

Status of Agriculture Issues in the WTO Doha Development Agenda and the Trans Pacific Partnership Agreement

I. WTO – Doha Development Agenda

Agriculture negotiations in the Doha Round of WTO negotiations have been effectively stalled since the 2008 revised draft proposal for Modalities. The next significant event is the 9th Ministerial Conference in Bali, Indonesia in December 2013. This document provides a historical timeline of the treatment of agriculture under the Uruguay Round and developments since that time.

1. 1986-1994: Uruguay Round

The current regulatory framework was adopted in the Uruguay Round, the ninth round of discussions on the General Agreement on Tariffs and Trade, which created the World Trade Organization and addressed international trade in goods, including agricultural goods, in services, and in trade-related aspects of intellectual property.

The “new rules” for international trade in agriculture included: market access (“tariffication” and gradual reduction of tariff rates); domestic support (“amber box,” “green box,” and “blue box” policies), export subsidies (prohibition of subsidy except for goods listed; gradual reduction of subsidies for listed goods), and assistance for least developed and food-importing countries (food aid; technical and financial assistance).

Finally, Article 20 of the “Agreement on Agriculture” called for a continuation of the agricultural reform process to be initiated in 2000, taking into account:

- (a) the experience to date from implementing the reduction commitments;
- (b) the effects of the reduction commitments on world trade in agriculture;
- (c) non-trade concerns, special and differential treatment to developing country members, and the objective to establish a fair and market-oriented agricultural trading system, and the other objectives and concerns mentioned in the preamble; and
- (d) what further commitments are necessary to achieve these long-term objectives.

2. November 2001 - Doha Ministerial Conference; Ministerial Declaration

With respect to agriculture, the ministerial declaration provided in part in Article 13:

- {the **three pillars**}: “[...] we commit ourselves to comprehensive negotiations aimed at: substantial improvements in **market access**; reductions of, in view to phasing out, all forms of **export subsidies**; and substantial reductions in trade-distorting **domestic support**.”
- “[...] 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.”
- “[...] non-trade concerns will be taken into account in the negotiations as provided for in the Agreement on Agriculture.”

Art. 14 establishes the initial timeframe and process for the next steps in agriculture:

14. “Modalities for the further commitments, including provisions for special and differential treatment shall be established no later than 31 March 2003. Participants shall submit their comprehensive draft Schedules based on these modalities no later than the date of the Fifth Session of the Ministerial Conference. The negotiations, including with respect to rules and disciplines and related legal texts, shall be concluded as part and at the date of conclusion of the negotiating agenda as a whole.”

3. Draft Modalities Reports:

February 2003 – First “modalities” paper circulated to member governments in advance of February meetings;

March 2003 – First Revised Draft of the modalities paper circulated, revised in response to comments and discussions at February meeting. Per the WTO: “Like the original draft, it focuses on bridging differences — the search for the compromises that are necessary for a final agreement. The negotiations’ chairperson at the time, Stuart Harbinson, noted in the introductory comments: ‘Overall, while a number of useful suggestions emerged, positions in key areas remained far apart. In the circumstances, there was insufficient collective guidance to enable the Chairman, at this juncture and in those areas, significantly to modify the first draft as submitted on 17 February 2003. The present paper must therefore be considered as an initial, limited revision of certain elements of the first draft of modalities.’”

July 2003 – Second Revised Draft; per Chair Harbinson’s comment at that time: “Achieving the objective of establishing modalities as soon as possible has continued to remain elusive. ... As matters stand, collective guidance and decisions are required on a number of key issues in order to clear the way for reaching [the goal set out in the Doha mandate]”.

4. August 2004 – the “July Package”

In 2004 the WTO General Council adopted a “Framework for Establishing Modalities in Agriculture,” which frames the issues to be negotiated and establishes general outcomes or more targeted goals in each of the “three pillars.” In this respect, it is a guidance document for the Members in conducting the next rounds of negotiations. The Framework describes the key features, rather than the specific details, of the modalities. For example, it calls for tiered reductions for domestic supports and for tariffs to increase market access, but it does not spell out the exact formulas to be used, which must be negotiated. For export competition, the Framework reiterates the goal to eventually phasing out all forms of export subsidies, but leaves the specific steps to be negotiated. Throughout the three pillars, the Framework recognizes and continues support for specialized and differential treatment for developing countries and least developed countries.

In addition to the three pillars, the Framework allows for members to designate “sensitive products,” and members will negotiate a “special safeguard mechanism” for developing countries to ease transitions in tariff rates and protections. The Framework further calls for enhanced surveillance and increased transparency in agriculture, and, recognizing the importance of cotton to many developing nations, includes a provision for a special cotton sub-committee of the agriculture committee.

