

Chair's Draft Agriculture Modalities
A Good Understanding of Some Convergence Areas but Leaves too Many Loose Ends

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The Chairperson of WTO Agriculture negotiations, Ambassador Crawford Falconer circulated his latest draft modalities on 8th February 2008. The document is a revision of drafts circulated in July 2007 and is based on WTO Members' latest positions in the discussions since September 2007.

The modalities are the Chair's assessment of what might be agreed for the formulas for cutting tariffs and trade-distorting agricultural subsidies, and related provisions. This was circulated at about the same time the latest draft modalities on non-agricultural market access were circulated. It is worth recalling that many developed countries want deep cuts on industrial tariffs from large developing countries like India and Brazil in lieu of bringing down their huge trade distorting farm subsidies. Eventually the WTO Members want to negotiate an acceptable balance between the depths of cuts (the "level of ambition") in agricultural and non-agricultural tariffs and agricultural subsidies as well as the size of cuts that they desire in each area. There are other issues to be negotiated as well.

Therefore, these drafts are still not the final word. They put the possible areas of agreement on paper so that the WTO Members can react and further revise the texts, apart from settling the numbers from the ranges provided. They are the Chairpersons' views on what governments might be able to agree – based on what Members have proposed and debated over seven years of negotiations and their responses to the Chairs' previous papers.

This note is a critical appraisal of some aspects of the draft modalities on agriculture.

1. Introduction

1.1 Since the Hong Kong Ministerial of the WTO Members held in December 2005, there have been intensive consultations/negotiations to achieve convergence in major areas of contention in agriculture like treatment of Special Products and Sensitive Products, reduction of farm subsidies in the developed countries, the removal of cotton subsidies. While convergence has been achieved in some areas, there seems to be no consensus on the formula and numerical target for reduction of tariffs and subsidies.

1.2 At a general level, it can be seen that most of the concerns expressed by the G-20 in their various submissions to the Negotiation Group have been accommodated in the revised text, though there are some brackets and some numbers that may have to be heavily negotiated to achieve their negotiating objectives. On the other hand, many of the concerns expressed by the G-33, particularly in the areas of Special products and Special Safeguard Mechanisms, are not fully on board in the revised text, and that the grouping may face an uphill task to get back to a position of strength. Some other areas, like the numbers on domestic support and the export subsidy commitments remain at the same level as they existed at the time of the Hong Kong Ministerial.

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2. Special Products

2.1 One of the most controversial issues in the current negotiation is treatment of Special Products under the market access pillar of the WTO Agreement on Agriculture. The success of February 2008 draft modalities on agriculture very much depends upon how far the text on SPs satisfies the G-33 concerns and the US. The G-33 is spearheading the campaign on SPs on behalf of a select group of developing countries in the Doha Round. The G-33 through its latest communication dated 14th December 2007 (TN/AG/GEN/27) made following drafting suggestions:

- Developing country Members shall have the flexibility to self-designate a guaranteed minimum number [X]% of total tariff lines as SPs
- The SPs have to be higher than the number of Sensitive Products for developing country Members
- Developing country Members shall have the flexibility to self-designate an additional number [Y]% of SPs provided that these are guided by indicators
- Based on the above hybrid approach, developing country Members shall have the right to self-designate up to a maximum 20% of total agricultural tariff lines as SPs.
- Maintaining a no-commitment tier (zero cut treatment) must remain a fundamental aspect for SPs

2.2 The G-33 also proposed a graded approach to treatment of the tariff lines of SPs, which provides a preferred practical and workable solution for all. This is as follows.

Grade	Percentage of SPs Tariff Lines	Treatment (CUTS)
1	40%	0%
2	30%	8%
3	30%	12%

2.3 This new G-33 proposal represents a significant movement from the Group's previous position.

2.4 The draft modalities on agriculture, however, are non-committal on the above-mentioned demands of G-33 as it only partially addresses them. The first major proposal in the draft is that developing country Members shall be entitled to self-designate a minimum of 8% of their tariff lines as SPs guided by indicators based on the criteria of food security, livelihood security and rural development. But this has to qualify the test as proposed in the second bullet above – that is that the SPs have to be higher than the number of Sensitive Products for developing country Members.

