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Agricultural Negotiations in the World Trade Organization

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ABSTRACT

Trade ministers of 135 Member countries of the World Trade Organization (WTO) at the organizations' s third ministerial conference in Seattle, November 30-December 3, 1999 failed to agree on an agenda for a new round of multilateral trade negotiations. Nevertheless, WTO sectoral negotiations on agriculture, as required by Article 20 of the Uruguay Round Agreement on Agriculture, began early in 2000 in Geneva, Switzerland. Central to these negotiations is whether and how to further reduce trade barriers and limit export and domestic subsidies. New issues such as the operations of state trading enterprises and trade in biotechnology products also seem likely to be brought to the negotiating table. The United States, the European Union, the Cairns Group of agricultural exporting countries, Japan and the developing countries all have staked out positions on these issues.

Agricultural Negotiations in the World Trade Organization

Summary

Trade ministers from 135 Member countries of the World Trade Organization (WTO) at the organization's third ministerial conference in Seattle, November 30-December 3, 1999, failed to agree on an agenda for a new round of multilateral trade negotiations. Nevertheless, WTO sectoral negotiations on agriculture, as mandated by the Uruguay Round Agreement on Agriculture, began early in 2000 in Geneva. The broad objective for the agricultural negotiations, expressed in Article 20 of the 1994 Uruguay Round Agreement on Agriculture (URAA), is to continue the process of agricultural trade reform beyond 2001.

The URAA established a set of new rules for the conduct of agricultural trade. It required that quantitative restrictions on trade be converted into tariffs and that some minimum access for imports be permitted. Rules and reduction commitments for export subsidies and domestic support for agriculture are also included. Safeguard provisions protect domestic producers from import surges, and a "peace clause" limits legal challenges to agricultural subsidy programs during a nine-year period. The Uruguay Round negotiations also resulted in an agreement on the application of sanitary and phytosanitary (SPS) measures (those that protect human, plant, and animal safety) in international trade and on measures to improve the multilateral dispute settlement process.

Concerns about implementation of the URAA seem likely to be raised as issues in the agricultural negotiations. Questions have been asked in the WTO's Committee on Agriculture about the administration of tariffs and quotas established to implement market access commitments, the use of special safeguards for agricultural imports, and export subsidy commitments. Some countries have expressed concerns about the process for settling disputes, including sanitary and phytosanitary disputes.

"Continuing the process of reform" will entail revisiting the issues of market access, export subsidies, and domestic support that were central to the Uruguay Round. Negotiations are likely to focus on alternative ways to reduce high tariffs for agricultural products and/or expanding market access quotas. Further reduction or elimination of export subsidies will be issues for negotiators. Further reducing trade-distorting domestic support may also be on the agenda, but will depend on the direction and pace of domestic policy reform, especially in the European Union and the United States.

Issues not dealt with or dealt with only partially in the Uruguay Round could also be on the agenda. This set of issues includes especially devising new rules or disciplines for the operations of state trading enterprises (STEs) and dealing with trade in biotechnology products. Developing countries may want to discuss the Uruguay Round's ministerial decision calling for special attention to the needs of the least-developed and net-food importing developing countries.

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Agricultural Negotiations in the World Trade Organization

Introduction

Trade ministers of the World Trade Organization at the organization's third ministerial conference in Seattle (November 30-December 3, 1999) failed to agree on an agenda for a new round of multilateral trade negotiations. Among the reasons cited for the failure of the Seattle conference are the inability of the United States and the European Union to agree on a negotiating agenda for agriculture, especially on the issue of export subsidies; disagreement between the European Union and the United States on the scope of the negotiations, with the former opting for a broad negotiation in contrast to the latter's desire to limit negotiations to a few specific subjects like agriculture and services; and the resistance of the developing countries to inclusion of labor and environmental issues on the WTO's negotiating agenda.

Despite the failure of the ministerial conference to agree on an agenda that would have launched the ninth round of multilateral trade negotiations since the establishment of the General Agreement on Tariffs and Trade (GATT) in 1947, agricultural negotiations, as mandated by the 1994 Uruguay Round Agreement on Agriculture (URAA) began early in 2000. Article 20 of the

Article 20

Continuation of the Reform Process

Recognizing that the long-term objective of substantial progressive reductions in support and protection resulting in fundamental reform is an ongoing process, Members agree that negotiations for continuing the process will be initiated one year before the end of the implementation period, taking into account:

- (a) the experiencing to that date in 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 to this Agreement; and
- (d) what further commitments are necessary to achieve the above mentioned long-term objectives.

Source: *Uruguay Round. Final Texts of the GATT Uruguay Round Agreements Including the Agreement to Establish the World Trade Organization as signed on April 15, 1994, Marrakesh, Morocco.*

Agreement states that member countries of the World Trade Organization recognize that the long-term objective of substantial progressive reductions in trade-distorting support and protection of agriculture resulting in fundamental reforms is an on-going process. The URAA thus calls for the initiation of negotiations for continuing the process of agricultural trade reform to begin one year before the end of the implementation period for the Agreement, i.e., in 2000.

Agricultural negotiations are thus part of the "built-in" agenda of the WTO. The built-in agenda is a program of work agreed to by Uruguay Round signatories and endorsed by the WTO Ministerial meeting in Singapore in December 1996. This agenda, in addition to agriculture, includes further negotiations on trade in services and on intellectual property, as well as reviews of anti-dumping rules, sanitary and phytosanitary (SPS) measures, safeguards, dispute settlement, and technical barriers to trade among others. Agricultural issues could also be taken up in some of these reviews.

Differences between the United States and the European Union appear to have been a major reason for the failure of the Seattle ministerial to launch a new round. In particular, the United States and the EU differed strongly over whether negotiations on export subsidies should aim toward their reduction or their eventual elimination. The EU argued for substantially and progressively reducing export subsidies, while the United States insisted on their ultimate elimination. Similarly, the EU along with Japan insisted on some recognition of non-trade concerns in the forthcoming agricultural negotiations, including recognition of the multifunctional role of agriculture. "Multifunctionality" refers to the provision by agriculture of such public goods as protection of the environment and maintenance of the vitality of rural areas. The United States and particularly the Cairns Group¹ of agricultural exporting countries resisted including some of the non-trade concerns, especially multifunctionality, on the agenda for agriculture.

Issues for the agricultural negotiations have been identified by WTO Members. One set of issues relates to how the Uruguay Round Agreement has been implemented. There are concerns about the way some countries are administering tariff rate quotas (TRQs) established to implement the market access commitments in the Uruguay Round Agreement on Agriculture.² Other concerns relate to the use

¹Argentina, Australia, Bolivia, Brazil, Canada, Chile, Colombia, Costa Rica, Fiji, Guatemala, Indonesia, Malaysia, New Zealand, Paraguay, the Philippines, South Africa, Thailand, and Uruguay. Formed just prior to the Uruguay Round negotiations to lend support to agricultural trade liberalization, the Group has maintained its cohesiveness and trade liberalization objective. Hungary has left the Cairns Group in anticipation of its becoming a member of the EU. Paraguay, South Africa, Bolivia, Guatemala, and Costa Rica have recently joined.

² A tariff rate quota (TRQ) combines two policy instruments that countries historically have used to restrict import: quotas and tariffs. In a TRQ, the quota component works together with a specific tariff level to provide the desired degree of import protection and market access. Imports entering under the quota portion of a TRQ are usually subject to a low or zero tariff, while imports above the quota face a higher (usually prohibitive) rate. TRQs were established by WTO signatories to the Uruguay Round Agreement on Agriculture to replace quantitative

(continued...)

of safeguards for agricultural products and to charges by some member countries that export subsidy commitments are being circumvented or not otherwise being met. Problems raised with respect to dispute settlement, especially of sanitary and phytosanitary issues, also may come up as an implementation issue.

Implicit in the notion of "continuing the reform" is that negotiators will again be dealing with market access, export subsidies, and domestic support. These three issues are likely to be as central to the forthcoming agricultural negotiations as they were during the Uruguay Round. Issues that were not dealt with or dealt with only partially in the Uruguay Round may be on the agenda as well. This is likely to include especially the operations of state-trading enterprises (STEs) and trade in biotechnology products. Other issues that may be addressed by agricultural negotiations include the use of export credits and credit guarantees; the treatment of agriculture in regional negotiations; and the relation between regional free trade agreements and the WTO. It is also possible that developing countries will want to revisit the ministerial declaration on meeting the food needs of the least developed countries.

How are the prospective negotiations viewed by different U.S. interest groups? Most economists view further agricultural trade liberalization as contributing to global efficiency and welfare. They see it as a way to hasten the process of reform of domestic agricultural policies which distort agricultural trade. Many U.S. producers and exporters of agricultural products and agricultural trade policy officials welcome the opportunity the negotiations afford to open markets and reduce export subsidies. They see agricultural exports as an important source of income, particularly as Government support is phased down according to the provisions of the 1996 farm bill, (the Federal Agriculture Improvement Act).

