AGRICULTURAL SUBSIDIES AND NEGOTIATIONS IN THE WTO DOHA ROUND

SUMMARY

By Martin Khor and Aileen Kwa

WTO AGRICULTURE FRAMEWORK

Agriculture had been kept out of the multilateral trading system at the request of the developed countries, and it returned to the system through the Uruguay Round. Unfortunately the Agriculture Agreement in the World Trade Organization (WTO) is imbalanced. The expected benefits to developing countries have not been realized. There are many loopholes in the system that allow the developed countries to continue to subsidise and protect their agriculture, at the expense of the developing countries. However the developing countries have also been constrained from the use of subsidies, while they also had to reduce their tariffs.

The loophole is most evident in the treatment of agricultural domestic subsidies. The agriculture agreement has enabled the developed countries to shift from using one type of subsidy to other types of subsidy, while maintaining or even increasing the total amount of subsidies. Certain types of subsidies are considered trade-distorting and thus have to be reduced but other subsidies in the Green Box are considered not distorting and thus are allowed without limits. As a result, the US and European Union (EU) have been reducing their trade-distorting subsidies but increasing their Green Box subsidies, while maintaining the total.

An increasing number of studies, including one by the United Nations Conference on Trade and Development (UNCTAD), have shown that Green Box subsidies are actually also trade-distorting. UNCTAD concluded that if the Green Box (GB) subsidies were reduced or removed, the developed countries such as the US, EU, Canada, Switzerland and Japan would suffer major declines in their agricultural exports. Their production would also be reduced.

The developed countries' subsidies enable their farm products to be sold locally and also exported, often at levels below the production cost. Farmers in developing countries lose export opportunities and revenues from having their market access blocked in the developed countries that use subsidies and also in third countries. They also often lose part of their own domestic market to the artificially cheap imports. In recent years, many developing countries have experienced surges in imports of many agricultural products. Often, imports were artificially cheapened by domestic and/or export subsidies.

Doha Round agriculture negotiations

In the Doha negotiations, the basic framework for establishing the negotiating modalities was agreed to at a mini-Ministerial meeting in July 2004, and endorsed by the General Council. Two main issues are in the framework: (1) subsidies and (2) market access (mainly tariff cuts, and special safeguard mechanism for developing countries).

On domestic subsidies, the developed countries are asked to cut their overall trade-distorting domestic support (OTDS, while they are given the freedom to continue using and increasing Green Box subsidies without limits.

On market access, it has been agreed that tariffs be cut according to a "tiered formula" in which there are four bands according to tariff ranges. Developed countries will have to cut by a minimum of 54% overall.

For developing countries, there will be a maximum overall average cut of 36%. LDCs are exempted from any tariff reduction, while "small, vulnerable economies" do not have to cut their tariffs according to the tiered formula, but are to be subjected to more lenient treatment in tariff reduction.

There are also two categories of products, known as "sensitive products" and "special products", which are allowed to have treatment that is more lenient (i.e. result in lower tariff reductions) than if the cuts were made in the tiered formula.

In the December 2008 text of the Chair, developed countries can designate 4% of their agricultural tariff lines as "sensitive products", whose tariff reductions can deviate by one-third, or half or two-thirds from the tiered formula rates. The sensitive products will assist developed countries to maintain protection at a rather high level on their important (or sensitive) products.

However some developing countries have also been fighting to establish two "special and differential treatment" elements in market access: "special products" (SPs) and a special safeguard mechanism (SSM). These elements are championed by the Group of 33 developing countries.

On special products, the G33 have proposed that developing countries can designate a certain percentage of their agricultural products as special products. The Chair's December 2008 draft proposed that 12% of tariff lines can be designated as SPs, that 5% of tariff lines can be allowed zero tariff reduction, while on average the tariff cut for SPs would be up to 11%.

On SSM, the G33 have proposed that developing countries be allowed to defend their domestic farmers from being damaged by import competition, by establishing a special safeguard which does not need to follow the normal safeguard procedures in the WTO. Under the SSM, action in the form of imposing an additional tariff can be triggered when either the price of the import goes below a certain threshold, or the volume of imports increases.

