

WTO Members to Pursue “Comprehensive” Approach on Agri Negotiations

The recent week of agriculture negotiations at the WTO wrapped up on 15 September, a day earlier than planned. The meeting – convened for the first time by the committee’s new chair, Ambassador Crawford Falconer of New Zealand – generally agreed that Members need to take a comprehensive approach to the agriculture negotiations and tackle a range of issues at once, instead of the “incremental” approach they have used so far.

This shift in strategy responds to the fact that negotiators now are working directly on the actual agriculture modalities – percentages for tariff and subsidy cuts, reduction formulae, criteria for domestic support, deadlines, and transition periods – rather than a mere outline of them. They failed to agree on such ‘first approximations’ of modalities at the end of July, and are now under pressure to agree on the modalities themselves at the WTO’s Hong Kong Ministerial Conference in December. Falconer has noted a “manifest sense of increased urgency” in the negotiations, given that the ministerial summit is less than three months away.

The ‘agriculture week’ took place against the backdrop of high-level bilateral talks between the EU and US in Washington DC, which strongly emphasised the agriculture elements of the Doha Round negotiations. These bilateral talks will continue in Paris from 22-23 September, and will also involve Brazil and India (together, the so-called ‘new Quad’). These countries will then be joined by Australia (to make up the Five Interested Parties, FIPS) and a larger group of countries (dubbed FIPS+).

Speaking to journalists, Falconer hailed the meeting of the new Quad in Paris, noting that “Those four players have some views, and if we want to get consensus they must talk.” He also commented that all Members must use the upcoming weeks to “talk among themselves, seize the issues and wrestle with the approaches that may work.” He stressed that while all countries need to be involved, “We need political emphasis to transform into something operational.”

Countries agree on need for a comprehensive approach in ag talks

Following a formal meeting on 13 September, Members met in different configurations. Falconer asked delegations whether it was time to move towards a more comprehensive approach to the talks, and then called an informal plenary meeting on 15 September to hear them respond. Members generally agreed, with the G-33 countries (an alliance in support of allowing developing countries to designate ‘Special Products’ for lower tariff cuts and the creation of a ‘Special Safeguard Mechanism’ to protect these countries against import surges) stressing the importance that Members pay adequate heed to the development dimension of the agriculture negotiations.

One disagreement that surfaced during the session related to the degree of ambition under each of the three ‘pillars’ of the agriculture talks: export subsidies, domestic support, and tariff reduction. The G-20 and agricultural exporters demanded high levels of ambition under all three pillars. The G-10 (mainly developed country agricultural importers) said cuts in export subsidies should be most ambitious, followed by cuts to domestic support, and finally, moderate reductions to agricultural tariffs. The US indicated that it was willing to start considering specific numbers or scenarios in order to make the talks more concrete. After the meeting, one US official noted that the current sequencing of the talks is off balance, since progress on market access, the area of greatest interest to the US, is lagging behind that on the other pillars.

Also during the 15 September meeting, the EU said it wanted the agriculture negotiations in the lead-up to Hong Kong to include the extension of geographic indications (GIs) to products other than wines and spirits. The EU is, however, fighting an uphill battle in this area, and very recently concluded a bilateral agreement with the US on the names related to wines and spirits.

A number of countries stressed the need for an inclusive or “bottom-up” approach to

Vietnam Accession by Hong Kong Unlikely

It is unclear if Vietnam will be able to formally become a Member of the WTO in time for the December Ministerial Conference in Hong Kong. Following the 15 September session of the Working Party for the Accession of Vietnam, its chair, Ambassador Eirik Glenne of Norway, said that though the talks are moving forward, “we still have work to do.”

During the meeting, the Vietnamese delegation answered Members’ questions, outlined new domestic laws that had brought the country into compliance with various WTO rules, and pointed to their government’s efforts to speed up the adoption of further WTO-related legislation. Some countries expressed concerns about Vietnam’s investment regime, tax policies, and state trading enterprises.

Would-be members of the WTO are required to negotiate bilateral market access deals with any Members that request them. Vietnam has done so with several countries, including the EU and China. Deals with some major trading partners such as the US and Australia remain unfinished. Echoing civil society concerns that this bilateral component of Vietnam’s accession process is used by developed countries to extract concessions that go beyond WTO requirements, the lead Vietnamese negotiator asked Members still in bilateral talks to “take due regards of Vietnam’s difficulties and show reasonable and flexible requirements.” India, Cuba, and the Association of Southeast Asian Nations (ASEAN) also asked those countries to refrain from making overly onerous demands.