Some U.S. agricultural producers oppose or want to slow any agricultural trade liberalization. These include producers of "sensitive" commodities who contend that they have been adversely affected by previous trade liberalization in the U.S.-Canada Free Trade Agreement (FTA) or the North American Free Trade Agreement (NAFTA) and anticipate further losses from any new reduction in U.S. agricultural trade barriers.

The call by U.S. agricultural and trade policy officials and interest groups for further reductions in tariffs and export subsidies is supported by the Cairns Group of exporting countries (see below). The Cairns countries are pushing for substantial tariff reductions, elimination of export subsidies, and more limits on trade-distorting domestic policies. The European Union has introduced some changes to its Common Agricultural Policy, mainly in the form of priced reductions for grains and beef. The nature of those reforms will influence its negotiating positions of tariffs, subsidies, and especially domestic support. Developing countries will bring a diverse array of interests into the agricultural negotiations. Some, that are agricultural exporters, will, like the Cairns Group, want improved conditions for their agricultural exports in world markets, others will perhaps want to trade improved access to their agricultural

²(...continued)

restrictions on imports and to provide some minimum import access.

markets for better access for their processed and industrial products. Still other developing countries will be primarily concerned about the impact of agricultural trade reforms on their food security.

The Uruguay Round Agreement on Agriculture

The Uruguay Round Agreement on Agriculture is a point of departure for the agricultural negotiations that began in 2000. The Agreement on Agriculture, which entered into force in 1995 along with other Uruguay Round accords, including the agreement to establish the World Trade Organization, was an important step toward applying multilateral rules and disciplines to global agricultural trade.³ Most assessments of the Agreement hail it as an historic shift in the way agriculture is dealt with in multilateral trade agreements.⁴ The Agreement establishes new multilateral rules governing market access, export subsidies, and domestic support for agriculture. In terms of future trade liberalization, its most important provisions may be those requiring the elimination of quantitative trade restrictions and their conversion to bound tariffs. These bound tariffs, even if some of them are extremely high, can provide a starting point for future negotiations of tariff reductions.

Market Access

The Agreement requires all WTO members to convert nontariff trade barriers to tariffs and to reduce them by a simple average of 36% over 6 years (with a minimum tariff reduction per tariff line of 15%). Developing countries agreed to make cuts of 24% over 10 years. Least developed member countries do not have to cut their tariffs at all. The Agreement prohibits the introduction of new nontariff barriers to trade. Where nontariff barriers restricted imports, the Agreement requires that importing countries offer minimum access of usually 3% of consumption rising to 5% over the 6-year implementation period for the Agreement. Under the terms of the Agreement, the United States converted quantitative restrictions such as its Section 22 import quotas to tariff rate equivalents (TRQs).⁵ Similarly, the Agreement required the EU

³The official text of the Uruguay Round Agreement on Agriculture as well as the related Agreement on the Application of Sanitary and Phytosanitary Measures and the Understanding on Dispute Settlement can be found at <http://www.wto.org>.

⁴Assessments of the Uruguay Round Agreement on Agriculture and discussions of negotiating issues for agriculture include two reports by the International Agricultural Trade Research Consortium, *The Uruguay Round Agreement on Agriculture: An Evaluation* (July 1994) and *Implementation of the Uruguay Round Agreement on Agriculture and Issues for the Next Round of Agricultural Negotiations* (November 1997), both are available at <http://www.umn.edu/iatrc>; *Agricultural Trade Policy Reform*, by Timothy Josling, Institute for International Economics, no 53 in the series, Policy Analysis in International Economics, April 1998; U.S. Department of Agriculture, Economic Research Service, *Agriculture in the WTO*, WRS 98-4, December 1998; and International Food Policy Research Institute, *Getting Ready for the Millennium Round Trade Negotiations*, Focus issue briefs 1-9, April 1999.

⁵Section 22 is a provision of permanent agricultural law (Agricultural Adjustment Act Amendment of 1935) that allows the President to impose import fees or import quotas to

(continued...)

to convert its variable levies for agricultural imports to TRQs. Most assessments of the Agreement conclude that it provides little in the way of expanded access for agricultural products. Its importance lies in extending the principle (already applied to trade in industrial products) of protection by bound tariffs to agricultural trade and establishing at least a base for further tariff reductions in future negotiations.

Export Subsidies

The Agreement requires that export subsidies be reduced by 21% in terms of quantities and by 36% in terms of budgetary outlays by the end of the 6-year implementation period. Developing countries agreed to make cuts of 24% and 14% respectively over 10 years. Least developed countries need not make any cuts. WTO members may continue to use their existing export subsidies within the limits established, but may not introduce any new export subsidies. Both the United States and the EU must now operate their respective export subsidy programs in conformity with the export subsidy reduction commitments of the Agreement.

The major export subsidy programs in the United States are the Export Enhancement Program (EEP) and the Dairy Export Incentive Program (DEIP).⁶ EEP has been operated at well below its Uruguay Round reduction commitments. EEP subsidies in 1997 amounted to \$5 million, were zero in 1997, and only around \$2 million in 1998. EEP subsidies were \$1.4 million in 1999 and \$1.6 million in 2000. DEIP has been authorized by Congress in the 1996 farm bill at the maximum allowed by Uruguay Round commitments, but actual subsidies have been less. The European Union subsidizes a wider range of commodities than the United States. For some of those products, such as wheat, the EU is reaching Uruguay Round allowable limits.

Domestic Support

The Agreement also includes rules and commitments for domestic support. Domestic subsidies are to be cut by 20% from average levels of support aggregated across all commodities for the base period 1986-88. Developing country Members make 13% cuts over ten years, while least developed country Members are not required to commit to any reduction. Support reduction commitments are also to be made over the 6-year implementation period on the basis of this aggregate measure

⁵(...continued)

prevent imports from non-WTO member countries from undermining the price support and supply control objectives of domestic farm programs. Legislation implementing the Uruguay Round Agreement on Agriculture (and that implementing the North American Free Trade Agreement) exempts WTO and NAFTA member countries from Section 22 quotas and fees. Under both trade agreements, the United States converted then-in-effect Section 22 restrictions into tariff-rate quotas, thus effectively eliminating Section 22 as a tool to protect domestic producers from import competition.

⁶ See *Agricultural Export Programs: The Export Enhancement Program (EEP)*, CRS Report RS20399 and *Agricultural Export Programs: The Dairy Export Incentive Program (DEIP)*, CRS Report RS210402.

of support (AMS). Since U.S. and EU support spending was well under the Agreement's limits, no reductions in support were required. Trade policy experts contend that the rules established for domestic support policies are more important than the reduction commitments required.

The Agreement defines which domestic policies are permitted ("green box" policies) such as income support provided to farmers independently of participation in production limiting programs, advisory services, or domestic food assistance. Policies that are not eligible for the green box are automatically prohibited ("amber box" policies). U.S. deficiency payments as provided in the 1990 farm bill and EU compensatory payments as provided by the 1992 CAP reforms were excluded from the calculation of the AMS and put into a "blue box" of excluded programs. The production flexibility payments authorized in the 1996 farm bill replaced target price-deficiency payments and are considered to be a green box policy. EU income support is still included in the blue box.

Domestic Policy Categories in the Uruguay Round Agreement on Agriculture

Amber box policies are domestic policies presumed to have the largest potential effect on production and trade. The base period level of amber support policies (1986-88 for most countries) was "bound" in country schedules, meaning that this level was established as an initial absolute upper limit for support. Twenty-eight countries, including most major agricultural exporting countries, agreed to phase down the level of support provided by amber policies (as measured by an aggregate measure of support (AMS) over specified time periods. Developed countries agreed to a 20% reduction in amber support over a six-year period, relative to the base level of support. Developing countries agreed to a 13% reduction over a ten-year period; and least developed countries agreed to not increase support beyond the base period level.

Green box policies are those considered to have minimal effects on production and trade. Green implies a "green light" for countries to go ahead with such policies.

Blue box policies include production limiting payments that are not subject to reduction commitments for domestic support if the payments are based on fixed areas or yields, or a fixed number of livestock, or no more than 85% of the base level of production. The blue box was created to accommodate U.S. target price-deficiency payments then in effect and EU compensatory payments. (Production flexibility payments which replaced deficiency payments are in the green box.)

(Adapted from U.S. Department of Agriculture, Economic Research service, op. cit., p 15.)

Special Safeguards

The URAA also permits (Article 5) a WTO Member to impose a special safeguard—in the form of additional duties—on an agricultural product subject to tariffication, i.e., formerly protected by a nontariff measure. Unlike, the WTO's regular safeguard procedures, the special safeguard does not require an injury determination. To be eligible for the safeguard, a Member must designate that the product is subject to a safeguard in its tariff schedule. The Agreement establishes two types of safeguard. One is a volume-based safeguard that a country may apply whenever imports exceed a certain quantity. The other is a price-based safeguard that

applies to any shipment of a product whose price is below a price threshold (the price trigger). If both conditions have been met, a WTO Member can choose which to apply, but countries may not apply both types of safeguards on an agricultural product at the same time. Countries are required to operate their special safeguards in a transparent manner. Trigger levels and supporting information must also be provided to the WTO Committee on Agriculture. Member countries have an obligation to consult with their trading partners when they implement a special safeguard.

