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Cancun Update

The International Centre for Trade and Sustainable Development (ICTSD) and the International Institute for Sustainable Development (IISD)

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## 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."*

(Paragraph 13 of the Doha Ministerial Declaration)

# Agriculture

## Prospects for Cancun

As predicted by most observers of the WTO's agricultural negotiating process, WTO Members were unable to adopt agricultural modalities by the end-March 2003 deadline set by trade ministers in Doha.

However, since a farm deal at Cancun will be the deal-maker, or -breaker, of the whole Doha Round, both the membership and Chair Harbinson of the agriculture negotiations have been involved in efforts since the end of March to bridge the many wide gaps in positions. After weeks of intense high-level negotiations, two key players in the debate — the EC and the US — arrived at a "Joint Text" on 13 August, setting out the parameters for reduction commitments and related disciplines for the key outstanding negotiating issues. Although the text did not offer concrete numbers, it showed there was immense political will to find a compromise, with the aim to finally trigger more substantive talks on commitments. And indeed, for the first time in the three-and-a-half-year process, real negotiations have started, with the EC and US — as well as other Member coalitions — willing to move from their initial positions.

However, whether a framework text, along the lines of the EC-US 'soft' deal, would be acceptable to all actors in the negotiations remains to be seen. With the WTO now counting 146 Members (of which the EC comprises 16), the days of the Blair House 1992 Agreement - where a bilateral deal hammered out between the EC and the US subsequently served as the basis for the multilateral Agriculture Agreement and the conclusion of the Uruguay Round single undertaking - are certainly over. It is also uncertain whether developing country Members are willing to take on new - rather ambitious - commitments in other areas such as industrial goods, or 'New Issues' without clear knowledge of what they will gain in agriculture. In particular, it seems doubtful that the four West- and Central African least-developed countries (LDCs) Benin, Burkina Faso, Chad and Mali could continue supporting the ongoing trade round without receiving clear and binding commitments at Cancun from major cotton subsidisers such as the US and EC to phase out all subsidies related to cotton in the medium term.

However, while both finding a way to deal with the cotton problem and determining concrete numbers for the agricultural modalities by or at Cancun seems doable, the question remains whether the large agricultural exporters would agree to an approach along the lines of the joint EC-US proposal. Under this approach, weaker countries would benefit more from new market openings than others. Moreover, it remains unclear whether the "significant net food exporting [developing] countries" such as Argentina, Brazil, Chile and Thailand could accept getting less special and differential (S&D) treatment than would be granted to other countries of the South, as proposed by the EC and US in their new text. However, if like-minded developing countries such as Sri Lanka and Pakistan as well as the African Caribbean and Pacific group would accept the EC-US model, it would - at the end of the day - be difficult for the Cairns group and others to make the political case against such a differentiated approach, especially if this jeopardised gains in S&D for the rest of the developing country membership.

## Background

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

At Doha, ministers struggled to find a compromise acceptable to all WTO Members, who were (and continue to be) utterly divided over the general direction to be taken in the agricultural reform process. Key questions included whether export subsidies (an export competition tool used mainly by the EU) should be phased out; whether - in return - other forms of trade-distorting export support such as export credits

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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, safetynet 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.

and food aid (which are largely employed by the US) should also be disciplined; and whether domestic subsidies provided under the Green Box should be capped.

The EC and Japan, defenders of an unlimited Green Box, stress that Green Box subsidies are explicitly exempted from the Doha mandate, as support measures under this category must — by definition — have “no, or at most minimal, trade distorting effects.” However, the Cairns Group[1] of agricultural exporters and the Like-Minded Group (LMG) of developing countries[2] take the view that developed countries’ Green Box expenditure (totalling some US$78 billion per year[3]) does distort trade by virtue of its sheer volume.