Glenne indicated that he expected the remaining market access deals to be concluded in time for the next session of the Working Party, for which a precise date has not been scheduled.

the talks, which would involve all Members of the WTO. They have requested a first draft of the Hong Kong ministerial text in mid-November, in order to have sufficient time to consider and review the document. Falconer stressed that Members need to have something concrete on the table in mid-October, which would in turn indicate what they could realistically expect in Hong Kong.

Investment Promotion and Protection Agreement Likely Soon

Canada will support India in the ongoing negotiations in the World Trade Organisation (WTO), especially in the key areas of agriculture and services. This was indicated by the Canadian Minister of International Trade, Mr. James Peterson, during discussions with Kamal Nath, Union Minister of Commerce and Industry, on 21 September. Mr. Peterson was responding to Kamal Nath's assertion at the meeting that market access in agriculture had to be contingent upon reduction of trade distorting domestic support by the developed countries and that artificiality of world prices resulting from such heavy subsidies hindered level playing field for farmers in developing countries like India. Mr. Peterson responded by saying that "we support you completely on the need for a level playing field in agriculture and also, on the need for special and differential treatment for developing countries".

Mr. Peterson urged that the Bilateral Investment Promotion and Protection Agreement between India and Canada be expedited as it had been pending for too long and could lead to huge increase in inflows of Canadian foreign direct investment (FDI) into India. He said it would also provide an effective mechanism for resolving outstanding investment related issues between the two countries. The agreement

is currently under discussion between the two delegations.

Kamal Nath raised the issue of export of Indian ayurvedic drugs to Canada in the light of the health warning issued recently by the Canadian authorities against the use of some ayurvedic medicinal products especially from India on alleged grounds of high metallic content and pointed out that there had never been any complaints against Indian ayurvedic products. It was agreed that the matter would be looked into by experts on both sides and they would report to the Ministers soon.

Among other trade issues, the Canadian side flagged the issue of import of Canadian pulses which is at present subject to system of annual permits and urged a stable policy framework which would help Canadian exporters.

Indo-Canadian bilateral trade amounted to US \$ 1554.63 million (i.e. \$ 1.5 billion) in 2004-05, of which India's exports to Canada were valued at US \$ 816.16 million and India's imports from Canada were US \$ 738.47 million. India, thus, had trade surplus of US \$ 77.69 million in 2004-05 with Canada. As far as investment is concerned, FDI from Canada to India is miniscule. "Canadian investment to India is lowest among the G-8 countries", Kamal Nath said.

'Benchmark' Proposals Creates Controversy in Services Talks

In a controversial move, a handful of influential WTO Members have proposed the establishment of multilateral requirements for countries to open their services sectors to foreign competition. These would supplement the current bilateral request-offer process for negotiating market access in services trade.

In informal 'non-papers' submitted during consultations that services Chair Ambassador Alejandro Jara of Chile started on 14 September, Australia, Japan, Korea, New Zealand, Taiwan, and the EU outlined approaches that would establish minimum 'benchmark' levels for Members to open sectors to competition from foreign services providers. Countries would, however, retain the ability to choose which sectors to liberalise in order to reach these levels.

Developing country delegations including Argentina, Brazil, Egypt, Malaysia, and the Philippines strenuously objected to the concept. They argued that the establishment of mandatory minimum market access requirements for services trade would burden developing countries disproportionately,

since industrialised countries had already made liberalisation commitments on a far greater proportion of their trade in services. One delegate commented that the informal submissions amounted to an attempt to secure a "round for free for developed countries," at least with regard to services.

Under the General Agreement on Trade in Services (GATS), Members open their services sectors to competition from foreign companies by scheduling their commitments – including any limitations placed on this market access – in 12 sectors divided into roughly 160 subsectors. At present, there are no minimum requirements regarding the number of sectors or subsectors that must be opened up, and Members are under no obligation to make offers in response to other countries' requests.