Peace Clause

The URAA also contains an agreement among WTO Member countries to refrain from challenging certain of each other's agricultural subsidy programs either through WTO dispute settlement procedures or in domestic countervailing duty proceedings during a nine-year period. This provision (Article 13) also calls on WTO Members to exercise due restraint in initiating countervailing duty investigations.

Under the peace clause, WTO Members agree to refrain for nine years from taking actions under domestic countervailing duty proceedings, or initiating WTO dispute settlement proceedings, alleging adverse effects or serious prejudice resulting from green box, i.e., permitted, subsidies. Members are also precluded from bringing dispute settlement proceedings alleging nullification or impairment of Uruguay Round tariff reductions, when such nullification and impairment results from green box subsidies. In the case of subsidies outside the green box, that is, amber or blue box subsidies, WTO Members are to exercise due restraint in initiating domestic countervailing duty investigations.

In the case of subsidies that fall under the amber box, Members of the WTO may not initiate challenges so long as spending for a particular commodity does not exceed the level of spending in the 1992 marketing year. Members could initiate actions in WTO dispute settlement with respect to adverse effects, serious prejudice or nullification and impairment of tariff concessions if spending exceeds the 1992 level. (For example, spending on U.S. loan deficiency payments by particular commodity would be protected from challenge so long as the level of spending did not exceed the level in the 1992 marketing year.)

The peace clause also applies to export subsidies. If Member countries are meeting their reduction commitments, their export subsidies are exempt from certain WTO challenges.

Some WTO observers indicate that the major implication of the peace clause is the incentive it provides WTO Members to complete agricultural negotiations before its expiration in 2003. This presumptive deadline is thought to be particularly important for the EU, which argues in its negotiating position, for the continuation of the peace clause beyond its expiration date. That is because EU support in all categories (green, amber, or blue) could become subject to legal challenges if the peace clause expires.

Sanitary and Phytosanitary Measures

An Agreement on the Application of Sanitary and Phytosanitary (SPS) Measures reaffirms the right of WTO members to adopt and enforce measures that they deem appropriate to protect human, animal, or plant life or health as long as such measures are not applied in an "arbitrary and unjustified" manner. The Agreement states that such measures may not be used as disguised barriers to trade. SPS measures may be based on international standards where they exist. WTO members could impose higher standards than those derived from these sources if based on scientific justification and risk assessment. All WTO members agree to recognize the equivalence of different standards that result in a comparable level of SPS protection. Dispute settlement panels should seek advice from relevant international organizations when scientific or technical matters are at issue. The SPS Agreement, though binding on WTO members, is stated in broad language. Specifics will come from interpretation of the Agreement and adjudication of sanitary and phytosanitary issues in WTO dispute settlement

The U.S.-EU meat hormone dispute has been a major test of the SPS Agreement and the dispute settlement process.⁷ WTO dispute settlement panels have upheld the U.S. challenge to the EU meat hormone ban in effect since 1989. Both initial and appellate panels ruled that the ban violates the SPS Agreement's requirements that SPS measures be based on scientific justification and risk assessment. The appellate ruling left open the option to the EU of conducting a risk assessment which the EU did not complete by a WTO deadline to bring its hormone ban into compliance with WTO rulings. The EU is maintaining, even strengthening, the ban, while its risk assessment continues. In the meantime, the United States requested and received authorization to impose prohibitive tariffs amounting on \$116 million on certain EU products as a result of the EU's noncompliance with a WTO dispute settlement ruling. U.S.-EU negotiations on compensation for lost U.S. export sales have so far been unsuccessful.

Dispute Settlement

New and strengthened dispute settlement procedures were agreed to as part of the Uruguay Round. The new procedures also apply to disputes that may arise under either the Agreement on Agriculture or the SPS Agreement. An important change in WTO dispute settlement procedures is the elimination of a member's right to veto a dispute panel's decision and effectively block implementation of the panel's recommendations for resolving the dispute. Potentially this strengthens the ability of the WTO to enforce panel judgements. The right of WTO members to negotiate compensation, rather than change its challenged policies remains in place, however.

The U.S.-EU banana dispute which was ultimately adjudicated in the United States' favor has proven to be an important test of WTO dispute settlement

⁷See *The European Union's Ban on Hormone-Treated Meat*, CRS Report RS20142.

procedures.⁸ The United States successfully challenged the EU's preferential access regime for bananas from former European colonies in Africa, the Caribbean and the Pacific and from certain Latin American countries with which the EU had signed preferential accords. The U.S. case targeted especially the EU's import licensing systems which discriminated against major Latin American producers and U.S. firms, like Chiquita Brands International and Dole Foods, in favor of European banana importing firms. While the United States has imposed prohibitive tariffs on almost \$200 million of EU imports, the EU has devised an alternative scheme for banana imports which it says is in accord with WTO dispute settlement decisions. The United States has not challenged the new regime, but has nevertheless pursued discussions with the EU about devising a regime more favorable to U.S. banana marketing companies.

Implementation Issues

Implementation of the provisions of the Agreement on Agriculture by WTO members has raised several issues which could be on the agenda of WTO agricultural negotiations. These include administration of the TRQs established under the Agreement; use of special safeguards for agricultural products; developing and incorporating disciplines on export credits and credit guarantees into the multilateral framework of the Agreement; and the way in which some countries have implemented export subsidy commitments. Implementation of the SPS Agreement in relation to WTO dispute settlement also has been raised as an issue.

Administration of TRQs

TRQs were intended to help in opening up markets to agricultural imports. Yet in many instances, the TRQs established have resulted in systems of limited access for imports and high above quota tariffs which effectively preclude trade. In the WTO's Committee on Agriculture (which has on-going responsibility for reviewing implementation of the Agreement), questions have been asked about the way TRQs have been allocated among importers or exporters and about instances where the volume imported did not reach the quota limits. Some countries have complained that procedures for distributing quotas are unnecessarily complicated and burdensome. WTO agricultural negotiations could focus on ways to improve the administration of TRQs by spelling out and clarifying procedures for acquiring import quotas. One proposal is to auction quotas so as to reduce the role of government and limit the potential for abuse. Countries with import state trading enterprises (see discussion of STEs below) and those who hold import licenses would be likely to want to maintain current procedures for administering TRQs.

⁸See *The U.S.-European Union Banana Dispute*, CRS Report RS20130, updated May 18, 1999.

Special Safeguards

Some exporting countries have criticized some importing countries' use of special safeguard measures even when domestic producers were not experiencing injury. Under the Agreement on Agriculture, special safeguards can be used if low import prices or surges in imports meet certain criteria. Under regular WTO safeguards, governments have to show that the lower import prices or increase in imports are hurting domestic producers. The Agreement on Agriculture does not require this injury determination. Some exporting countries have proposed applying the WTO injury determination requirements in the case of agricultural safeguards. Importing countries who impose safeguards argue that their actions are fully justified and would be likely to oppose changing the Agreement's safeguard provisions.

Export Subsidies

Implementation of export subsidy commitments by some countries has come in for criticism. The United States along with several other countries has complained about what it sees as some other countries' efforts to circumvent export subsidy reduction commitments. The United States has been critical of two programs that it considers violate the Agreement's provisions on export subsidies. One is Canada's new revenue pooling program for milk and milk products that are sold in domestic and export markets at different prices. Canada argues that the program which involves sales at lower prices to exporters and to processors facing import competition is not an export subsidy as defined by the Agreement. The other program targeted by the United States is the EU's "inward processing" program for processed cheese exports. This program enables subsidized inputs such as milk powder produced in the EU member country concerned to be "exported" to an export processing zone in the country where they are made into processed cheese and sold to other (non-EU) countries. The EU counts the subsidized inputs under its commitments to limit its export subsidies on these products (where it may not be bumping up against its Uruguay Round limits), not under its processed cheese exports (which are close to the Uruguay Round limits).

Export subsidy issues like these are likely to be raised during the agricultural negotiations. Negotiations then might focus on clarifying and tightening the definitions of export subsidy and the rules for allocating reduction commitments where there are reduction commitments both on products used as inputs and on final products. Countries bumping up against reduction caps would likely oppose efforts to limit their flexibility in allocating between input and final product categories.

Export Credits and Credit Guarantees

Export credits and credit guarantees can be a form of export subsidy if terms granted to the importers are more generous than commercial terms would be. Large exporting countries like the United States, France and several other EU countries, and Canada, among others, use this form of export financing, which guarantees private commercial credit for sales of agricultural products. Guarantees on loans vary from 6 months to 10 years with the United States having the greatest range of terms in its

GSM-102 and -103 programs.⁹ In the wake of the Asian financial crisis, major exporting countries, especially the United States and Australia, have increased their reliance on credit guarantees to help maintain demand for their agricultural products in countries whose economic growth has been slowed drastically by currency and other financial sector difficulties. Smaller exporting countries with fewer financial resources consider larger countries' use of guarantees as unfair and subsidized competition.