While the WTO membership has agreed to the establishment of a SSM for use by developing countries, those members with an export interest (including the United States, Australia and some agricultural-exporting developing countries) have proposed many restrictions to the use of the SSM, such as that the change in price or volume of import has to be large before the SSM can be used, and that the SSM can be used on only a small number of products at any one time and only for a limited duration. They also proposed that the additional duty to be imposed, once the SSM is triggered, be limited; in particular that only in exceptional circumstances can the new duty exceed the pre-Doha bound duties.

THE AGRICULTURE MODALITIES PAPER (6 DEC 2008)

On 6 December 2008, the Chair of the WTO's agriculture negotiations issued a paper on modalities of the agriculture negotiations. This is still used as the main basis for further negotiations.

Overall trade distorting domestic support (OTDS): In the Chair's text, the allowable OTDS for the US is to be cut by 70%. Thus the present $48.3 billion allowable level is cut to $14.5 billion. The $14.5 billion level is far below the estimated 2007 actual OTDS of $7-8 billion. The US actual or applied OTDS level in 1996-97 was also $7 billion before rising to $19 billion in 2005 before dropping to $11 billion in 2006 and $8 billion in 2007. Thus the proposed $14.5 billion allowable level is double the 2007 level, or even the 1996-97 level, allowing the US to have a lot of "water" to increase from the $7- 8 billion level.

The allowable OTDS for the EU is proposed to be cut by 80%. The EU's present allowable OTDS is Euro 110.3 billion; a cut of 80% would bring it to Euro 22 billion. According to one researcher, the estimated level in line with the EU's own CAP reform would be Euro 27 billion in 2008, and according to another estimate it is expected to drop to Euro 12 billion at the end of the CAP reform in 2014. Thus the cut to Euro 22 billion, through it appears to be large, would allow for "water" vis-à-vis what is planned.

The lowering of the US' and EU's applied OTDS of recent years has been accompanied by a rise in the Green Box support (which is not part of the OTDS). While actual OTDS is cut, subsidies are shifted to the Green Box and total domestic support may not decline.

Recent studies have exposed that Green Box support can be and have been trade and production distorting. The Chair's new text proposes some changes to the Green Box, but these do not alter the basic elements, especially that there is no cap on the Green Box and these subsidies can increase without limit in the future.

Thus the cuts in allowable OTDS for US and EU may appear large (70%, 80%) but in fact will not reduce applied or planned reductions in OTDS and moreover these will be offset by an increase (in the case of the EU) in the Green Box. As the trade expert BL Das (2006) pointed out: "The really significant escape route is the Green Box which amounts to US$50 billion and Euro 22 billion in 2000 respectively in the US and EU and the possibility of unlimited increase in future....Thus the Green Box, particularly its window of 'decoupled income support' (paragraph 6 of Annex 2 of the Agreement on Agriculture) will continue to be the route to give farmers unlimited amounts as subsidies."

An objective conclusion would be that the OTDS figures of 70% cut for the US and 80% cut for the EU are not adequate as they do not constitute effective and substantive or real cuts. In particular, the $14.5 billion OTDS for the US is not adequate. This $14.5 billion figure cannot be used as a "trigger" or reason to demand such high obligations from developing countries in agriculture, services and NAMA.

Sensitive products

Many developing countries including those in the G20 (in WTO) have been demanding a tariff cap of 100% for developed countries in agriculture. This was opposed by some developed countries. Some of their agricultural tariffs exceed 200 to 300 per cent, with the highest tariff at over 1,500%.

As a compromise, the Chair's text allows the sensitive products of developed countries to exceed the 100% cap. These are the products most likely to have very high tariffs. Moreover the developed countries can also designate 1% of tariff lines that are not sensitive products to have tariffs above 100%. Therefore the sensitivities of developed countries are catered for.

Another sensitivity catered to is that developed countries can have "sensitive products" which can deviate significantly (by one to two thirds) from the formula cut. The number of allowed products in the paper is 4% with an additional 2% (for countries where 30% of products fall into the top tier of the formula. Developed countries have to "pay" for the reduced tariff cuts by the expansion of tariff quotas in the sensitive products.

Developing countries can also make use of sensitive products, with one-third more in numbers (5.3 or 8%). The deviation from full formula cut is the same as for developed countries.

Special Products

The majority of developing countries, championed by G33, have argued for more lenient treatment of their "special products" to promote their food security and farmers' livelihood concerns, arguing that SPs should not be subjected to tariff cuts (or at most have minimal cuts) especially since developed countries' subsidies continue to distort the market.