All of the benchmark documents call for establishing targets for expanding market access. They contend that the current bilateral request-offer process is failing to significantly expand market access for trade in services, and that it must therefore be supplemented by plurilateral and multilateral ap-

proaches. Many of them specifically point to the low depth and number of existing initial and revised offers of market access in the ongoing talks.

Japan proposed that Members agree target levels of market-opening for each of the four modes of services supply in the GATS. It would not require countries already at the agreed level of liberalisation to make any changes.

Calling for a "common baseline of commitments" on services trade, the EU put forward a "formula-based approach." This would incorporate quantitative targets such as requiring Members to open a certain number of subsectors to foreign competition, as well as qualitative ones to make sure that the new commitments are "meaningful." The EU proposal implicitly makes the extent of expanded access through Mode 4 – the cross-border movement of individuals to provide services, one of the few areas of the services talks in which developing countries have broadly been demandeurs – dependent on the removal of restrictions on foreign ownership of services companies under Mode 3, which deals with commercial presence. Furthermore, its proposed benchmarks for Mode 4 market access would only apply to services subsectors liberalised under the benchmark approach.

Like the EU, Australia suggested that Members agree to a figure for the number of subsectors in which they will be required to make commitments. It wanted Members to establish at Hong Kong a mandatory, "clear goal" for improved offers on market access by the end of the Doha Round.

Korea proposed that Members commit a multilaterally-determined percentage of their heretofore-uncommitted subsectors, including autonomously liberalised ones. The request-offer process would be used to determine which sectors and subsectors Members commit.

New Zealand and Taiwan both put forward methodologies for quantifying the extent of Members' scheduled commitments, and using them to establish benchmarks for further liberalisation. New Zealand would have Members assign themselves scores based on their sub-sectoral, sectoral, and modal coverage, with penalties for limitations on market access and national treatment. A target score would then serve as the "minimum quality standard" for further liberalisation.

Taiwan's approach measured the proportion of Members' full and partial commitments in Modes 1-3 for each of the subsectors. Notably, it called for market access expansion in sectors identified by UNCTAD as "infrastructure sectors" for which the

main beneficiaries of liberalisation were likely to be developing countries (given suitable regulatory frameworks). Furthermore, Taiwan explicitly called for Mode 4 commitments to be “de-linked” from Mode 3.

In a paper that did not contain recommendations for liberalisation benchmarks, Switzerland outlined a method for quantifying Members’ commitments that was comparable to New Zealand’s.

Most of the proposals suggest supplementing the multilateral approach with a plurilateral ‘critical mass’ one. This would see groups of interested Members promise to make extensive commitments in particular sectors and subsectors as soon as the group accounts for an agreed threshold percentage of global trade in such services. Proponents of the idea point to the informal, issue-specific ‘Friends Groups’ as a possible point of departure.

Many developing countries oppose this approach, since they fear being pressured to sign on to plurilateral agreements that do not reflect their priorities. This concern springs from the non-inclusiveness of some of these ‘Friends Groups’ as well as the fact that resource constraints prevent them from actively participating in such groupings.

The EU and Japan – among the WTO’s most reluctant farm trade liberalisers – are

two of the more vocal proponents for liberalisation benchmarks in services trade. The EU explicitly stated that a multilateral benchmark approach would “bring these [services] negotiations more in line with other negotiating areas... such as agriculture and non-agricultural market access,” an assertion that was also made by Australia.

Several developing country delegations reject the comparison, saying that unlike agriculture and NAMA, services negotiations do not have an ‘a priori’ high level of ambition. They contend that the premise underlying the benchmark proposals – the notion that there should be a collective level of ambition for liberalisation applicable to all Members – runs counter to the very structure of the GATS, which provides developing countries with the flexibility to open fewer sectors and liberalise fewer types of transactions.

They argued that developing countries would need to make by far the greater effort in spite of the provisions for special and differential treatment in all of the papers, generally setting lower benchmarks for developing countries. They also noted that the Australian proposal would not provide flexibilities for non-LDC developing countries, again contrary to the language of the GATS.

stimulus for export-led growth in the world during the past years. China’s boom is potentially an economic boom for the world and the potential of benefiting from the WTO multilateral trading system is far from exhausted, on the contrary.

