developing countries most in need and that the negotiations should take into account the importance of current and future preferential access for developing countries.

Against that backdrop the framework directs that all developed countries “seek to provide” duty-free access for at least a minimum undefined percentage of agricultural imports from developing countries through a combination of WTO negotiated tariffs and unilateral preferences.

As previously indicated the framework also contemplates that import sensitive agricultural products may also be designated by developing countries subject to an undefined maximum percentage of tariff lines, and that such products would be entitled to benefit from application of the more flexible Uruguay Round formula.

In recognition of the development and food security needs of some developing countries, the framework also proposes that developing countries are to benefit from special and differential treatment that includes unspecified lower tariff reduction commitments and longer implementation periods.

The framework proposes that a special agricultural safeguard be established for the benefit of developing countries in relation to the import sensitive products that are to be subject to the requirements of the Uruguay Round formula.

The elimination of export subsidies for undefined agricultural products of particular interest to developing countries would also seem to be a positive concept and a good first step, although much remains to be negotiated to translate this important concept into a real benefit. In addition, the framework makes no reference to the export subsidy exceptions for developing countries that are currently specified in Article 9.4 of the Agreement on Agriculture, which would suggest that the EU and U.S. may be open to a continuation or enhancement of such exceptions for developing countries.

With respect to amber box measures, the current maximum allowable level of trade distorting domestic support for the U.S. is capped at US\$19.1 billion relative to about 2 million farmers, compared to a cap of about US\$60 billion for the EU relative to more than 7 million farmers. Against that backdrop, the framework provisions with regard to domestic support by developed countries will likely still result in very significant levels of trade-distorting domestic support, whether such support is amber box, blue box or *de minimis* in nature, from the perspective of developing countries. The framework does not refer to the trade-distorting domestic support exceptions for developing countries in Article 6.2 of the Agreement on Agriculture, which again would suggest that the EU and U.S. may be open to a continuation or enhancement of such exceptions for developing countries.

The rules and disciplines that are to be negotiated for special and differential treatment for developing countries are to be adjusted for significant net food exporting countries which would appear to be directed towards countries such as Brazil and Argentina.

6. ROAD TO CANCUN

Agriculture is critical to the economic growth of many developing countries. Undoubtedly, a positive outcome to the agriculture negotiations under the Doha Development Agenda is essential to the successful conclusion of the Doha Round.

Leadership is required on the part of the U.S. and the EU to succeed in the agriculture negotiations, and overall to successfully complete the Round. The framework indicates positive efforts by the U.S. and the EU to find common ground on agriculture and to that extent provide leadership.

However, the number of bracketed and undefined concepts and issues make it difficult to assess the aggressiveness of the framework. In that regard, for example, it is difficult for members to assess:

- the extent to which market access will be improved and over what period of time;
- the extent to which export subsidies will be eliminated and over what period of time;
- the extent to which Article 10 export subsidies will be eliminated and over what period of time;
- the extent to which trade distorting domestic support is to be reduced and over what period of time; and,
- the nature and extent of special and differential treatment for developing countries.

For Cairns Group members the lack of detail highlighted above raises very serious concerns that the framework is not aggressive enough with respect to market access, export subsidies and domestic support. For Cairns member countries such as Australia and Canada their individual concerns about the EU/U.S. Framework are only further heightened by the framework's proposals with respect to state trading enterprises, that include the elimination of single desk export privileges and other proposed disciplines, which would directly impact upon the Australian Wheat Board and Canadian Wheat Board. Australia and Canada will likely find such proposals to be unacceptable.

From the opposite perspective, for countries such as Japan, Switzerland, Norway, and South Korea, the lack of detail highlighted above raises serious concerns that the framework is far too aggressive. Japan will strongly object to the concept of a maximum tariff and improved market access in relation to import sensitive agricultural products. In that regard, for example, Japan applies a tariff of 490% on imported rice and will resist any attempts to apply a maximum tariff and improve market access with respect to an agricultural product that is considered to be a country staple.

Even if these types of concerns can be addressed, there are some significant agriculture issues that remain unresolved between the U.S. and the EU. For example, significant agriculture issues that remain unresolved between the two countries include:

- the treatment of non-trade concerns related to agriculture, such as environmental protection, rural development and food security;

- the fate of the peace clause that shelters certain agricultural measures from WTO challenge provided they comply with the requirements of the Agreement on Agriculture;
- the treatment of sectoral initiatives; and,
- protection for geographical indications related to food and beverages such as Bordeaux wine and parmesan cheese.

From the perspective of developing countries there are some positive concepts reflected in the EU/U.S. Framework, particularly in relation to:

- market access and the direction for developed countries to “seek to provide” duty free access for a minimum percentage of agricultural imports from developing countries;
- the elimination of export subsidies in relation to agricultural products of particular interest to developing countries;
- special and differential treatment with respect to such matters as reduction commitments and implementation periods; and,
- the establishment of a special agriculture safeguard available only to developing countries.

A great deal of work needs to be done by developing countries, however, to ensure that these concepts become more than just concepts and are actually transformed into true benefits for developing countries.

The challenge that the EU/U.S. Framework poses for various constituent groups of member countries, with the Cancun Ministerial only a matter of weeks away, is to either come up with a different or modified framework that better addresses the various constituencies, and yet remains acceptable to the EU and U.S.; develop a strategy to clarify and work within the broad parameters of the framework; or risk the collapse of the agriculture negotiations and the Doha Round.

For developing countries, collapse of the agriculture negotiations would risk:

- that their agricultural products would continue to be undermined at home and in export markets by low-priced produce supported by massive subsidies;
- the bleak prospect of competing against US\$1 billion in daily support from developed countries;
- a lost opportunity to possibly secure substantial agricultural trade reform based on the Doha Development Agenda; and,
- the likely collapse of the Doha Round, and with it a lost opportunity to pursue sustainable economic growth, development and poverty reduction through trade liberalization.

The ability of developing countries to bridge their own differences and find common ground amongst themselves, and with other countries, would seem to be important to enable them to collectively speak with a stronger voice, more effectively advance their goals and make the Doha Round successful.

The road to Cancun and beyond will be difficult and full of challenges, but no more so than the road to Doha, after the tragic events of 11 September where true leadership in the face of adversity gave life to the Doha Development Agenda.

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