The G33's amended position was for at least 20% of tariff lines to be self-designated as SPs (with half of that having zero cut). The G33 then made concessions in mid-2008 with a 2-tier system (one tier of zero cut, 2^{nd} tier with average 12% cut).

In the Chair's text (which followed a proposal by the WTO director general) only 12% of tariff lines can be special products. Within the 12% tariff lines, 5% can have zero cut, but the 12% as a whole will have an average cut overall of 11%.

This is far from the original G33 position of at least 20% of tariff lines as SPs, with half of that having zero cut, a quarter having 5% cut and a quarter having 10% cut.

On top of this, the developing countries have to cut non-SP tariffs by a significant extent. The overall maximum average cut is set at 36%, which is much higher than the Uruguay Round average cut of 24%.

Special Safeguard Mechanism (SSM) The Chair's text continues to specify so many conditions on the use of the SSM as to render it operationally ineffective. The SSM will in name help developing countries' farmers but in practice it will not, thus giving a false impression that livelihood and food security concerns are taken care of.

The major problem with the Chair's draft is that it severely restricts the ability of SSM to bring the applied tariff to above the current (the Uruguay Round or the pre-Doha) bound levels, and to the extent necessary to fulfil its task, i.e. to be a special safeguard so as to avoid losses to local farmers and displacement of their products.

The remedies remain extremely restrictive and will in many cases be insufficient to address the problem of import surges or declining import prices.

Therefore the objective of the SSM – to protect food security and farm livelihoods by effectively address the problem of import surge and price decline – will not be met in these many cases.

The normal safeguard (i.e. the Agreement on Safeguards in the WTO) and the present Special Agricultural Safeguard (SSG) do not have any limit on whether the additional safeguard duty can exceed the duty level of the previous Round. By having such a condition, the SSM becomes weaker than the normal safeguard or the SSG, thereby erasing its purpose, which is to be special.

Further, there are many other conditions placed on when the volume-based SSM can be used and on the duration it can be in place, if the remedy were to exceed the pre-Doha rates.

EFFECTS OF DEVELOPED COUNTRIES' SUBSIDIES ON DEVELOPING COUNTRIES

The agricultural subsidies of developed countries remain high, and have affected the developing countries in various ways. According to the Organisation for Economic Co-operation and Development (OECD), the subsidies given to farm producers in all OECD countries totalled US$252 billion in 2009, which is 22% of the total value of gross farm receipts in that year. This is about the same level as in 2007 and 2008. The level of support is even higher than this average in some countries; in 2006-08, it was 27% in the EU, 49% in Japan, 60% in Switzerland and 62% in Norway (OECD 2009, p17). The level of support is very high in certain products; in the case of rice, commodity-specific support amounted to 60% of total producer rice receipts in 2006-08 (OECD 2009, p16).

Other types of support include general services support (including research and development, infrastructure and marketing and promotion) which totalled US$95 billion and consumer support in 2009. If all these three items are included, the total support estimate was $384 billion in 2009, which is higher than the $362 billion in 2007.

As a result of these high subsidies, the OECD farmers could receive farm receipts 27% higher in 2008 than if they had not been supported by policies. Most of the subsidies in US and many European countries go to the bigger and richest farms.

Many other studies show that the subsidized products, selling at below production cost in many cases, are sold at artificially cheap prices to developing countries, which face import surges. An example is Mexico, which suffered from massive increases in imports of US food, a drop in Mexican producer prices, and a drop in Mexican food production. The eight products studied all saw significant growth in U.S. exports, from the 159% increase in soybean exports to the 707% increase in pork exports. For all eight products, real producer prices in Mexico fell dramatically, with real 2005 prices 44%-67% lower than their levels in the early 1990s. Mexican production fell for all the crops except corn. The study calculated the cost to Mexican producers of these dumping-level prices. It estimated the nine-year cost at $12.8 billion (in 2000 US$). An estimated 2.3 million people have left agriculture in a country desperate for livelihoods and food dependency has risen dramatically, which cost Mexico dearly when commodity prices spiked in 2006-8.

Another example is Ghana, whose rice, tomato and poultry have been badly affected by the import of subsidized food products from the US and EU.