The DDA negotiations should be concluded in 2006. The aim is to make the world trade system more open and more inclusive. The results of the Doha Development Agenda must provide a powerful tool for countries to promote investments, job creation and economic expansion. There is no credible alternative to a stronger, rules-based multilateral trading system which has done so much to underpin the tremendous expansion of the global economy in the last fifty years.

One important point, however, is that we must move away from the tendency to treat environmental protection and sustainable development as the source of extra costs and therefore impediments to economic development. China has already recognized that this approach is counter-productive and not feasible in the long run.

Environment and sustainable development cannot be dealt with separately from the management of the economy as a whole. Sustainable development requires fundamental changes in economic management to provide a positive synthesis between the environment, social, regional and economic dimensions of the development process. Improved efficiency would not only be good for China’s environment, but for the sustainability of its economic progress. China is already on track to resolving the daunting challenges it faces. In doing so it will fulfil its destiny as a truly great nation which will help to shape a more promising and sustainable future for all the world. I am pleased to know that the Chinese Government has adopted an overall development strategy to build a “harmonized society” in which the environment is one of the priorities.

The Beijing International Forum on WTO and China and the Beijing Chaoyang International Business Festival have become one of the city’s most vibrant business events. These provide excellent platforms of exchanges and cooperation for the development of Beijing’s economy. These annual events maximise exchanges among Chinese private entrepreneurs and multinational enterprises. It also became the best chance for Beijing’s further opening and attracting foreign investment.

Lamy Lauds China’s Contribution to World Economy

Director-General Pascal Lamy, in a message on 15 September 2005 from Geneva to the Fourth Beijing International Forum on WTO and China (2005) and the Sixth Beijing Chaoyang International Business Festival, said that China’s recent growth shows that a more open economy is the best way to boost competitiveness.

This Conference shows that China has achieved what many developing countries aspire to achieve: a stable economic growth and an attractive base for foreign direct investment. China became a WTO Member on 11 December 2001, just a few weeks after the launching of the Doha Development Agenda negotiations. China’s integration into the multilateral trading system and China’s economic success is a tribute to the vision of China’s policy makers. Progressive opening of trade and investment has played a key role in China’s economic growth and development over the past 25 years. For years, China has been playing an important role in contributing to the expansion of the global economy. This role has become stron-

ger with China’s entry into the WTO. Recent international trade data by the WTO shows that China already exports and imports more goods than Japan and has surpassed Japan’s total merchandise exports in 2004. China has become the world’s third largest trading nation behind the United States and Germany.

As the last decade of reforms has shown, a more open economy is the best way to boost competitiveness. With more open markets, Chinese businesses will continue to improve their overall ability to respond to new market opportunities. China has made noteworthy strides in promulgating and publishing laws and regulations, and building transitional administering authorities. In this period of evolving regulations, the importance, for Chinese enterprises of regulating transparency, legal predictability, stability and consistency is of absolute importance. WTO Members are encouraged by China’s implementation of its WTO commitments which are now in a decisive phase. China’s strong growth has provided an important

The fifth round of free trade agreement (FTA) negotiations between Thailand and the US will open shortly, from 26-30 September in Hawaii. The talks have been controversial in Thailand, particularly in relation to public participation and the intellectual property (IP) components of the potential accord. A US-required confidentiality agreement has meant that little of what takes place during the actual negotiations can be disclosed to the public. Nevertheless, Thai civil society groups anticipate that substantive discussions on patents and geographical indications are likely to take place in the upcoming round, and have stepped up related activities. Strong IP protections – generally going beyond WTO requirements – have been a consistent demand of the US in its recent FTAs.

Participants at recent open meetings held by Thai universities and non-governmental organisations have expressed concerns about the potential removal of an exemption that currently prevents life forms from being patented, as well as higher patent standards

affecting access to medicine. Furthermore, Thailand's National Human Rights Commission has officially warned against the raising of IP standards, suggesting that existing domestic laws were better tailored to the country's development needs. The Commission also advocated a precautionary approach with regards to sanitary and phytosanitary (SPS) standards for genetically modified organisms, citing health, safety and environmental reasons.

The Thai government is said to be seeking protections in the FTA negotiations for requiring patent applicants to disclose the source and country of origin of any genetic resources or traditional knowledge used in an invention. These are similar to proposals Thailand has made at the WTO. There is also strong government and civil society support in Thailand for geographical indication protection for food products such as jasmine rice. Thai sources report that the US wants Thailand to seek trademark protection instead.