The Agreement on Agriculture, however, has no provisions governing the use of export credit guarantees. WTO members did agree in the Uruguay Round to work toward establishing disciplines for such programs under the auspices of the Organization for Economic Cooperation and Development (OECD). These negotiations have apparently broken down, and the major exporters have not yet reached any agreement. If negotiations resume and agreement is reached in the OECD (whose membership is limited to the industrialized countries), an issue for the agricultural negotiations may be how to multilateralize such an agreement in the WTO.

Sanitary and Phytosanitary Measures

A number of disputes under the SPS agreement have arisen and the United States has had some successes, most notably a WTO panel ruling against the EU's ban on imports of red meat from animals treated with growth-promoting hormones. U.S. concerns are about the ability of the WTO to enforce its rulings and about the willingness of disputants like the EU to change offending policies rather than negotiate compensation which is allowed under WTO rules.

It is not entirely clear what steps could be taken to strengthen SPS rules or modify settlement procedures for SPS issues. Some have argued that losers in WTO dispute settlements should be required to change the offending practices rather than be allowed to negotiate compensation. The principle of compensation is longstanding and widely supported by WTO members and could be difficult to modify. However, tightening up dispute settlement procedures might assuage those concerned about implementing WTO panel decisions. For example, it can take up to 15 months to resolve a dispute, and longer, with appeals and arbitration. Some have suggested that the period be shortened. Some WTO members like the EU countries may resist efforts to clarify and tighten disciplines on SPS measures; they may argue that their SPS measures are appropriate to protect health and safety and fully consistent with their international obligations. Others contend that WTO dispute settlement for SPS issues should be allowed to develop interpretations of the SPS Agreement and establish precedents for implementing it before making any changes in the Agreement itself.

⁹*Agricultural Export and Food Aid Programs*, CRS Issue Brief IB98006, updated regularly.

Uruguay Round Negotiating Issues

While much attention is likely to be paid in agricultural negotiations to implementation issues, critical to "continuing the process of reform" in world agricultural trade will be renewed negotiations on market access, export subsidies, and domestic support.

Market Access

Agricultural negotiations are likely to focus on conditions for market access or lack of it provided by the TRQs established as a result of the Uruguay Round. The conversion of quantitative restrictions to tariff rate quotas left many agricultural products highly protected. Average tariffs on agricultural products in many major exporting countries remain high. Tariffs on agricultural products (simple averages) are 3 to 4 times higher than the 10-15% ad valorem rates for most industrial products; some reach 100-200% or more. In addition, tariffs on broad classes of agricultural commodities as shown by simple ad valorem tariffs rates averaged over twenty countries show relatively high rates. (See following tables for examples of both average tariffs for agriculture and some specific examples.)

Table 1. Average and Selected Tariffs for Agricultural Products in Selected Countries		
Country	Average Tariff on Agricultural Products (%)	Discussion
Japan	11.0	Tariff rates on many agricultural commodities are low, e.g., oilseeds are bound at zero, wheat at 5%. However, rice, according to the WTO, has an ad valorem equivalent rate of "several hundred percent." Tariffs on processed food products at the end of the phase-in of Uruguay Round commitments in 2000 will range from 0 to 232.4%.
European Union	19.5	There are tariff peaks for grains, meat and meat products, dairy and poultry, sugar and tobacco products. Tariffs are above 120% for beef, pork, and lamb, edible offals, milk and cream, some cheeses, and prepared animal feeds. Tariffs on oilseeds, corn gluten feed, fruits and vegetables are zero or well below the average for all agricultural products.

Country	Average Tariff on Agricultural Products (%)	Discussion
Canada	20.0	The process of converting quantitative restrictions to tariff rate quotas (TRQs), required by the Uruguay Round Agreement, resulted in restrictive quotas and very high tariffs for imported dairy products, poultry, and eggs, e.g., fluid milk (260%), cheese (256%), cream and butter (more than 300% each), poultry (256%), and eggs (256%). These rates apply to both NAFTA (i.e., U.S. and Mexican), and MFN suppliers.
Mexico	40.0	Mexico also converted its quantitative trade barriers to TRQs under the Uruguay Round Agreement. Most quotas were allocated to the United States and Canada. Actual quantities imported are often higher than the quantities indicated in Mexico's WTO schedules. High over-quota tariffs for both MFN and NAFTA suppliers apply to animal fats (139%), barley (128%), beans (139%), corn (215%), malt (175%), milk (272%), potatoes (260%), and poultry meat (260%).
South Korea	63.0	While Korea's simple average is 63%, its applied rate is estimated to be 19% (WTO). Market access is mainly determined by quotas and licenses which restrict entry. For example, beef imports have an in-quota tariff of 5%, and an out-of-quota tariff of 42%. The beef quota, initially set at 51,300 metric tons is scheduled to rise to just 205,229 metric tons (4%) by 2004. Recently, Korea has not met its annual beef quota commitments. For rice, barley, potatoes and beans, in-quota tariffs can be augmented by import mark-ups.

Country	Average Tariff on Agricultural Products (%)	Discussion
China	22.0	In bilateral negotiations with the United States over its accession to the WTO, China has agreed, once it becomes a WTO member, to reduce its average tariff on agricultural products to 17%. China will also establish TRQs for soybean oil, wheat, corn, rice and cotton, with in-quota tariffs of 1%-3% and high over-quota tariffs upon accession to the WTO.
Hong Kong	0.0	Agricultural products enter Hong Kong duty free, with the exception of tobacco and alcohol.
Philippines	33.4	The Philippines tariff on cut flowers is 60%. Tariffs of 50% apply to corn, sugar, and tobacco among other products.
Indonesia	47.0	Tariffs on fruits and vegetables range from 5% to 30%. Tariffs on many products are low, e.g., wheat and rice (0), soybeans and soybean meal (10%), cotton (0), and tobacco (10%). Although some reforms are underway, the Indonesian government still controls the import and marketing (by granting licenses, maintaining monopolies and other restrictions) of many agricultural imports.
United States	5.9	Agricultural tariffs in the United States are generally low. However, the United States uses tariff rate quotas for beef, dairy, sugar, peanuts, tobacco and cotton, with in-quota tariffs substantially lower than above-quota tariffs. Examples of out-of-quota tariffs are tobacco (350%) and peanuts (147%).
Source: World Trade Organization, U.S. Trade Representative, and U.S. Dept. Of Agriculture.		

Table 2. Average Unweighted Ad Valorem Bound Tariff Rates Post- Uruguay Round for Agricultural Goods, Twenty Countries			
Product	Tariff Rate (%)	Product	Tariff Rate (%)
Grains	46.7	Dairy Products	47.1
Oilseeds	41.7	Sugar	48.7
Fats and oils	41.6	Fresh Fruits and Vegetables	35.5
Meats	39.3	Processed Fruits and Vegetables	35.3
Milk	40.7	Other Agriculture	24.4
Source: Tim Josling, "Reform of World Agriculture Trade: The Uruguay Round Outcome," paper prepared for a seminar on the WTO Agricultural Negotiations: The Lead Up to Seattle, organized by the Cairns Group in Washington, DC, April 30, 1999, p. 6.			
Note: Josling notes that "the table shows the unweighted average ad valorem tariff of the numerous individual tariff lines relating to all product groups identified. Two cautions should be noted. First, the unweighted average tariff does not distinguish between the importance of the individual items either in the current trade basket or in any potential pattern of trade; and second, the average omits specific tariffs which cannot be averaged without assumptions about the level of world prices. An ambitious attempt to convert tariffs often found in agricultural trade into ad valorem equivalents has been proceeding at the World Bank. This exercise indicates that specific tariffs are often higher than the ad valorem tariffs, though this is not always the case. More importantly, the Japanese and Korean protection on rice imports is not yet in the form of a tariff, and is not included in the table. Nor is the EU protection on grains, as this is limited to a level below the bound tariff. The bound tariffs can overstate the level of protection on grains actually applied; several Latin American countries apply tariffs which are well below their bound levels."			

Approaches to negotiating expanded market access that have been suggested include various proposals for reducing tariffs or conversely expanding the minimum access quantities allowed in at lower or zero levels of duty. Reducing tariffs according to across the board percentage cuts as was done in the Uruguay Round would result in some tariff reduction but still leave some tariffs at a very high level. For example, reducing a 350% tariff on butter by 50% would still leave a prohibitively high tariff of 175%. A tariff reduction formula that reduces higher tariffs by a greater percentage than lower tariffs also could be considered. Yet another option could be negotiating "zero for zero" tariff cuts for certain commodities. This approach was proposed for oilseeds in the Uruguay Round but not adopted. The zero for zero approach might permit liberalization in some commodities e.g., oilseeds, but not in other more sensitive areas, such as dairy products or sugar. An alternative to tariff reduction could be to increase the minimum access components of TRQs. Substantial, progressive increases in the quota component of TRQs could lessen and theoretically eliminate the need to reduce tariffs.

Reducing tariffs or increasing minimum access quotas for agricultural products is likely be opposed by commodity interests that benefit from the protection afforded by the existing TRQs. Exporting countries might prefer tariff reduction rather than

expanding minimum access requirements; but their views of alternative approaches would depend on the relative magnitude of the tariff reductions or the increases in minimum quantities.