Barriers to the effective use of Special Safeguard Mechanism

The import surges point to the need for the SSM. However many obstacles have been placed on developing countries that want to use the SSM, by the Chair's text. The **volume-based SSM** faces these problems:

a) The volume trigger is too high and by the time the country is able to use it, it may be too late to prevent the damage to the local farmers.

b) The volume triggers are a moving target, and too many imports must be flooding the country before the volume safeguard can be used.

c) The remedies (additional duties that can be applied) offer insufficient protection

d) Applying the remedies will be too difficult: There are too many conditionalities that must be fulfilled before the SSM can be used. These conditions include (1) Cross-check (domestic prices are actually declining); (2) Limits to how long the remedy can be used and how soon it can be reinstated once it is removed); (3) Seasonality (even more stringent conditions for seasonal and perishable products); (4) Pro-rating (a higher trigger is given if the country has previously used the SSM on the tariff line); (5) Exclusion of negligible trade (SSM remedies cannot be used if the imports are negligible).

All these conditionalities unnecessarily hinder the effective usage of the SSM and should be removed from the negotiating texts.

The text on the **Price-based SSM** also contained inadequate remedies and restrictive conditionalities, including:

a) Remedies offer insufficient protection: The remedy will only partially address the price decline, meaning that domestic products are still likely to be out-competed by the cheap imports.

b) Applying the remedies will be too difficult, and thus there may be no usage of the price-based SSM in effect. Firstly, en route shipments are excluded from the use of the SSM; secondly, there will also be a cross-check mechanism, in which the price-based SSM cannot be used when the volume of imports is in decline.

ECUADOR AND THE AGRICULTURAL NEGOTIATIONS AT THE WTO

Ecuador is a country that has prioritised agricultural production and food security. The 2008 Constitution enshrines food sovereignty as a goal – the first country in the world to do so in its Constitution. It states that Ecuador will
'Promote food sovereignty by transforming the national agro-food system; introduce organic and ecological technologies for sustainable agricultural production, adopt fiscal and redistributive policies to increase resources for farmers to protect the national economy from food import dependency and prohibit the use of biotechnology and genetically modified seeds harmful to human and environmental health'[1]

[1] Translation of parts of the constitution was obtained from http://www.foodfirst.org/en/node/2301

This implies that Ecuador would place a high priority on food self-sufficiency, and this points to the need not to have excessively low tariffs, and also to protect itself from import surges through a special safeguard mechanism.

On average, between 2004 – 2007, the country experienced import surges on 15.5% of all its agricultural imports.

The tariff profile of Ecuador shows that the country has relatively low tariffs, and that in many cases the bound and the applied tariffs are quite close to each other. The country's bound rates are so low that it has found it difficult to keep within these bound rates in the case of some products. The WTO Secretariat carried out a trade policy review of Ecuador in 2005. It found four 10-digit lines for which the applied rates at the beginning of 2005 could have been above the bound rates. For 585 tariff lines, the applied rates are the same as the bound rates.

Ecuador and the Special Safeguard Mechanism (SSM)

Developing countries in the agriculture negotiations have been asking for a Special Safeguard Mechanism (SSM) which would allow countries to increase tariffs should there be agricultural volume import surges or price declines in agricultural imports. The key proponent for this is the Group of 33 (G33), led by Indonesia, with 45 other developing countries.

The Special Safeguard Mechanism (SSM) is also useful for Ecuador for the following reasons:

- The country has a low tariff structure, with a significant amount of imports entering the country with tariffs of less than 10%. In order to support domestic farmers to increase production domestically, the SSM can therefore help the country institute higher tariffs when volume import surges take place or when import prices decline.

- Ecuador experiences import surges on approximately 15.5% of its overall agricultural trade. That is, import surges are routine. Since imports can subdue domestic production, SSM duties can help to shield and support domestic production, which is in keeping with Ecuador's goal of food sovereignty.

- Ecuador's balance of payments position has deteriorated sharply at the end of 2008 and in early 2009. Although the situation has improved in 2010, it is possible that given its dollarized economy, and the fragility of the US and global economy, a recurrence of the BOP crisis could take place. The country is constrained in that it cannot pursue an independent monetary and exchange rate policy in order to manage its balance of payments. Reducing food imports can help to give some relief to the balance of payments situation. (See WT/BOP/R/91, 11 June 2009 for further information).

- Excluding bananas, Ecuador's agricultural exports and imports break even. However, when food prices increase, Ecuador is vulnerable (as in 2008). The government is mindful of the need to increase domestic food production in order to be able to cope better with volatile world food prices. The SSM can help in this regard.

