

Post-Bali Negotiations on Agriculture: the Challenge of Updating Global Rules on Trade



Introduction

At the ninth WTO Ministerial Conference in Bali, Ministers agreed to prepare a “clearly defined” work programme on the remaining Doha Development Agenda (DDA) issues. However, the global agricultural trade landscape has evolved significantly since negotiations froze in 2008 - and even more so since Doha was launched in 2001. As WTO Members start crafting the contours of a possible post-Bali agenda, developing a sound understanding of this new global reality and its implications for future multilateral disciplines in agriculture is critical.

Tackling Agriculture in the Post-Bali Context

A collection of short essays

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This information note summarises some of the findings of the ICTSD e-book “*Tackling Agriculture in the Post-Bali Context: A Collection of Short Essays*”, edited by Ricardo Meléndez-Ortiz, Christophe Bellmann and Jonathan Hepburn.¹ The book builds on the most recent analysis of global trends and domestic policy reforms to inform negotiations on a post-Bali agricultural trade agenda. It features a series of concise, non-technical and solution-

oriented papers by leading experts and thinkers, covering systematically all elements of the agricultural negotiations on market access, domestic support and export competition.

1. The New Global Context

A rapidly evolving trade landscape

Over the last 15 years or so, global agricultural trade, excluding intra-EU flows, has nearly tripled to reach USD 1 trillion. While trade remains relatively concentrated among six key players - the EU, the US, Japan, India, China and Brazil - their collective importance



1 For further information about this publication, please visit: <http://www.ictsd.org>.

has decreased, not least as a result of booming import markets in Africa (see table 1). Emerging economies have also become more prominent with surging Chinese imports, the consolidation of Brazil

as a key exporter, and the increasing participation of India with a net agricultural trade surplus of USD 9 billion and a doubling of its share in global imports over the same period.²

Table 1. Global Agricultural Trade: Evolution in the last ten years

Average Annual Global Agricultural Trade (excl. intra-EU trade). USD Mio.	2002-04: 325,914		2011 - 13: 907,507	
SHARE IN GLOBAL EXPORTS	<i>Share in Global Exports</i>		<i>Share in Global Imports</i>	
	2002-04	2011-13	2002-04	2011-13
BRAZIL	6.9%	9.0%	1.0%	1.2%
CHINA	4.8%	4.3%	5.3%	11.1%
EU28	16.3%	15.1%	22.3%	16.1%
INDIA	1.7%	2.9%	1.0%	2.0%
JAPAN	0.5%	0.4%	11.6%	7.1%
UNITED STATES	18.8%	15.8%	16.8%	12.3%
SUB-TOTAL	49.0%	47.5%	58.0%	49.9%

Source: Laborde, D (2014) “Implications of the Draft Market Access Modalities on Bound and Applied Tariffs” in “Tackling Agriculture in the Post-Bali Context: A Collection of Short Essays”.

Over the next decades, changes in demand - as a result of growing urban population and associated changes in diet - are likely further to affect the direction and geography of trade flows. Estimates suggest that an additional 1 billion people will join the “middle class” in 2020, a rise from about 1.8 billion in 2010.³ According to the OECD/FAO Agricultural Outlook, the Americas will strengthen their position as the dominant export region, both in terms of value and volume. This growth is mainly fuelled by increased exports of high-value commodities such as meat, ethanol, sugar, oilseeds and cotton in response to changing demand. Western Europe will display, on average, a negative trade balance with flat exports. The rapidly growing population in Africa will result in increasing food imports, but the largest demand will come from Asia, which is expected to exhibit a trade deficit for all commodities except rice, vegetable oils and fish in 2023. India will remain one of the leading exporters for cereals and rice and is also expected to be a major exporter of meat and cotton, keeping it in an overall trade surplus situation for agricultural products.

These trends might create new trade tensions and, overall, reinforce the need for a strong, predictable and equitable multilateral trade system. They also point to the fact that trade flows and particularly imports from emerging economies are likely to grow regardless of market access conditions. Indeed, regions that will experience a relatively large increase in the middle class are also those that will significantly increase their net imports for most commodities.

From a “demand-constrained” to a “supply-constrained” agricultural trading system?

Historically, agricultural markets have been characterized by a long-term trend towards declining real prices. The benefits of increased productivity and falling production costs were passed on to consumers, enhancing the per capita calorie consumption and reducing the percentage - or even the absolute number - of chronically hungry people. These abundant supplies exerted downward pressure on food prices and ultimately farm incomes. As a response, policy-makers, particularly in OECD countries, had recourse

2 See Laborde, D (2014) “Implications of the Draft Market Access Modalities on Bound and Applied Tariffs” in “Tackling Agriculture in the Post-Bali Context: A Collection of Short Essays”. in ICTSD’s volume.