Export Subsidies

Cairns Group countries, especially those that export with little or no subsidy like Australia or New Zealand, will be pushing the larger exporters like the United States and the EU toward the complete elimination of export subsidies. The U.S. Department of Agriculture and the U.S. Trade Representative have also called for the elimination of export subsidies, but not for "unilateral disarmament." Some producer groups in the U.S. that have benefitted from such subsidies are not likely to want to give up a policy tool they have found useful when world market prices and demand for products eligible for subsidy are low.

As in the Uruguay Round Agreement to reduce export subsidies, an accord between the United States and the EU may be needed in order to agree upon a rate and timetable for further reducing or eliminating export subsidies. The outcomes for export subsidy negotiations also will depend on the interactions between domestic policies in the United States and the EU and market conditions. If domestic policy reforms in the United States and EU succeed in reducing the dependence of producers on government support, then the possibility of agreeing to subsidy reductions or elimination will be enhanced. Conversely, a continuation of the weak prices for agricultural products of the last two years, a return to more coupled farm policies, for example in the United States, or a failure to bring down high support prices for agricultural products in the EU could reinforce the positions of those who want to retain exports subsidies if only to have them available when markets sag.

A number of export subsidy issues may be taken up during negotiations. These include the pace at which export subsidies might be eliminated. In this regard, negotiations may focus on both the rate by which export subsidies would be reduced and the time period for phasing in reductions or ultimate elimination. The definition of export subsidies might also be discussed. Many have posed the question as to whether the URAA definition of an export subsidy¹⁰, covers all the marketing practices that could be considered export subsidies. Some point to the operations of state trading enterprises (STEs), discussed below, the use of export credits and export credit guarantees, previously alluded to, and concessional food aid as possible candidates for additional WTO rules and disciplines.

Export taxes and other measures to limit or cut off exports may be put on the agenda for agricultural negotiations as well. Importing countries like Japan and the developing countries see such policies as destabilizing because they limit availability

¹⁰The Uruguay Round Agreement on Agriculture defined several types of export subsidies subject to reduction, including: direct export payments by governments; sales or gifts of government stocks at prices lower than acquisition prices; export payments financed through government action; subsidies to reduce export marketing costs; and subsidies on goods incorporated into export products. "Bona fide" food aid transactions and export market promotion and advisory services are excluded from the WTO list of export subsidies.

and increase prices. Such policies, in effect, impede the ability of importers to meet their food security objectives through trade.

Domestic Subsidies

Further reductions in domestic support, as measured by the AMS, may also be on the negotiating agenda.. Although the Agreement on Agriculture established the principle that domestic policies can be trade distorting and should be curbed, the percentage reductions in AMS required by the Agreement had very little impact on either U.S. or EU domestic support. As mentioned, the 1996 farm bill moves the United States' direct import support (production flexibility payments) from the blue to the green box of permitted policies, leaving the EU alone in linking farm income support to participation in production programs. Reforms adopted by the European Union in "Agenda 2000", especially the proposed reductions in support prices for grains and beef, seem unlikely to move EU compensatory income support from the blue to the green box. The limited nature of EU policy reforms in Agenda 2000 could mean that the EU would argue for a continuation of the blue box exemptions or something like them. The United States and the Cairns countries may argue, however, that the blue box was intended to be temporary and that coupled EU support should be considered subject to domestic support reduction commitments.

The next stage in U.S. agricultural policy reforms is expected in 2002 when authorities for current farm programs expire, although current weak prices and deteriorating economic conditions for U.S. agriculture may push Congress and the President to accelerate the process of devising an agricultural policy to follow the 1996 FAIR Act. The willingness of the United States and the EU to further limit support may depend on the nature of their respective domestic policy reforms. That in turn depends on a number of factors including world market conditions, development of alternatives to current support policies such as risk management tools, crop or revenue insurance, and rural development and environmental programs.

Some have noted that as countries rely less on export subsidies and amber box policies, reliance on green box and permitted export policies has increased. Examples for the United States include market loss payments authorized in emergency and supplemental appropriations legislation in the last three fiscal years and increases in food aid via Section 416 and P.L. 480 Title I during 1998 and 1999. Expanded use of export credit guarantees, especially by the United States, is also cited as an example of increased reliance on permitted export programs. The EU also increased its green box spending on agriculture.¹¹ This situation raises the issue of possible production and trade effects of green box programs. Because of the possible production effects of large green box programs, some have suggested that such programs be evaluated as to whether they are truly minimally trade distorting or whether some new disciplines might be required.

Proponents of agricultural policy reform argue that further tightening of the AMS is needed to keep the United States on the path of decoupled income support and to encourage the EU to make greater reforms in the CAP and to make them

¹¹See USDA, ERS, op. cit., p. 19.

permanent. On the other hand, reduction in domestic support could be less of an issue or off the negotiating table altogether if both the United States and the EU are making and maintaining policy reforms. The Cairns Group, however, seems unlikely to agree to keeping what it regards as trade-distorting domestic policies off the agenda.

New Issues

State Trading Enterprises (STEs)

Rules in the General Agreement on Tariffs and Trade (GATT 1947) for STEs were not changed by the Agreement on Agriculture as they were for quantitative import restrictions, exports subsidies, and domestic support. GATT 1947 recognized the existence of STEs and required that they make purchases and sales solely in accordance with commercial considerations and in a nondiscriminatory manner. (Article XVII). The Understanding on the Interpretation of Article XVII in the Uruguay Round requires that STEs be notified to the WTO, but imposes no new disciplines. Although some countries are making substantial changes in the way STEs operate, some continue to be important in world agricultural trade. On the export side, STEs include the Canadian Wheat Board (CWB), the Australian Wheat Board (AWB), and the New Zealand Dairy Board (NZDB). Import STEs are important in Japan (the Japanese Food Agency) and Mexico, although Mexico has not notified its food importing STE to the WTO. Importing STEs are also important in China and Russia, two countries whose membership in the WTO is pending.

Two issues dominate the discussion of STEs in international trade. One is the lack of transparency in pricing practices and marketing operations. The second is the exclusive rights granted STEs to export products, in the case of exporting STEs, and to import and distribute products, in the case of importing STEs.

There are a few suggestions of negotiating approaches to the issues raised by STEs to make their operations more transparent. One suggested approach to dealing with importing STEs is to strengthen GATT rules that relate to the pricing practices of STEs on the domestic market to limit their monopoly over imports. This would entail enforcing Article II (4) that states that no mark-up from a state-trading importer should be larger than the bound tariff. Enforcing this rule would make it difficult for countries to use importing STEs to protect the domestic market from imports. Another approach would not act on STEs directly but would emphasize further reductions in export subsidies and tariff reduction/expansion of minimum access quotas as ways of cutting into their monopoly power.

The agreement between the United States and China on the terms of its accession to the WTO illustrate how exclusive import and distribution prerogatives of importing STEs might be dealt with.¹² In its accession commitments, which would

¹²April 8, 1999 *Market Access Commitments of the Government of China on Goods, Services, and Agriculture*, available at <http://www.ustr.gov/release/1999/04/index.html> and (continued...)

become effective upon its becoming a member of the WTO, China agreed to eliminate restrictions on trading rights for both agricultural and industrial products over a three-year period. At the end of that transition period, all foreign and domestic enterprises would have trading rights. Full trading and distribution rights will enable U.S. firms to deal directly with Chinese customers rather than through intermediary Chinese companies that have had exclusive rights to import and market products.

Biotechnology Products

One area not dealt with specifically during the Uruguay Round was trade in biotechnology products or genetically modified organisms (GMOs). GMOs are rapidly being introduced into U.S. agriculture; more than 20 bioengineered crops are now sold commercially and others are being developed. European and some other countries have been slower to accept and introduce GMOs, although the EU has an approval process and has approved genetically modified varieties of soybeans and corn for use in cultivation. Many in the United States, especially producers of corn and soybeans, are concerned that the EU and other countries are adopting policies regarding the importation and planting of GMO's and the labeling of products containing GMOs that will adversely affect U.S. commodity exports.

Some in the United States want the WTO to establish rules that require any restrictions on GMOs to be scientifically justified just as SPS measures must be under the SPS Agreement. Others may argue that new rules are not needed. If biotechnology products are restricted on the basis that they could potentially harm human, plant or animal health, then the provisions of the SPS Agreement could apply. Labeling issues might be addressed under the WTO/GATT Technical Barriers to Trade (TBT) Agreement. The TBT Agreement prohibits the use of technical regulations, such as labeling, that create "unnecessary obstacles" to trade. Some might argue that if restrictions like requiring labels for products containing GMOs are imposed to educate consumers about the food they eat, then no special multilateral rules or disciplines would be needed either.

