In Agriculture, it is Time to Act with Plurilaterals

By Aluisio de Lima-Campos

The Doha Development Round of negotiations was launched in 2001 and was supposed to be concluded by 2005, but here we are in 2014 still thinking of ways to get it going. As the Bali agreement situation made clear, even when there is consensus and agreements are signed, one can no longer expect that they will be implemented. In the Bali package case, India is pressing for changes after signing it. A few other countries may follow.

Although unlikely, a similar fate may come from a situation in which the United States, for example, signs an agreement without specific authorisation from its Congress (Trade Promotion Authority – TPA). In those circumstances, the US Congress can reject or amend the original text, which would result in no ratification of the original agreement.

Today the crude reality is that the Doha Round has not delivered on its objectives and negotiations so far have not produced enough to give us a visible time horizon for its conclusion. In the meantime, critical issues for some developing countries such as agricultural subsidies and agricultural market access remain unresolved, while inroads in non-agricultural market access, intellectual property, investments, all of utmost importance for developed countries, go forward through an increasing number of bilateral and regional preferential trade agreements.

At the same time, as agricultural subsidies grow unchecked in developed countries, their negotiating positions at the multilateral level become more resistant to change and less conducive to a multilateral agreement in the Doha Round. The latest Farm Bill in the US, for example, has increased the level of benefits to farmers over the previous one and it is in effect until 2018.¹ As this trend continues, some developing countries have increased support to their farmers, even though at insignificant levels when compared to developed country levels, to help them face increased unfair competition at home and in third markets. But this is putting additional pressure on their tight budgets, which cannot match the resources of developed countries' treasuries.

While this pernicious cycle favours those who would prefer the status quo on agricultural subsidies, it is prejudicial and unsustainable for those seeking free and fair trade in agricultural products. To these latter countries I would suggest that they rethink their strategies to achieve their goal. It is simply unrealistic and unproductive at this juncture to wait for an agreement in the Doha Round that may or may not happen, and that, if it does, can only be, under the present circumstances, a roughly digestible compromise at best, which will not solve the problem once and for all.

If allowed by Article XXIV of the General Agreement on Tariffs and Trade (GATT) 1994, the best strategy for those countries would be to negotiate a preferential trade agreement (PTA) on agricultural products with their like-minded partners, removing substantially all barriers to trade in that sector.

and reducing agricultural support to a bare minimum, with rights and obligations accruing only to the signatories. Those excluded from this PTA would be pressured to join, reducing their barriers and subsidies, as agricultural trade among participants would increase and products of non-participants become less competitive in the PTA markets. But, Article XXIV requires that “substantially all the trade” be involved in a PTA, which rules out this option.

The same desirable effect, however, could be achieved with a plurilateral agreement, if a waiver of the most favoured nation (MFN) clause can be obtained under Article IX:3 of the GATT 1994. Such a waiver would require that certain conditions be met: (a) if a decision by consensus by the Ministerial Conference is not reached within ninety days, the decision to grant it must be taken by at least three fourths of the Members; (b) it must be shown that “exceptional circumstances” are present; (c) the waiver must be temporary; and (d) any waiver lasting more than one year shall be reviewed annually by the Ministerial Conference until it expires.

It is doubtful that a consensus decision at the Ministerial can be reached, especially in light of the much higher level of ambition in terms of reductions in both agricultural subsidies and trade barriers this plurilateral would envisage. The most likely scenario, therefore, is for a decision to be made by a three fourths majority. This would mean convincing at least 120 out of 160 Members to go along. This is not an easy task. It would be close to impossible if the strongest resistance to a deal in agriculture were coming from more than 40 Members, which would leave us short of the 120 needed. However, since less than 40 countries are likely to resist, the chances of getting the needed number of adhesions are better than one may expect.²

On the other hand, exceptional circumstances abound in the case of agricultural products. One of them is the fact that subsidies for the industrial sector and products of critical interest to developed countries have been dealt with thirty plus years ago in the Tokyo Round, while a solution for agricultural subsidies drags on. Another, as proven in the cotton case, agricultural subsidies depress world prices and are causing extraordinary losses to cotton farmers in Francophone Africa with heavy negative economic, social and health impacts in those poor, cotton producing countries. If that was not enough, export subsidies and subsidised export credit are aiding subsidised agricultural products from developed countries in gaining market share against more cost competitive products from developing countries, adding more hardship to an already unfair situation. The list is long and the case for exceptional circumstances is clear.

In my view, initial discussions should start with a core group, which could be formed from Cairns Group countries. This group would prepare a very ambitious preliminary document that sets out the base for such an agreement. Other countries could then be invited to join the discussions if they like what they see. The main subsidisers are not likely to join if the maximum limits in the basic document, as expected, are way below the levels of subsidies and barriers (tariffs and tariff rate quotas) they are willing to accept.

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² China, EU-28, India, Japan and USA would be likely holdouts. If acceptable special safeguards can be negotiated, China and India could be brought in. Even the G33 countries may warm up to the idea of fair trade in agriculture that an IX:3 Plurilateral can provide. It can also calm their fears with regard to being flooded by subsidised products once their barriers are down.
Some have suggested a critical mass plurilateral as a way to go forward in agriculture if the Doha Round fails.\textsuperscript{3} The first problem here is that no one knows when the Doha Round will conclude, if ever. It is better to take the initiative now and go on the offensive with one's priorities. The second problem, and a big one, is the likelihood of free riders. Such an agreement would extend its benefits indiscriminately to signatories and non-signatories under the MFN clause but not its obligations, which is a great attraction for those Members who want more access for their products but not significant reductions in their own domestic and export subsidies - the so-called “free riders”. One may try to minimise the free rider effect by bringing more partners into the agreement, but that would probably mean accepting compromises that would only undermine its level of ambition. This, in turn, would probably not solve the subsidies problem entirely and/or extend significantly the agreement’s implementation time.

Developing countries must stop waiting for a solution in agricultural subsidies and market access in the Doha Round and take action. A plurilateral agreement under Article IX:3 would carry the highest level of ambition possible and in a worst case scenario its negotiation may exert a desperately needed, healthy amount of pressure for a speedier resolution in the Doha Round.