The Doha language on special and differential treatment (S&D) is seen - especially by developing countries - as a commitment to incorporate future S&D provisions in the Agreement on Agriculture (AoA) in an enforceable manner. Consultations were held in Doha on the creation of a ‘Development Box’ that would provide greater latitude for developing country 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 or Food Security Box have grown somewhat muted during the past 12 months. This is mainly because the supporters of Development Box-like concepts know they would have to pay an enormous price in this trade round for a tool that could be considered a political victory, but might not be of much economic value. Therefore, developing countries have started focusing instead on instruments such as strategic products (SPs) and a new special safeguard mechanism (SSM).

The Doha 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 EC, Switzerland, Norway, Japan, Korea and Mauritius, which seek flexibility to address environment, rural development and food security issues through agricultural production. The EC and Switzerland are also trying to address their particular agricultural NTCsthrough the agriculture negotiations, including: the precautionary principle to ensure food safety; mandatory labelling; animal welfare measures; and the extension of geographical indications (GIs) .

## Mandated Deadlines

- 31 March 2003, agreement on “modalities for further commitments” (para. 14).
- Fifth WTO Ministerial Conference, submission of Members’ comprehensive draft Schedules. However, modalities have not been agreed, and Members will - according to the Draft Cancun Ministerial Text - try to set a new deadline at Cancún.
- 1 January 2005, conclusion of negotiations as part of the single undertaking agreed in Doha.

## Current State of Play

On 12 February, Stuart Harbinson, Chair of the special (negotiating) session of the WTO Committee on Agriculture (CoA), submitted his first modalities proposal. Despite many unresolved issues related to reducing Members’ tariffs, export subsidies and domestic support, Harbinson took a rather proactive approach. He set out modalities options even in the most contested areas, including a formula for tariff reduction. On substance, the paper thoroughly addressed S&D for developing countries in most of the modalities items, while no particular role was assigned to NTCs on an across-the-board-basis.

Following intense discussions of his first proposal, Stuart Harbinson on 18 March issued a revision. Finally, on 31 March, he had to formally declare that Members’ efforts to agree on agricultural modalities by the end-March deadline had failed.

Against this backdrop, the joint US-EC move in August to bridge the longstanding polarisation between the two central players on most key issues in the negotiations had been long awaited. It finally sparked real negotiations, with counterproposals tabled by 11 Cairns Group developing countries along with China, Ecuador, India, Mexico and Peru, as well as a group of six LMG countries (Dominican Republic, Honduras, Kenya, Nicaragua, Panama and Sri Lanka). Further contributions were also expected from newly acceded Members or members of the multifunctionality group.

### Market access

On the question of how to further reduce agricultural tariffs, Harbinson suggested a banded approach by which tariffs higher than 90 percent should be slashed by 60 percent on average, with a minimum cut of 45 percent per tariff line, whereas those between 90 and 15 percent should be cut by 50/35 percent. Tariffs lower than 15 percent would be slashed by 40/25 percent. All tariffs would be reduced in equal installments within a five-year term. Developing countries, however, would be given a ten-year implementation period, and lighter reduction commitments.

Numerous Members opposed Harbinson’s formula. On the one hand, the Cairns

 

Group, the US, and the LMG favour a 'Swiss formula'-like approach that would bring down all tariffs to a certain maximum level (e.g. 25 percent). On the other hand, a coalition of 75 Members (counting the EC as 16) including the EC, Norway, Switzerland, Japan, Korea, Mauritius, as well as India want a repetition of the approach taken during the Uruguay Round (UR; overall average reduction of 36 percent and a minimum reduction per tariff line of 15 percent). They want to retain the flexibility to maintain higher tariffs on certain 'sensitive' products.

The 13 August EC-US joint proposal tried to combine both approaches through a blended formula under which the UR formula could be applied to certain "import sensitive" products (the number of which would be negotiated). Other tariffs would be cut using the Swiss formula. A certain percentage of tariff lines would be duty-free. Moreover, a maximum tariff level would be determined. Tariffs would have to be reduced to this level, or effective additional market access provided through a request/offer exercise, including tariff rate quotas (see below). Cairns et al. and the six LMG countries in their counterproposals accept this blended approach, with Cairns et al., suggesting, however - for the UR element of the formula - a simple uniform tariff cut (instead of average reduction plus minimum reduction per tariff line). Cairns et al. as well as the LMG propose the use of the UR formula across-the-board for developing countries.