5. December 2005 – Hong Kong Ministerial Declaration

The agriculture provisions identified in the Hong Kong declaration followed a report from the Chairman of the Special Session of the Committee on Agriculture to the Trade Negotiations Committee. Rather than presenting another revised modalities paper—because the Members were still so far from consensus—the Chairman submitted “an objective factual summary of where the negotiations have reached at this time.”

At their December meeting the WTO Ministers adopted additional features within the three pillars to be specified ultimately in the modalities. Among other things, the declaration called for three “bands” in reductions of total agriculture marketing support (highest band = highest reductions) to decrease trade-distorting domestic supports. In export competition, the declaration calls for the “progressive and parallel” elimination of export subsidies by the end of 2013. In market access, it calls for four bands for structuring tariff cuts, but recognizes the need for much further discussion on reduction rates, mechanisms for special products, and development of the “special safeguard mechanism.”

6. July 2006 – “Draft Possible Modalities on Agriculture” issued by then Ag chairperson and New Zealand Ambassador Crawford Falconer.

This is the report by the agriculture negotiations’ chairperson to the Trade Negotiations Committee circulated to WTO member governments on 17 July 2006. At its heart are “draft modalities for preparing the schedules [of commitments] for the agriculture negotiations”. Prepared by chairperson Crawford Falconer under his own responsibility, the draft was first circulated on 22 June 2006 with corrections on 29 June. Ambassador Falconer wrote: “I should stress that this document is not in a formal sense agreed by members, even as a draft. But it is intended to reflect in a balanced and accurate way the state of intensive discussions and reflection to this point within the Special Session [i.e. the agriculture negotiations], consistent with the ground rules of our enterprise.”

7. July 2007 – Revised Draft Modalities

This is the corrected version of the revised draft “modalities” paper that Ambassador Crawford Falconer originally circulated on 17 July 2007. The draft takes the form of proposed text, formulas and numbers that members would use to cut tariffs and subsidies and to make these binding commitments in the WTO, although some sections contain the chairperson’s comments because positions are still too far apart. At the same time Ambassador Falconer announced a three-week schedule of intensive negotiations from 3 September, aimed at narrowing differences further and another revision of the draft.

8. “July Package” 2008

The July 2008 package was viewed as a stepping stone on the way to concluding the Doha Round. The main task before WTO members was to settle a range of questions that would shape the final agreement of the Doha Development Agenda. Consultations took place among a group of ministers representing all interests in the negotiations. A series of meetings were held in Geneva from 21 to 30 July. Although the July meetings ended in deadlock on some issues, gaps were narrowed on several others.

9. December 2008 – Chairperson’s Texts – Possible Draft Modalities

On 6 December 2008, Ambassador Crawford Falconer, chairperson of the agriculture negotiations, circulated his latest revised draft “modalities” text as a blueprint for the final deal. This was based on consultations since September, which followed the “July 2008 package” talks. The 2008 draft “modalities” contain formulas for cutting tariffs and trade-distorting subsidies and related provisions.

Highlights of 2008 Draft Modalities

Numbers in the draft tend to be in square brackets (indicating they are still to be negotiated) and in some cases the text offers ranges (e.g. tariffs) or alternatives (e.g. domestic support).

Domestic support

- Overall trade distorting domestic support (Amber + de minimis + Blue). EU to cut by 80%; US/Japan to cut by 70%; the rest to cut by 55%. “Downpayment” (immediate cut) of 33% for US, EU, Japan, 25% for the rest. Bigger cuts from some other developed countries, such as Japan, whose overall support is a larger % of production value. Cuts made over 5 years (developed countries) or 8 years (developing). (New: single figures from mid-points of ranges)
- Amber Box (AMS). Overall, EU to cut by 70%; US/Japan to cut by 60%; the rest to cut by 45%. Bigger cuts from some other developed countries, such as Japan, Norway and Switzerland, whose AMS is larger % of production value. Also has downpayment. (Unchanged)
- Per product Amber Box support: capped at average for notified support in 1995-2000 with some variation for the US and others. (Unchanged)
- De minimis. Developed countries cut to 2.5% of production immediately. Developing countries to make two-thirds of the cut over three years to 6.7% of production (no cuts if mainly for subsistence/resource-poor farmers, etc). (Applies to product-specific and non-product specific de minimis support) (Minor change)
- Blue Box (including “new” type). Limited to 2.5% of production (developed), 5% (developing) with caps per product. (Modified flexibilities for more vulnerable countries)
- Green Box. Revisions — particularly on income support, to ensure it really is “decoupled” (ie, separated) from production levels, and on developing countries’ food stockpiling — and tighter monitoring and surveillance