3 See Ernst & Young. 2013. “Hitting the sweet spot. The growth of the middle class in emerging markets.” [http://www.ey.com/Publication/vwLUAssets/Hitting_the_sweet_spot/\\$FILE/Hitting_the_sweet_spot.pdf](http://www.ey.com/Publication/vwLUAssets/Hitting_the_sweet_spot/$FILE/Hitting_the_sweet_spot.pdf).



to various forms of price support, buffer stock programmes or acreage set-aside schemes. While these measures achieved their stated objectives at the domestic level, the consistent use of trade-distorting domestic support coupled with high border protection exerted further downward pressure on international prices and made them more volatile. They also induced surpluses that had to be disposed of in international markets, often with the help of export subsidies whose effect contributed to further lowering world prices.⁴

In developing countries, low and volatile prices provided disincentives to invest in agriculture, often resulting in lower domestic food production, while shifting consumption patterns towards less expensive, subsidised imported foods. These policies generally helped net food-importing countries with limited domestic supply capacity, low foreign exchange availability and large urban populations. However, they undermined the capacity of efficient agriculture exporters and countries with untapped food production potentials - notably in sub-Saharan Africa - to feed their own populations and, over the long run, stifled domestic productivity growth.⁵

Over the last five years, however, several agricultural commodities have experienced significant price spikes and volatility. Arguably,

markets for certain agricultural products have always exhibited high volatility.⁶ However, the magnitude and frequency of the price spikes experienced in 2007-08 and again in 2010-11 and 2012 were such that they drew significant political attention, up to the highest level of government. These spikes appear to reflect the immediate impact of weather-related production shortfalls in major producer regions, against a backdrop of high energy prices, steadily rising demand due to higher average incomes, and low rates of productivity growth in many world regions. While isolated extreme weather events cannot necessarily be seen as part of a long-term trend, it is also clear that climate change is likely to increase the prevalence of such events in the future - suggesting markets may continue to be characterized by relatively high and volatile prices. Furthermore, persistently high energy prices and policies to promote the use of agricultural products for biofuel production have created a direct link between energy prices and food prices, changing the dynamics of food production and trade.⁷

In the short term, the impact of such spikes has hit low-income food-deficit countries particularly hard. In the past, the increased cost of food imports was largely due to increases in the quantities imported. In contrast, in recent years,

4 See Schmidhuber, J. and Meyer, S. (2014) "Has the Treadmill Changed Direction? WTO Negotiations in the Light of a Potential New Global Agricultural Market Environment" in "Tackling Agriculture in the Post-Bali Context: A Collection of Short Essays".

5 Ibid.

6 This tendency is even more pronounced for commodities where global markets tend to be "thin", only accounting for a small percentage of global output.

7 See Schmidhuber, J. and Meyer, S. (2014) "Has the Treadmill Changed Direction? WTO Negotiations in the Light of a Potential New Global Agricultural Market Environment" in "Tackling Agriculture in the Post-Bali Context: A Collection of Short Essays".

price increases have had a much stronger effect on food import bills.⁸ In the longer term, if the trend towards a more supply-constrained world is confirmed, this could have deeper implications for global agricultural trade governance. By and large, the DDA negotiations still focus on protecting producers, while measures to protect consumers have not received the attention that the shift to the new market environment may warrant. Given this reality, a fundamental question is whether the agenda negotiated under the DDA should be revisited with a view to addressing not only trade distortions that put a downward pressure on international prices but also to introducing binding disciplines that help reduce international price hikes and excessive price volatility.

Changes in domestic policies

Responding to global changes in the global food system, domestic policies have also evolved. As described in Hepburn and Bellmann, environmentalist groups in the EU campaigned relentlessly for a reformed Common Agricultural Policy (CAP) that would provide “public money for public goods”. The new CAP will require farmers to respect additional environmental requirements as a condition for receiving support. Yet, despite the success of the bloc in shifting towards less trade-distorting farm support, the constituencies that sought to reverse the “decoupling” direction established by successive previous reforms have only been partially successful - not least because of fiscal pressures on EU Members in the aftermath of the 2008 economic slowdown and the crisis in the eurozone.⁹ Indeed, Tangermann argues that the 2013 CAP reform had essentially very little - if anything - to do with the ongoing negotiations in the multilateral trading system - in contrast to other reforms since 1992, all of which had some elements aimed at facilitating the EU’s constructive participation in the GATT/WTO negotiations. Market access was not improved at all. Export subsidization is still possible, though it is not currently used. And as far as domestic

support is concerned, the past reforms of the CAP had created so much scope for the EU that no pressure is felt from that side.