2.5 As per the draft modalities, each developed country Member shall have the right to designate up to [4] [6]% of [dutiable] tariff lines as Sensitive Products. Developing country Members shall have the right to designate up to one-third more of tariff lines as Sensitive Products. It means that developing country Members would be entitled to designate [5.33] [8]% of tariff lines as Sensitive Products. In this scenario the G-33 demand (of minimum entitlement of SPs higher than the number of Sensitive Products for developing country Members) is fulfilled only when developed countries accept the lower value of 4%. SPs have to get more favourable treatment than Sensitive Products. For G-33, this is a fundamental principle that must be respected.

2.6 As regards G-33's demand of additional number to be self-designated as SPs based on indicators, there is not much clarity in the text. The G-33 has not diluted its position on maximum 20% tariff lines to be designated as SPs. If the group accepts the 8% proposal of minimum entitlement, then this additional number has to be 12%. In the text there are two proposals – 12% and 20%. If the former is accepted then the additional number would be 4%, much below the G-33 demand. The very mention of two numbers (12% and 20%) dilutes the G-33 fundamental demand of designation of 20% tariff lines as SPs. Now, if G-33 accepts this draft modalities as a basis for further discussion, then the likely scenario is that the number would fall somewhere between 12% and 20% of tariff lines.

2.7 The draft modalities are also non-committal on another fundamental demand of G-33 – maintaining a no-commitment tier (zero-cut treatment) for a minimum of 40% SPs tariff lines as proposed in the graded approach to treatment of SPs. In the draft modalities, the Chair proposes that it would be either 8% (40% of SPs tariff lines if 20% is accepted) or 0%. In other words, during the negotiations, most likely this has to fall in between the two numbers. Further, the Agriculture Chair has tried to incorporate the G-33 suggestion of Graded Approach to treatment of SPs tariff lines but again the text has too many numbers in square brackets, thus requiring intense negotiations by the G-33 to get back to their fundamental demand.

2.8 In short, the text on SPs is not very forthcoming on three fundamental demands of G-33 concerning the treatment of SPs. First, SPs have to be higher than the number of Sensitive Products for developing country Members of the WTO. Secondly, developing country Members shall have the right to self-designate up to a maximum 20% of total agricultural tariff lines as SPs. Finally, to maintain a no-commitment tier (zero cut treatment).

3. Special Safeguard Mechanisms

3.1 The Hong Kong Ministerial Declaration marked a first step towards evolving modalities in SSMS along with SPs agreed to in the July Framework Agreement in 2004. Regarding SSMS, two separately applicable import quantity and import price triggers were agreed as the core of the modalities. Studies by eminent research bodies across the world confirm that reduced tariff protection in developing countries, including under structural adjustment programmes, have been the primary cause of import surge, with attendant decrease in employment in agricultural activities, lowering of returns to farmers, and increased levels of poverty in rural areas. The absence of income and insurance safety nets compounds their problems leading to desperate and irreversible, actions by the afflicted farmers. These studies conclude that the SSMS must be simple, operable, and effective, and that price triggers are as effective as volume triggers depending upon the emergency they seek to address.³

3.2 While the draft modalities propose the availability of both price-based and volume-based SSMS, the contents of the text on SSMS are complex and burdensome. It appears that the draft text on SSMS suggests a new kind of differentiation among the developing countries, which is not acceptable to the G-33 alliance. Furthermore, the Chair's proposal is loaded with multiple sets of figures and options, which would make it ineffective and unpractical. The G-33 has always demanded that SSMS shall not be designed with layers and multiple of limitations for developing countries and least developed countries to make use of it.