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Ecuador should consider to join the G33 and advocate the establishment of an effective SSM. An easy to use and effective safeguard can be a useful tool for Ecuador, given the 15.5 % of import surges occurring on average (between 2004-2007). The instrument would also support Ecuador in its goals of increasing staple food production and increasing supports to its small farmers. Domestic production can guard against the country falling into a balance of payments crisis should the world price of food increase to levels seen in 2008. Indeed, world prices of key agricultural/ food items are likely to be volatile in the years to come for several different reasons, including that of speculation of agricultural commodities on the financial markets.

CONCLUSIONS

The WTO Doha agriculture negotiations have proceeded in an imbalanced manner. The global agricultural system is distorted because of the high subsidies of the developed countries. The WTO's Agriculture Agreement was designed in a manner that allows the developed countries to continue with their high subsidies. The main proposals in the Doha agriculture process unfortunately are inadequate to discipline these subsidies. Moreover there are instruments like "sensitive products" that also allow the tariffs of important products of developed countries to remain high.

Meanwhile the developing countries are asked to reduce their tariffs by an extent larger than during the Uruguay Round. Many developing countries are concerned that there will be an increase in import surges, as a result of their increased import liberalization. Thus the developing countries, led by the G33, have advocated the special safeguard mechanism to help them cope with the import surges. Unfortunately, the agricultural exporting countries are placing many obstacles to the establishment of an effective and easy to use SSM.

The people of Ecuador, through their Constitution, have taken a stand in favour of "food sovereignty" and for intensifying food production and security.

Ecuador's Constitution (2008) and the National Plan for Good Living (NPGL), 2009-2013 must be complied with and they provide the principles, objectives and policy guidelines for any agriculture liberalisation. Therefore in addition to complying with these in its domestic policies, where the Constitution and NPGL establish requirements for Ecuador's position on agriculture, Ecuador would have to take positions that are consistent with these two documents during bilateral, regional or international negotiations in any fora.

For example, the Constitution states that 'Food sovereignty is a strategic objective and an obligation of the State in order to ensure that persons, communities, peoples and nations achieve self-sufficiency with respect to healthy and culturally appropriate food on a permanent basis. . . the State shall be responsible for: adopting fiscal, tax and tariff policies that protect the national agri-food and fishing sector to prevent dependence on food imports.' (Article 281). The Constitution is very clear about how to achieve this, for example it says the State shall discourage imports that negatively affect domestic production (Article 306) and the NPGL has specific goals to achieve this, such as to increase the participation of national food production in relation to total supply to 98% by 2013. (Page 86).

Other requirements on agriculture in the Constitution set Ecuador's position in other chapters/agreements (such as intellectual property, services and government procurement).

The NPGL clearly states that 'The negotiation of agreements resembling free trade agreements must be prevented.'

Given this framework, Ecuador should consider formulating a strategy for the Doha Round and for the WTO generally and also for a national agriculture policy. This should include the following elements:

1. Developed countries should reduce their overall trade distorting domestic support as much as possible, with as few loopholes as possible.
2. There should be genuine reduction of their subsidies with no or minimal "box shifting". In this regard, there should be adequate disciplines and limits placed on the "Green Box" subsidies of the developed countries.
3. Developing countries must have adequate policy space to enable them to have domestic subsidies that they require for supporting farmers' livelihoods and food security. Ecuador could examine methods by which it could make use of domestic subsidies, for example through the *de minimis* subsidies, and if this is not sufficient, to seek if it can use more subsidies, including those in the Green Box.
4. Developing countries should have adequate policy space to make use of tariffs to defend the interests of their domestic farmers and in the interests of food security and rural development. Ecuador, being a small and vulnerable economy and a recently acceding member to WTO, should attempt to have a low rate of tariff reduction in the Doha negotiations.
5. Since near self-sufficiency in food is a national objective, Ecuador should also consider joining the G33 and collectively fight to make the best use of the special products instrument, and to establish a special safeguard mechanism that is effective and easy to use.
6. FTAs with developed countries such as the USA or Europe, given their template, would make it even more difficult to achieve food security goals because of the steep tariff cuts and new rules. Ecuador should therefore be extremely cautious about negotiating such FTAs.
7. Ecuador should formulate or update a national agriculture and food policy, in line with the Constitution, and should draw up in detail the positions it should take in international fora such as the WTO which would support the national policy.

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