Market access

- Tariffs would mainly be cut according to a formula, which prescribes steeper cuts on higher tariffs. Ranges of cuts are now all single numbers. For developed countries the cuts would rise from 50% for tariffs below 20%, to 70% for tariffs above 75%, subject to a 54% minimum average, with some constraints on tariffs above 100%. (For developing countries the cuts in each tier would be two thirds of the equivalent tier for developed countries, subject to a maximum average of 36%.)
- Some products would have smaller cuts via a number of flexibilities designed to take into account various concerns. These include: sensitive products (available to all countries), the smaller cuts offset by tariff quotas allowing more access at lower

tariffs; special products (for developing countries, for specific vulnerabilities), with single figures proposed instead of ranges.

- Contingencies. Developed countries will scrap the old “special safeguard” (available for “tariffied” products). The option for them to keep some has been removed. More proposed details of the new “special safeguard mechanism” for developing countries are in an additional paper.

Export competition

- Export subsidies to be eliminated by end of 2013. Half of this by end of 2010.
- Revised provisions on export credit, guarantees and insurance, international food aid (with a “safe box” for emergencies), and exporting state trading enterprises.

10. March 2010 – Report by Chairman David Walker to the Trade Negotiations Committee

Report on activities of Ag committee and chair since 2008 drafts. Reports reflects continued division among members in many significant areas, including cotton; designation of “sensitive products;” tariff caps, quota creation, and simplification; special products; the special safeguard mechanism; and tropical products.

The report also discusses progress on “template development,” described as “the development of templates for the formatting of the presentation of necessary information, to be used when such presentation is required or otherwise agreed,” as well as various activities related to data collection and updating.

11. April 2011 – Chairperson’s Report to the TNC

The first 12 pages of this 141-page document cover four areas of recent work: issues marked in the 2008 papers as unresolved; templates for presenting data and commitments; the data required; clarifying ambiguities and other technical issues in the 2008 draft. Attached are the current draft “modalities” and three accompanying papers from 2008.

Per the chairperson, work on templates and data has been “substantial.” “Members have been engaged in considerable activity over the past two years [...]. It is regrettable that members did not feel able, at this point in the process of negotiations, to present more of that activity in a way that could be captured in agreed or otherwise visible text.” The Chair identified his plan to consult members on future steps according to whatever the Trade Negotiations Committee instructs.

12. September 2012 – G-20 Proposals

1. Draft “understanding” written in treaty language on the administration of tariff quotas – how imports within the quotas are shared among importers, when duties inside the quotas are lower than on quantities outside. Brazil, the group’s coordinator, told an informal negotiations meeting that the G-20 considers this to be a subject that could be settled ahead of a fuller agreement on the whole Doha Round package.
2. Call for new Secretariat studies on tariff quota administration, and on export subsidies and other forms of export competition – export credit and insurance, state trading enterprises and food aid, which can all involve hidden export subsidies.

13. February 2013 - G-33 Proposal

Proposal to amend the Agriculture Agreement to loosen disciplines on domestic support, notably on public stockholding in order to enhance food security by supporting poor farmers. It draws on the text in Annex B of the December 2008 draft “modalities”, the main agriculture draft currently on the table as of the proposal.

The G–33 proposal’s stated objective is food security. The main sticking points in it are about provisions that would allow developing countries’ governments to buy food at government-set prices (“administered prices”, which would therefore provide price support for producers) with the objective of stocking it for food security purposes or distributing it as food aid – without having to count it as trade-distorting support, which is subject to limits. (If the food were bought at market prices, the programmes would not be considered to distort trade.)

The G–33 members propose working on one or more of four variables used to calculate Amber Box support:

- de-minimis level (some members have suggested increasing the allowance to 15% of the value of production)
- the external reference price (changing from the current 1986–88 averages)
- eligible production (using total production produces a much larger support figure than only the amount bought for stockholding)
- administered price

14. May 2013 – Present and Preparation for Bali Conference (December 2013)

Four issues under discussion for potential resolution in Bali:

1. Are members willing to consider that the Bali Declaration/decisions include recognition that, subject to the fundamental requirement of the Green Box relating to no or minimal trade or production distortion, the Green Box needs to be flexible enough to encompass a wide range of general services policies in developing countries such as rural development, land reform, and infrastructure services.
2. Taking into account what the Ministerial Conference has said in the past (including in the Implementation Decision of 2001), can we use Bali to send a convergent political message that recognises the role played by public stockholding and similar policies in some developing countries?
3. Are members prepared in the lead up to Bali to agree on any amendment or interpretation of existing WTO Agreement on Agriculture (AoA) disciplines that might provide greater flexibility in this area of public stockholding than is currently the case? If so, what is this amendment or interpretation? If not, are members prepared to consider further work on these issues in the post-Bali period, and how would this work be framed?
4. Are members willing to consider a mechanism or process whereby any member with specific concerns that their public stockholding policies aimed at addressing food security objectives were at risk of breaching their WTO commitments could bring those concerns to the attention of members and seek additional flexibility on an interim basis, pending any broader agreement to modify the disciplines in general?