The cautiousness which some express about broaching biotechnology issues in agricultural negotiations is based on concerns that raising the issue will permit the EU and other trading partners to raise so-called "other legitimate factors" in considering the food safety of particular measures. Consideration of such other issues, some think, could ultimately weaken both the SPS and TBT Agreements. The EU, for example, argued both during the Uruguay Round negotiations and more recently in deliberations of the Codex Alimentarius Commission¹³ that certain other factors should be taken into account in judging food safety measures. These include consumer perceptions of risk and health; social preferences for risk management;

¹²(...continued)

Agriculture and China's Accession to the World Trade Organization, CRS Report RS20169, April 21, 1999.

¹³The Codex Alimentarius Commission is a joint commission of the UN Food and Agriculture Organization and the World Health Organization. The Commission drafts nonbinding standards for food additives, veterinary drugs, pesticide residues, and other substances that affect consumer food safety.

provision of information about the mode of manufacturing or production to give consumers freedom of choice; preservation of economic and social balance (i.e., how foods are produced and distributed); animal welfare considerations; and protection of the environment. In addition, the EU has often advocated that food safety decisions be based on a "principle of precaution", which means that countries should exercise specific caution (e.g., ban imports of a particular product) in the case of uncertainty in the risk assessment process. The EU's recent refusal to lift its ban on hormone-treated meat has been justified, at least in part, by the EU on the basis of the principle of precaution.

Other Issues

Agriculture in Regional Trade Agreements

The place of agriculture in regional trade agreements and the relationship of regional agreements to multilateral agreements also may be on the agenda. In the past, agriculture or key agricultural sectors were left out of regional trade agreements because of political or economic "sensitivities." There was an unwillingness on the part of governments to expose politically important constituencies to competition from cheaper imports from outside the country. Recent regional agreements, however, include provisions for freeing trade in agricultural products. The North American Free Trade Agreement (NAFTA), the Common Market of the South or Mercosur, and EU association agreements with the central and eastern European countries (CEEC) all contain agricultural provisions. The U.S.-Canadian agricultural trade agreement incorporated into NAFTA does exclude some sensitive commodities and the EU maintains some quantitative limits on imports from CEECs. An issue for many is whether regional agreements promote or impede the process of agricultural trade liberalization. Although some think that creation of regional blocs will impede global agricultural trade liberalization, others think they may promote it as regional trade agreements impose pressure on member countries to reform domestic policies and open up to trade within the region. An issue for multilateral agricultural negotiations may be that of mitigating or eliminating trade barriers maintained against countries that are not members of a regional trade agreement.

Possible Negative Effects on Developing Countries

The Uruguay Round accords include a "ministerial decision" on measures concerning the possible negative effects of the reform program on least-developed and net food-importing developing countries. The decision states that WTO members recognize that liberalization of agricultural trade may result in negative effects on the availability of adequate food supplies in the developing countries. The decision includes an agreement to "establish appropriate mechanisms" to ensure that food needs are met through food aid and through technical assistance to increase agricultural productivity.

Although food aid, especially U.S. food aid, increased in 1998, many developing countries remain concerned that developed WTO members may have lost sight of their long-run needs for both food aid and technical assistance to improve agricultural

productivity. Developing countries may want to revisit these issues in the context of the ministerial decision in future agricultural negotiations. There are other international mechanisms for dealing with the food aid needs of the developing countries. The International Food Aid Convention, which establishes minimum commitments of food aid by donor countries provides a framework for addressing food aid issues of the developing countries.

Negotiating Positions of the Main Participants¹⁴

Many WTO member countries staked out their negotiating positions prior to the 1999 Seattle Ministerial Conference. While some of these positions lack the specificity of ultimate negotiating positions, they nevertheless indicate the general thinking of major players in the negotiations on issues that are likely to be on the agenda. These negotiating positions are starting points and may change over time as negotiations proceed. The following discussions are based on documents submitted by Member countries to the WTO.

The United States

Objective and Framework for the Agricultural Negotiations. The U.S. objective for agricultural negotiations is to expand trade opportunities by ensuring further deep reduction in support and protection, while encouraging non-trade-distorting approaches for supporting farmers and the rural sector and strengthening the rules governing trade in agriculture. Pursuit of this objective is based on the existing framework in the WTO Agreement on Agriculture which includes binding commitments in market access, export competition and domestic support, and which provides the basis for further reform. The Agreement should be supplemented as needed by additional disciplines. The United States will encourage WTO members to present specific proposals beginning in January 2000.

Export Competition. The United States lists two objectives for negotiations on export competition in agriculture:

- ! to completely eliminate, and prohibit in the future, all remaining export subsidies as defined in the Agreement on Agriculture; and
- ! to clarify rules on other measures that can act to circumvent export subsidy disciplines and to create disciplines for other practices that distort export competition.

As areas where clarification of the rules and new rules are needed, the United States cites improving transparency in the operation of exporting state trading enterprises (STEs) and stronger disciplines on monopoly activities of STEs, including pricing policies that support cross-subsidization and price undercutting in export

¹⁴ WTO Member country negotiating positions as well as other documentation relevant to the Seattle Ministerial can be found at www.wto.org/minist/seatdocs.htm

markets. In addition, the U.S. position calls for terminating the use of export taxes applied to specific agricultural products.

Market Access. For the United States, the objective of the WTO negotiations on agricultural market access is to maximize improvements in market access opportunities and to make more uniform the structure of tariff bindings for all WTO members. To achieve this objective, the United States notes that a variety of approaches will be needed to accomplish this objective, including:

- ! lower tariff rates and bind them, including, but not limited to zero/zero initiatives for agriculture;
- ! expanded market access opportunities for products subject to tariff rate quotas (TRQs);
- ! reductions in the disparity between applied and bound tariff rates;
- ! simplification of complex tariff regimes;
- ! greater certainty and transparency in the operation of tariff regimes;
- ! disciplines governing administration of TRQs and transparency and competition for import STEs; and
- ! improved market access through a variety of means to the benefit of the least-developed Members by all other WTO Members.

Domestic Support. The U.S. objective for domestic support is that the negotiations result in substantial reductions in trade-distorting support and stronger rules that ensure all production-related support is subject to discipline, while preserving criteria-based “green box” policies that can provide support to agriculture in a manner that minimizes distortions to trade.

The U.S. communication emphasizes that Governments have the right to support farmers if they choose, but stresses the importance of providing such support in a manner that causes minimal distortions to production and trade.

Biotechnology. The United States proposes that the negotiations include addressing disciplines to ensure trade in agricultural biotechnology products is based on transparent, predictable, and timely processes.

The U.S. statement points out that although trade in biotechnology products is a relatively new aspect of international trade, the basic issues related to it are already covered under the WTO framework. The Agreement on Agriculture, according to the U.S. document, establishes specific disciplines on non-tariff measures. More generally, the United States notes, WTO agreements are predicated on reducing trade restrictions in agriculture and on ensuring that all measures are transparent and do not create unnecessary or arbitrary barriers to trade.

The Cairns Group¹⁵

The negotiating proposal of the Cairns Group focuses on the issues of export subsidies, market access, and domestic support. Its overarching objective is to ensure that the WTO agriculture negotiations achieve fundamental reform which will put trade in agricultural goods on the same basis as trade in other goods. To accomplish this objective, the Cairns Group makes several recommendations for further, far reaching, and specific commitments in three reform areas.

Export Subsidies. According to the Cairns Group, it is essential that the negotiations ensure the early, total elimination and prohibition of all forms of distortive and inequitable export subsidy. In addition, there must be rules to prevent circumvention of export subsidy commitments and agricultural export credits must also be brought under effective international discipline with a view to ending government subsidization of such credits.

Market Access. The Cairns Group communication declares that access opportunities for agricultural products should be on the same conditions as those applying to other goods and be commercially viable. Specifically, tariffs must be the only form of protection, tariff escalation must be removed, and tariff peaks curtailed; the removal of nontariff barriers must be completed without exception; and trade volumes under TRQs must be increased substantially.

Domestic Support. Negotiations must result in major reductions in domestic support for all agricultural products. All trade-distorting domestic subsidies, according to the Cairns Group statement, must be eliminated with only nondistorting forms of support permitted.

Australia

Australia has become a major exponent of the Cairns Group position on agricultural negotiations. Its proposals are consistent with the Cairns Group statement but provide specifics with respect to the issues of export subsidies, market access, and domestic support.

Export Subsidies. Australia calls for the immediate elimination and prohibition of all forms of export subsidies. In addition, Australia calls for bringing agricultural export credits under effective international discipline and for approaches to prevent circumvention of export subsidy commitments.

Market Access. Australia restates the Cairns Group position that WTO Members agree to a major expansion of market access opportunities for all basic and

¹⁵Argentina, Australia, Brazil, Canada, Chile, Columbia, Fiji, Indonesia, Malaysia, New Zealand, the Philippines, Paraguay, Thailand, and Uruguay. Formed just prior to the Uruguay Round negotiations to lend support to agricultural trade liberalization, the Group has maintained its cohesiveness and trade liberalization objective. Hungary has left the Cairns group in anticipation of its becoming a member of the EU. Paraguay has recently joined.

processed agricultural products resulting in commercially viable access on the same conditions as those applying to other goods.