CTE Moves on to Technical Discussions on Environmental Goods

WTO Members largely set aside the relationship between WTO rules and multilateral environmental agreements (MEAs) during the 15-16 September meeting of the Special (negotiating) Session of the Committee on Trade and Environment (CTE-SS), focusing instead on how to advance the talks on environmental goods.

As part of a product-specific process, WTO Members welcomed a meeting convened by the US just prior to the CTE session where it provided case studies on the environmental and developmental benefits of liberalising trade in the environmental goods on its own proposed list. Many delegates felt that such exercises could help test the credibility of lists, to streamline them, and to critically analyse potential win-win opportunities for trade, environment and development. Some Members, including Switzerland and Canada, suggested that they might hold similar workshops for their respective lists.

On the way forward for the negotiations, Canada proposed structuring discussions according to categories, naming goods related to sanitation, wastewater management and renewable energy as three possibilities. They said this approach would help clean up existing lists and support developing countries in the preparation of their own lists. The proposal was generally welcomed as a potential starting point for more detailed debate, although delegates expected that additional categories would emerge in the course

of the discussions.

India continued to promote its 'environmental project approach,' which would temporarily liberalise trade for particular environmental goods and services used in approved environmental projects. In contrast to the previous CTE meeting, India appeared more willing to consider a combination of the project and list approaches, as long as its two main concerns were addressed – namely that environmental goods chosen for increased liberalisation did indeed contribute to environmental protection, and that the 'dual use' issue (i.e. the fact that certain environmental goods may have both environmental and conventional uses) was dealt with.

Brazil insisted on the need to consider criteria for identifying environmental goods, though it welcomed the US and Canadian initiatives. Its delegates noted that such criteria would help to more clearly specify the limits of the expected outcome, including the expected scope and volume of trade in the listed goods. They also suggested that clear criteria would give developing countries the confidence to come forward with lists of their own.

The road to Hong Kong

Discussions in the CTE have for some time focused almost exclusively on environmental goods under Paragraph 31(iii) of the Doha Declaration. Nevertheless, some delegations rejected a suggestion by CTE-SS Chair Ambassador Toufiq Ali of Bangladesh

Trade Disputes

EU Sugar Regime Back in Spotlight

In response to reports that the EU may export more of its internal sugar surplus, Australia, Brazil and Thailand have referred the matter to the 27 September 2005 meeting of the WTO Dispute Settlement Body (DSB). They allege that the EU is failing to comply with the Appellate Body's 28 April 2005 ruling that its sugar regime is inconsistent with WTO rules, and that the EU's actions run afoul of the ongoing arbitration process to set a deadline for EU compliance.

The EU's existing sugar regime guarantees domestic producers payment at a price considerably higher than world market levels. It establishes two categories of sugar production for internal consumption, 'A' and 'B' quotas. Sugar produced in excess of these is reclassified as 'C' sugar and exported. It is these exports that the WTO dispute panel and Appellate Body ruled against. They determined that the C sugar exports were being sold below their cost of production in part due to the cross-subsidisation from profits earned from artificially expensive domestic sugar. The EU also was found to be subsidising its sugar exports beyond its notified commitment, in violation of the WTO Agreement on Agriculture.

The WTO DSB ordered the EU to reduce its subsidised exports of sugar from approximately 5 million tonnes a year to 1.273 million tonnes, and slash export subsidies from an estimated EUR 2 billion per year to a maximum of EUR 499.1 million. However, due to an internal production surplus, the EU is said to be contemplating reclassifying some of its A and B quota sugar as C sugar for export. This would increase its subsidised exports of sugar to approximately 7.2 million tonnes, 6 million tonnes in excess of its commitments.

to drop MEA-related negotiations under Paragraphs 31(i) and (ii) until after the Hong Kong meeting. Developing countries in particular expressed the fear that such a move could set a procedural precedent, given that so far no other negotiating issue has been formally dropped from discussions in the lead-up to December. In addition, MEA-related issues, which are of particular interest to some developed countries such as the EU and Switzerland, may serve as a potential bargaining chip - in exchange for agreement on an issue of interest to developing countries - at a later juncture in the negotiations.