Under the draft modalities, developing countries would - as part of S&D - be granted more flexibility with regard to a number of "special products [SP] with respect to food security, rural development and/or livelihood security concerns." They would only have to cut the tariffs by ten percent on average, but by at least five percent per tariff line. An alliance of 16 developing countries were stoutly defending this reflection of earlier demands under proposals for a Development Box, Food Security Box or Food Security Mechanism. In particular, they claimed the right to determine and declare their SPs independently; only the number of SPs, therefore, would be negotiable.

The joint US-EC text did not mention SPs. However, the concept of "import sensitive" products introduced by the two, with lower tariff reduction commitments under ordinary S&D, would effectively provide developing countries with flexibility similar to that under the SP approach. Nevertheless, both Cairns et al. and the LMG would like to see the SP concept maintained.

The Harbinson modalities also provided an outline of a new special safeguard mechanism (SSM) for developing countries, to be added to the modalities at a later stage. The alliance of 16 developing countries demanded that this new SSM should have wider coverage than the existing special safeguard mechanism (SSG), and that the two concepts of SP and SSM should not be interlinked. However, the EC and US linked the application of an SSM to the concept of "import-sensitive" products, which would ultimately have the same effect, in their joint proposal. They further stated that the rules and disciplines related to an SSM — as well as other agricultural S&D elements — "need to be adjusted for significant net food exporting countries." This idea of differentiation ('graduation') — also promoted by the EC and others in the overall 'single undertaking' framework — is fiercely rejected by Cairns Group developing country Members and the LMG (Doha Round Brief No. 13). Interestingly, the counterproposal by Cairns et al. supports an SSM, but limits its scope to the impact of the tariff reduction commitments of developing countries.

In the Harbinson draft, the current special safeguard mechanism (SSG) would be eliminated for developed countries. Under the EC-US deal, however, the future of the SSG was left open.

SSG provisions allow countries to levy an additional, time-limited import duty to protect domestic producers from a sudden surge in imports of certain products. 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 UR.

Tariff rate quotas would, as a general rules, be expanded to ten percent of current domestic consumption. Especially Members such as Japan and Korea had problems with this proposal, as they were rather seeking to reduce some quotas (especially on rice) to reflect more up-to-date levels of domestic consumption.

*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.*

Addressing the issue of erosion of trade preferences, which would inevitably take place as a result of the proposed tariff cuts, the draft modalities offered a longer implementation period, and a two year moratorium for "tariff reductions affecting long-standing trade preferences in respect to products which are of vital export importance for developing country beneficiaries." In addition, any in-quota duties for these products would be eliminated.

The EC-US text dealt with this issue by proposing that developed countries provide duty-free access to a certain percentage of developing country imports "through a combination of MFN [most-favoured-nation] and preferential access."

Although certain developmental non-trade concerns (NTCs) such as food security and rural development were addressed in the draft, other — mostly Northern — NTCs such as consumer protection, food safety, GI extension and environment were not reflected. However, NTCs and GIs in particular were officially linked to the modalities negotiations in the joint EC-US text as "issues of interest but not agreed".

### Export competition

The draft modalities required Members to phase out at least 50 percent of export subsidies within five years, whereas the rest would be reduced to zero in nine years. Developing countries would be given ten and 12 years respectively. In its joint proposal with the US, the EC offered to eliminate export subsidies on certain products of particular interest to developing countries (to be determined), whereas subsidies for the remaining products would only be reduced.

On export credits, the modalities distinguished between financing support that conforms to a set of detailed conditions, and financing support that does not. The latter would be "subject to specific financing reduction commitments" to be determined. Moreover, Harbinson offered detailed disciplines for food aid and state trading export enterprises (used, for instance, by Canada and Australia). To provide for an equally effective process for export credits, the EC-US text proposed that export credits should be eliminated or reduced in parallel with the proposed commitments for export subsidies.