Differences in treatment of agricultural products include border protection levels that are well above those applying to other products; the continuation of some nontariff barriers; and the provision of special safeguards for agricultural products for the duration of the reform process (1995-2001) as determined under Article 20.

The negotiations on tariffs, according to Australia, will need to consider all aspects of market access notably tariffs, tariff peaks, tariff escalation, tariff rate quota volumes, in-quota tariffs, and the rules applying to market access commitments. Further, access opportunities must be expanded through substantial increases in trade volumes under the TRQs. Finally, as part of the agriculture negotiations, WTO members should ensure that the administration of tariff quotas does not diminish the size and value of market access opportunities. Australia notes that tariff quotas are being used to provide a level of protection greater than the impact of the tariff quota itself and that overall, tariff quota fill rates are less than two-thirds. Abetting this situation is the fact that there are no specific rules on tariff quota administration in the Agreement on Agriculture or in other WTO Agreements.

As part of the market access negotiations, Australia proposes that the agriculture negotiations develop disciplines on export restrictions and taxes. Such disciplines would be an integral part of delivering further substantial liberalization of trade in agriculture, including the elimination of tariff escalation. Elimination of export restrictions could contribute to assuring least-developed and net food importing WTO Members about their ability to access food in world markets.

Australia argues that tariff escalation in export markets hinders the capacity of exporting countries to develop processing industries. In particular, it prevents developing countries from adding value to their exports. As a response to tariff escalation in export markets, some developing countries have taken recourse to restricting or taxing their raw material exports. To avoid such perverse effects, further substantial agricultural liberalization, including the elimination of tariff escalation, will be an important contribution to developing more effective disciplines on export restrictions and taxes.

Domestic Support. Australia calls for major reductions in domestic support for all agricultural products, resulting in the elimination of all trade-distorting domestic subsidies with only non-trade-distorting forms of support permitted thereafter. This proposal would entail the elimination of both amber box and blue box categories of support which, Australia emphasizes, encourage overproduction and are the root cause of problems that emerge on world markets. WTO Members would still be permitted to provide non-trade-distorting support (green box) to their agricultural producers to pursue objectives including improvements in infrastructure, research and training, income support, disaster relief, investment and the environment.

Canada

Objectives. Canada's negotiating objective is to achieve significant further trade reforms in the core areas of market access, domestic support and export

competition. The Canadian statement notes that these issues are interrelated and that progress in one area can lead to progress in other areas. For example, since many market access barriers were a response to the pervasive use of export subsidies, progress towards eliminating export subsidies will have implications for lowering tariff barriers. Similarly, progress in reducing trade-distorting domestic support, which can stimulate production, and lead to import replacement or increased export competition, can influence both the market access and export subsidy negotiations.

Export Subsidies. Canada will seek:

- ! agreement to eliminate all export subsidies in agriculture as quickly as possible; and
- ! rules to ensure that government-funded export credit and export credit guarantee programs, export market promotion and development activities, certain types of food aid, or other forms of export assistance do not become substitutes for export subsidies.

Domestic Support. Canada seeks:

- ! the maximum possible reduction or elimination of production and trade-distorting support, including support under so-called “production-limiting” or “blue-box” programs.
- ! an overall limit on the amount of domestic support of all types (green, blue, and amber).
- ! a review of the criteria of the green category to ensure that green support does not distort production and trade, and a permanent international recognition that such support should not be countervailable;
- ! The elimination of those elements of the “peace clause” that restrict Canada’s rights to pursue dispute settlement in cases where trade-distorting domestic support and export subsidies cause nullification and impairment or disrupt sales in third country or import markets.

Market Access. Canada is seeking real and substantial market access improvements for all agricultural and food products through a variety of negotiating techniques. (Perhaps with reference to its own TRQs for certain products, Canada notes that where tariff rate quotas remain, effective liberalization will depend largely on the size of minimum access commitments, the level of in-quota tariffs, and how TRQs are administered.)

Canada’s approaches to market access improvement will include:

- ! *Zero-for-zero.* Canada will seek the elimination of tariffs on oilseeds and oilseed products, barley, and malt, and other sectors where agreed.
- ! *Ordinary tariffs.* Canada will seek maximum negotiable reduction in tariffs through approaches that reduce both the disparity between final bound rates

for similar competing products and the tariff escalation between primary and processed forms of the same product.

! *TRQs*. Canada will seek:

binding rules to require that any tariff over a specified level be accompanied by a minimum access commitment equal to at least 5% of current consumption of the product concerned. TRQs must be on a product basis (e.g., pork not meat) so that the disparity in effective market access across WTO Members and across products is reduced;

binding rules regarding the administration of TRQs, including possible elimination of country-specific allocations, to ensure that administrative practices do not frustrate the agreed access; and

binding rules to require elimination of tariffs within TRQs where over-quota tariffs are maintained at levels which limit access to the size of the within-quota volume.

Export Restrictions and Taxes. Canada will seek agreement on rules to effectively discipline export taxes and export restrictions on agricultural products. Canada will seek, specifically, a ban on the inclusion of food and feedstuffs in national security trade embargoes.

Sanitary and Phytosanitary Measures. Canada does not seek to open the SPS Agreement. Rather, Canada proposes to seek to reaffirm Members' commitment to the SPS Agreement, particularly its focus on decisions based on science and risk assessment and greater use of international standards.

Biotechnology. Canada will seek to establish a working party on biotechnology in the WTO to determine the adequacy of existing rules and to report to the steering body for the negotiations on whether negotiations are required within the WTO in this area.

State Trading Enterprises. Canada will seek to ensure that the existing disciplines on the activities of import monopolies for agricultural products are appropriately enforced to ensure that such entities do not nullify market access commitments.

Canada remains willing to discuss any practical trade concerns identified by trading partners about single-desk exporters of agricultural product, but Canada will seek to ensure that any new disciplines proposed to deal with perceived market power of STEs apply equally to all entities, public or private, with similar market power.

The European Union

The Commission of the EU has communicated its concerns for forthcoming negotiations to WTO Members. The EU Commission looks forward to the negotiations, including the agricultural negotiations mandated by Article 20 of the Uruguay Round Agriculture Agreement. Article 20, according to the Commission, conditions the objective of substantial, progressive reductions in support and

protection, by other concerns, notably the experience and effects of implementing reduction commitments, special and differential treatment of developing countries, the objective to establish a fair and market-oriented agricultural trading system, and non-trade concerns.

Four main areas of negotiations are identified: Whether any of the specific instruments provided in the Agriculture Agreement need to be adapted; progress on the key trade issues of access, assistance to exports, and commitments to reduce support; non-trade concerns, notably the multifunctional role of agriculture, food safety and quality, policies to protect the environment, and animal welfare; and special and differential treatment for developing countries.

Instruments in the Agriculture Agreement. The EU is not of the view that a major review of the specific instruments provided in the Agriculture Agreement is necessary or desirable. In particular:

- ! The Commission does not rule out some updating of the blue and green boxes, but in concept they remain essential elements in the policy of reducing support and providing assistance to WTO members to move away from price supports towards more transparent and non-distorting policies.
- ! The need, recognized in the peace clause, to provide legal security for the outcome of the negotiations will exist at the end of the forthcoming negotiations, as it did in the Uruguay Round; and
- ! Provision for continuing the special safeguard clause should be of general interest to all Members.

Key Trade Issues. The EU's approach to key trade issues will be founded on the full Agenda 2000 package decided by EU heads of state and government.

- ! *Improvement in access.* The EU will seek to obtain improvements in opportunities for its exporters, through, among other approaches, greater clarity in the rules of management of TRQs, including imports through single desk buyers, and the removal of other unjustified non-tariff barriers. The EU statement continues that at the same time, as noted in Article 20, the process reducing trade barriers in agriculture is to be seen as an ongoing process resulting in fundamental reform, and not something which can be completed in the next agricultural negotiations.
- ! *Reductions in support for exports.* The EU is willing to continue to negotiate this process provided that all such support is treated on a common footing. The commitment to introduce disciplines on agricultural export credits (part of the Uruguay Round Agreement) must be respected. Less transparent forms of export support, e.g., the operations of single-desk exporters and food aid on concessional credit terms, also need to be addressed.
- ! *Reductions in support.* The EU is prepared to negotiate this in terms of the continuation, in appropriate forms, of the blue and green boxes.

Non-Trade Concerns. Key non-trade concerns include:

- ! *The multifunctional role of agriculture.* In the EU view, progress on trade issues should not damage the ability of those employed in agriculture to supply public goods, in particular as regards the environment, and the sustained vitality of rural areas. Direct aid measures with no or minimal trade impact have an important role to play in this context.
- ! *Food safety and quality.* The EU notes that WTO case law has confirmed that nondiscriminatory science-based measures to achieve the level of safety determined by Members are in conformity with the SPS Agreement. This suggests that it might be useful to confirm this in way that assures consumers that the WTO will not be used to force onto the market products about whose safety there are legitimate concerns. Further, in any review of the Agreement on Trade-Related Intellectual Property (TRIPS), the improved protection for products whose reputation for quality is linked to their geographical origin will be a major concern.
- ! *Animal welfare.* Citing increasing public concern about the conditions in which animals are kept and reared, the EU states that it is important to address this issue on a multilateral basis. Thus, consensus should be sought on the accommodation within WTO rules of any trade measures taken pursuant to any multilateral agreement which might be reached regarding welfare standards.