³ Joint Communication from the G-33, African Group, ACP, and LDCs on Special Products and the Special Safeguard Mechanisms (SSMS) (TN/AG/GEN/17), 11th May 2006

3.3 The text also proposes that the SSMS shall expire after the lapse of Doha Round implementation period. This again is not in tune with the G-33 demands and expectations. The G-33 wants SSMS to remain a permanent trade measure till the dismantling of all abnormalities and imbalances in the world trading system.

4. Domestic Support

4.1 The issue of domestic support has been one of the major bones of contentions between G-20 and developed countries, especially USA. The US is also in weak position because of its huge trade distorting subsidies to cotton farmers. That is why the issue of cotton subsidies has been raised separately by African countries.

4.2 Broadly speaking, the draft modalities have accepted most of the drafting suggestions of G-20. In fact, the text is overwhelmingly based on G-20 suggestions. Most of the WTO members, especially major players like India and the USA have accepted it as a starting point for working out detailed modalities. On the issue of cotton also the draft modalities have included the formula suggested by G-20 for reduction of AMS (Aggregate Measurement of Support).

4.3 The text on domestic support is also unchanged from the previous July 2007 modalities. The figures for how much Members would have to cut down overall trade-distorting domestic support which includes amber box subsidies, blue box payments, and the 'de minimis', remain unchanged since the July 2007 text. According to the draft modalities, the European Union would most likely have to cut its cap on overall spending by either 75% or 85%. Similarly, the US would have to bring overall reduction in trade-distorting domestic support either by 66% or 73%. It means the US needs to cut farm subsidy by US\$13bn to US\$16.4bn. As regards 'green box' payments, considered to be minimally trade distorting, differences still persist among the WTO Members. However, the Chair has made a proposal to allow developing country Members some flexibility to account for food stockholding payments under the Green Box.

5. Export Competition

5.1 Export subsidies, which result from direct payment to exporters, food aid, export credits and state trading corporation, comes under the export competition pillar of the Agreement on Agriculture has been resolved in the Hong Kong Ministerial Declaration. The deadline for eliminating developed country export subsidies by 2013 has been agreed at Hong Kong. However, the latest draft modalities propose that developing country Members too eliminate their export subsidy entitlements by reducing to zero their scheduled export subsidy budgetary outlay and quantity commitment levels in equal annual installments by the end of 2016. The Chair has also included the G-20 drafting suggestions on export credits in the draft modalities as a separate annexure.

6. Other Issues

6.1 The new draft modalities are also an improvement over the previous July 2007 text in the areas of tariff escalation and tariff simplification. A new Annexure D has been added in the latest draft, which includes a provisional potential list of tackling tariff escalation. The text also proposes a tariff escalation formula, which would be in addition to the application of the tiered tariff reduction formula. Further, tariff escalation shall not apply to any product that is declared as sensitive. The proposed modality on tariff escalation shall be applied by developed country members and developing country members who are in a position to do so.

6.2 As regard to tariff simplification, the latest draft is a significant improvement over the July 2007 text. The G-20 made a submission on guidelines for modalities in tariff simplification in December 2007. It has proposed for the simplification of all non-ad valorem tariffs, which is more prevalent in many developed countries. The experience has shown that the use of non-ad valorem tariffs has often been a form of disguised protectionism in agriculture trade, as the final tariff in ad valorem terms depends on prices and currency movements. As a consequence, maintaining additional layers of protection in market access jeopardizes the Doha mandate for “substantial improvements in market access”. The draft modalities, accordingly, proposes to achieve at least 90 percent of all bound tariffs on products in a Member’s Schedule to be expressed as simple ad valorem tariffs.

6.3 The draft text also makes provision for special and differential treatment for developing country members and LDCs. Developing country members making such conversions shall have an additional two years to achieve this target. LDCs, however, shall not be required to effect any such changes.