### Domestic support

The Green Box would be maintained in its existing format, but its disciplines tightened in accordance with repeated demands from the Cairns Group and many developing countries. However, the draft modalities did not respond to their call for putting overall caps on Green Box spending, limiting specific types of payments, or removing some income support programmes from the Box.

Notably, the draft paragraph on environmental programmes (para 12) expressly applied to "animal welfare programmes", a demand put forward by the EC, Switzerland and others who want to be able to address the NTC of animal welfare within the Green Box.

With regard to the Amber Box (trade-distorting support), the aggregate measurement of support (AMS) would decrease by 60 percent in five years for developed countries, and 40 percent in ten years for developing country Members.

The EC-US pact did not foresee numbers for Amber Box reduction. Nevertheless, it stated that the reductions would be "significantly larger than in the Uruguay Round (20 percent for developed countries).

The so-called Blue Box (only partly decoupled subsidies under production-limiting programmes) would be maintained, but cut by half. Alternatively, the draft suggested merging the Blue Box with the Amber Box. Whereas the liberalisers (the Cairns Group and other developing countries, as well as the US) wanted to scrap the Box fully, the EC, Japan and Switzerland wanted to maintain it. Under their bilateral deal, the EC and US introduced a modified Blue Box, with spending reduced to five percent of the total value of agricultural production. However, this new Blue Box would no longer require production limitations or other supply management programmes. Under this new design, the US would most likely be able to exempt its countercyclical payments under the 2002 Farm Act from its reduction commitments.

The draft modalities would also expand developing countries' flexibility to exempt some subsidies from reduction commitments in the pursuit of certain rural development objectives.

### Sectoral initiative: cotton

Four West and Central African LDCs — Benin, Burkina Faso, Chad and Mali — tabled a submission in June attributing responsibility to subsidies in large cotton producing countries — mainly the US, the EU and China — for declines in world cotton prices and displacement of the highly competitive, non-subsidised cotton production in West and Central Africa. The group of African countries requested an "early harvest" decision in Cancun to phase out all cotton subsidies and domestic support measures by 2006, along with compensation paid to LDCs during the transition period. While many African countries, as well as Pakistan and Norway, openly supported this approach, the US and the EC were very wary to set a precedent for commitments on subsidies for specific products, as this might challenge the aggregated approach taken on Amber Box reduction.

### Other issues

LDCs would continue to be exempted from reduction commitments, but would be "encouraged to consider making commitments commensurate with their development needs on a voluntary basis". In return, developed countries would be encouraged — or obliged — to "provide duty- and quota-free access to their markets for all imports from least-developed countries." The issue of special treatment for LDCs was not addressed in the joint text submitted by the EC and US.

According to the Harbinson draft, newly acceded Members (such as China) would get the flexibility to defer the implementation period for new commitments by two years.

The draft also stated that "Participants will further consider the possible introduction of additional forms of flexibility for certain groupings" such as small island developing states (SIDS), vulnerable developing countries, and countries in economic transition. The joint EC-US text listed several "issues of interest but not agreed": the peace clause (AoA Article 13); NTCs; implementation period; sectoral initiatives; the continuations clause (AoA Article 20); GIs and "other detailed rules."

## Implementation Issues

In its section on agriculture, the Decision on Implementation-Related Issues and Concerns (WT/MIN(01)/ W/10) deals with the implementation of the so-called Marrakech Decision. Many discussions and consultations have been held on various issues relating to 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, with no final agreement reached on any of the points. The Committee has recently approved a follow-up report to the General Council (G/AG/16).

The list of outstanding implementation concerns agreed on in Doha contains one agricultural issue: the question of whether — in the event that domestic support prices are lower than the external reference price (so-called 'negative AMS') — Members would be allowed to increase their non-product specific Aggregate Measurement of Support by an equivalent amount (tiret 6). This issue is being addressed in para 53 of Harbinson's draft modalities.

### 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 Informal WTO estimate, January 2003.

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

Please note that during the last three 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 EC 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.

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