Special and Differential Treatment for Developing Countries. According to the EU statement, because of the importance of food and agriculture in the economies of developing nations, the issue of special and differential treatment will be of considerable importance in the agriculture negotiations.

Japan

Japan's objectives are to establish rules and disciplines that are genuinely fair and equitable for both food importing and exporting countries and which allow a coexistence of various types of agriculture among Member countries. To meet these objectives, due consideration should be given to the importance of the multifunctionality of agriculture; to the importance of food security and the basis that domestic agricultural production provides for food security; and to redressing the imbalance in rights and obligations under WTO rules between exporting and importing countries. In pursuing its objectives, Japan wants two main points to be addressed:

- ! strengthening the existing rules and disciplines on export prohibitions/restriction measures, export tax, export subsidies and export STEs; and
- ! reviewing the existing rules and disciplines of the Agreement on Agriculture while maintaining its basic framework.

Japan also calls for an independent group for agricultural negotiations within which issues would be negotiated. In addition, an appropriate forum should be established to address new issues, including GMOs, from a broad perspective.

Multifunctionality of Agriculture. As regards this issue, Japan notes that agriculture not only produces agricultural products, but also contributes to the preservation of land and environment, to the creation of a good landscape and to the maintenance of the local community, through production activities in harmony with the natural environment. Thus negotiations should examine policy interventions, and determine the extent to which such interventions can be allowed, that fulfill the multifunctional roles (including food security) of agriculture.

Food Security. With respect to this issue, Japan notes that it is indispensable to provide domestic agricultural production with the primary role of ensuring food supply by increasing production. It is also necessary to fully examine how policy intervention would be placed within the international framework and as to what extent it is allowed, based on the experience of implementing past agricultural agreements.

Strengthening Export Rules. Multilateral rules and disciplines on the agricultural export side should be strengthened. These include rules and disciplines on export prohibitions, restrictions, export taxes and export subsidies and export STEs.

Domestic Support. The framework of the Agreement on Agriculture should be maintained. The requirements and scope of green policies should be reviewed in light of implementation experience. The blue box, should be maintained and positively evaluated. WTO Members should be assured of flexibility in implementing amber box policies.

Market Access. Japan notes that tariffs are the only legitimate border measures under the WTO. Negotiations should thus deal not only with tariffs but also nontariff measures. Importing countries, says Japan, have legitimate rights to take appropriate border measures for food security in their own country. Tariff rates, both within and out of quota rates, should be examined in consideration of the necessity of maintaining a certain level of domestic agricultural production and the multifunctionality of agriculture.

Measures for Developing Countries. According to Japan, WTO Members should help developing countries fulfil their obligations under the Agreement on Agriculture and actively participate in the WTO system as a whole. In addition, not only should WTO Members ensure that food aid would be available on a short-term basis for developing countries, but also should provide assistance aimed at enhancing sustainable food production in the long term.

New Challenges. New issues such as food safety, genetically modified organisms, recycling and organic agricultural products should be addressed in the negotiations. An independent forum should be established for this purpose.

Developing Countries

Developing countries will bring a diverse array of interests into the multilateral agricultural trade negotiations. Those countries that are exporters of food and agricultural products will likely ally themselves with positions taken by the Cairns Group. Twelve of the fifteen members of this group are developing countries. They include Argentina, Brazil, Chile, Colombia, Fiji, Indonesia, Malaysia, the Philippines, Paraguay, Thailand, and Uruguay. Other developing countries will be concerned about market access for their agricultural products. For many this will mean negotiations to reduce tariffs and other market access barriers to their products. For others this will translate into efforts to maintain their preferential access to developed country markets. The net food importing countries will be concerned with the impact of further agricultural trade liberalization on the cost and availability of food imports.

The low income developing countries also have an interest in technical assistance to help them adapt to the new rules and disciplines already established in the Uruguay Round Agreement on Agriculture, the SPS Agreement, the Understanding on Dispute Settlement, and the TBT Agreement. The WTO, the World Bank, and many developed country WTO members have programs of technical assistance to help developing countries adapt to a more liberal global trading environment. The availability and scope of such assistance are likely to be important determinants of developing countries' ability to benefit from improvements in market access that may flow from the Uruguay Round Agreement as well as from any future trade negotiations.

Conclusion: Agriculture in the Seattle Ministerial

Disagreements over agricultural issues between the United States joined by members of the Cairns Group and the European Union joined by Japan contributed to the failure of the Seattle Ministerial conference to agree on an agenda for a new round of multilateral trade negotiations. How to deal with agricultural export subsidies was a major point of contention. The United States and the Cairns Group wanted negotiations to result in substantial reductions in export subsidies and at some future date their elimination. The EU, on the other hand, insisted that the aim of the agricultural negotiations should be the progressive reduction in export subsidies with recognition that the next round of negotiations in agriculture would only continue but not complete the reform not only of export subsidies but also of domestic support.

Another point of contention between the United States and the EU and Japan was the extent to which non-trade concerns should be taken up in the agenda. The EU and Japan proposed that a number of non-trade concerns be taken into account. These included environmental protection, food security, the economic viability and vitality of rural areas, food safety, animal welfare, and the multifunctionality of agriculture. The United States and the Cairns Group countries resisted particularly inclusion of animal welfare and the multifunctionality of agriculture among non-trade concerns to be enumerated in an agenda for agricultural negotiations.

The compromise proposed, but not ultimately accepted, is reflected in the agriculture section of the draft ministerial declaration (see accompanying text box.) The United States agreed with the EU that the agricultural negotiations should aim for substantial progressive reduction in export subsidies, but the EU left unclear whether it could agree to move in “the direction of progressive elimination of all forms of export subsidization.” On the issue of domestic support, the United States agreed with an EU demand to change substantial reductions in domestic support to substantial progressive reduction. The draft text makes no specific mention of state trading enterprises (STEs) which the United States had sought to include. Nevertheless, U.S. trade policy officials say that STEs could be dealt with under the “rules and disciplines” part of the draft text. With respect to non trade concerns, neither animal welfare nor multifunctionality of agriculture are specifically mentioned. Furthermore, the text notes that non-trade concerns should be addressed through targeted, transparent, and non-trade distorting measures.

Although the agricultural negotiations as part of the WTO’s built-in agenda have begun, the timetable for completing them is far from settled. The negotiations are likely to proceed slowly. And difficult issues which contributed to the failure of the

Agriculture in the Draft Ministerial Declaration

23. The negotiations shall continue the process of fundamental reform of trade in agriculture, through substantial progressive reductions in agricultural support and protection sustained over an agreed period of time, resulting in correcting and preventing restrictions and distortions in world agricultural markets, and the progressive establishment of a fair and market oriented agricultural trading system in conformity with WTO rules and disciplines. This shall be done based on Article 20 and the preamble to the Agreement on Agriculture.

24. Special and differential treatment for developing countries, as provided for in relevant WTO provisions, shall constitute an integral and effective part of the results of the negotiations. Special and differential treatment 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 more operationally effective and so as to enable developing countries, while undertaking commitments and providing concessions in the areas covered in paragraph 25 below, to take account of their development needs, including food security and agricultural and rural development. Particular attention shall be paid to the situation of least-developed, net food-importing, and small island developing countries.

25. To achieve the objectives in paragraphs 23 and 24 above, the negotiations shall cover:

(i) Market Access. Comprehensive market access negotiations leading to the broadest possible liberalization, particularly with regard to products of export interest to developing country Members; (cont’d.)

Seattle ministerial will have to be tackled once again in these sectoral negotiations.

Agriculture in the Draft Ministerial Declaration (cont'd.)

- (ii) Export Competition. Substantial reduction in all forms of export subsidies, and equivalent action in respect of the subsidy component of other forms of export assistance, in the direction of progressive elimination of export subsidies;
- (iii) Domestic Support. Substantial reductions to domestic support;
- (iv) Rules and Disciplines. Improvements in the rules and disciplines consistent with the objective of fundamental reform.

Proposals for negotiations on all the above elements shall be submitted by July 1, 2000.

26. At the same time, as foreseen in Article 20, the negotiations shall take into account:

Non-trade concerns. These include, in particular, the need to protect the environment, food security, the economic viability and development of rural areas, and food safety, without prejudice to the Agreement on the Application of Sanitary and Phytosanitary Measures,. Non-trade concerns shall be addressed through targeted, transparent, and non-trade-distorting measures.

Other objectives and concerns mentioned in the Preamble to the Agreement on Agriculture, including making commitments in a equitable way among all Members.

27. Agreements on modalities shall be reached before 1 July 2001. Participants shall submit their comprehensive offer lists no later than 31 January 2002. The negotiations on commitments and legal texts shall be concluded before 15 December 2002.

Source: *Inside U.S. Trade*, December 13, 1999.