II. TPPA and Agriculture as of April 2013

- Most recent rounds: Round 16 - Singapore (March 4-13, 2013); Round 17 - Lima (May 15-24, 2013)
- 29 Chapters under discussion, but texts under consideration not made public
- Original schedule – completion by fall 2013; however, with recent expansion to include Japan, likely to be delayed
- 2012 – two-way U.S. agricultural trade with other TPP countries totaled \$94 billion – 39% of the combined total of U.S. agricultural exports and imports with the world; exports were \$45 billion, 32% of all worldwide ad exports; US recorded negative \$3 billion ag trade balance with TPP country group in 2012

Agriculture Issues

A. Market Access – both offensive and defensive positions:

- Offensive – much of U.S. agriculture, agribusiness, and food manufacturing sectors positively view opportunity to open markets where USA does not have an FTA currently - Brunei, Malaysia, Vietnam;
 - Consumer-ready food products
 - Cotton for textile sector (Vietnam)
 - Canada and Mexico – opportunity to expand market access relative to current access under bilateral and multilateral agreements, particularly dairy and poultry to Canada, and non-trade barriers in shipping to Mexico
 - Japan – major world importer of agricultural products ~ 2012 \$14 billion in agricultural trade with US (exports = \$13.5 billion)
- Defensive –
 - Dairy - seeks to maintain existing protections on imports; most concern about competition from New Zealand
 - Sugar – opposes both reopening the sugar market access provisions in any current FTA with a TPP country (e.g., Australia), and granting new market access concessions on sugar to any TPP participant

Dairy

U.S. Dairy sector has three TPP objectives:

1. Limit New Zealand's access to the U.S. market for its dairy products.
 - Fonterra, NZ leading dairy co-op, purchases 90% of country's milk output, potentially making competition very difficult in NZ
 - U.S. dairy interests seek tough competition disciplines in TPP
 - NZ seeks complete, immediate access to U.S. market
 - NZ may be willing to make changes to national drug pricing and reimbursement program in exchange for increased dairy product access to US
 - likely will not reach conclusion until near end of TPP
2. Secure complete free access for U.S. dairy exports into Canada.
 - Canada's current tariff-rate quotas are subject to prohibitively high tariffs
 - U.S. seeks to eliminate quotas and other non-tariff measures
3. Enforcement of food safety and health rules in traded agricultural products.

Sugar

Sugar producers and processors (seeking to exclude sugar from TPP as with Australia FTA)

vs.

Business interests in other sectors (arguing for US not to exclude any products – 21st century agreement; other countries’ exception demands) and Food manufacturers that use sugar as a key ingredient in their products (seeking to lower costs and attain market-oriented U.S. sugar policy)

B. Agriculture in other TPP Chapters

1. “Rules” chapter – as of early-January 2013, USTR reported to still be working on a new Sanitary and Phytosanitary Standards proposal with an enforcement component

2. “General Exceptions” chapter - USTR draft proposal to allow public health authorities in TPP countries to adopt regulations that “impose origin-neutral, science-based restrictions on specific tobacco products/classes in order to safeguard public health” to protect FDA authority to regulate tobacco products; proposal has not been tabled; relation - ag products would remain subject to phase-out and elimination of tariffs and quotas (potentially increasing imports and making tobacco cheaper)

2. “Intellectual Property Rights” chapter – Geographical Indications

- offers consumer protections and producer protections
- EU seeks enhanced use and protections for GIs in Doha Round of WTO
- US, with Australia and NZ, seeks to maintain status quo, both through bilateral FTAs and in TPP – US proposal is to limit GI designations to compound names to prevent confusion with the use of related common or generic terms, e.g., “Parmigiano Reggiano” would be protected, but “parmesan” would not.
- countries negotiating FTAs with the EU also support stronger GI protections (Canada, Singapore)

3. “Competition” chapter

– Australia and NZ seek to secure disciplines on other TPP countries’ use of export subsidies, official export credits, and food aid in support of their agricultural sectors.

- US opposes inclusion of export competition in TPP, maintaining that the issue should be addressed in multilateral context, e.g., WTO