In the US, the new 2014 Agriculture Act abolishes direct payments to producers - seen by many as impossible to justify politically when high prices have buoyed farm incomes to new levels. In their place, Washington has introduced subsidized insurance programmes for price and revenue that are largely built around the model of the former countercyclical payments and the Average Crop Revenue Programme revenue programme that was set up under the previous Farm Bill.¹⁰ As it is very likely that the new schemes will be classed as “amber”, and the direct payments were “green”, the government could be seen to be moving away from the logic of gradually decoupling support from production, enshrined at the end of the Uruguay Round in the WTO’s Agreement on Agriculture. Smith argues that, in this new context, it might be difficult for the US to keep certain crop-specific payments within its post-Doha 2.5 percent *de minimis* exemption limit. For example, for most crops, crop insurance premium subsidies are about 4 percent of the crop’s total market value.

China’s fast-growing farm support schemes appear to be designed in part to rectify problems arising from historical under-investment in the agricultural sector - a legacy, as in many developing countries, of a tendency to tax rather than subsidize farming until quite recently. Support also appears to be geared towards reducing the large, growing disparities between rural and urban incomes. Although, in absolute terms, farm support in China is now around the level of EU farm subsidies, to date, China’s farm support also varies heavily focused on payment for “general services” such as infrastructure, with some support also provided in the form of decoupled support payments based on historical production levels. As the precise arrangements for providing this type of support vary across provinces, the actual degree of decoupling appears to vary, with

8 See Konandreas, P. (2014) “Challenges Facing Poor Food-importing Countries: Can WTO Disciplines Help” in “Tackling Agriculture in the Post-Bali Context: A Collection of Short Essays”. For LDCs, while the aggregate volume of commercial cereal imports increased by less than three times from the early 1990s to the early 2010s, the cereal import bill increased by over six times during the same period. Similar sharp increases in the cereal import bill have been experienced by NFIDCs, as the volume increased by nearly 70 percent and the cereal import bill almost quadrupled.

9 See Tangermann, S. (2014) “The EU CAP Reform: Implications for Doha Negotiations” in “Tackling Agriculture in the Post-Bali Context: A Collection of Short Essays”.

10 See Smith, V. (2014) “The 2014 US Farm Bill: Implications for the WTO Doha Round in a Post-Bali Context” in “Tackling Agriculture in the Post-Bali Context: A Collection of Short Essays”.



support in different administrative regions linked to the production of one or more staple crops.

India's agricultural domestic support has also grown dramatically in recent years with a particular emphasis on input and investment subsidies in developing countries (under article 6.2 of the Agreement on Agriculture) which shelters payments for fertilizers, irrigation, electricity and seeds. Food purchases at administered prices are also important in the country's overall policy framework, with growing risks of breaching ceilings on trade-distorting *de minimis* support as illustrated by the ongoing controversy on public stockholding.

Megaregional trade deals laying groundwork for new development

Another striking feature of recent evolutions in global trade has been the emergence of the so-called "mega-regional" free trade negotiations. Regional trade agreements (RTAs) are not a new phenomenon, but the latest mega-regional initiatives are on an entirely new scale. The three largest "mega" initiatives - the Transatlantic Trade and Investment Partnership (TTIP), the Transpacific Partnership (TPP), and the Regional Co-operation in Asia and the Pacific (RCEP) - represent over three-quarters of global GDP and two-thirds of world trade. As such, they

are effectively developing the road map for trade regulation regimes of the future, with results that involve deeper integration and WTO+ disciplines or liberalization.

For Ash and Lejarraga, regionalism may naturally evolve towards a comprehensive multilateral system. It may also be desirable to conduct a more explicit examination of options that could help transfer select emerging practices to a more genuinely global rule book. Indeed, promoting consistency and coherence across mega-regional negotiations and exploring how best to maximize synergies with the multilateral regime could contribute to reducing transaction costs for businesses, easing the maze of regimes for policy-makers and maximizing global welfare. Looking at lessons and emerging best practices at the regional level could therefore conceivably illuminate options for multilateral progress.¹¹ This is not to say that such a commitment should be simply replicated in the multilateral trading system. Such a process would necessarily have to take into account the interests and concerns of other WTO Members, starting with low-income countries who are not participating in these negotiations.

Tariff-cutting exercises have been the centre-piece of WTO-plus efforts in agriculture, achieving significant progress in eliminating agricultural tariffs beyond existing multilateral concessions. Interestingly, South-South RTAs have been moving faster and further on tariff cuts than North-South RTAs. Another area that has yielded perhaps the most widespread WTO-plus measures relates to export measures. In due course, this may be an area where multilateral efforts can be taken up. Many RTAs have developed commitments on export taxes that go beyond those at the WTO. These instruments are often applied to raw materials and other agricultural products (notably basic grains, oil seeds, etc.). It is perhaps worth noting that the regional approach to discipline flexibilities has been to impose a set of conditions on the use of exceptions so that, when export measures are implemented, they do not adversely affect other Members or alter world prices. A large number of RTAs also contain provisions prohibiting the use of agricultural export subsidies in regional trade.¹²

11 Ibid.

12 Ibid.

Finally, in the case of standards, in particular SPS and TBT measures, most WTO-plus requirements relate to improvements in transparency. RTAs can be credited for introducing new obligations that strengthen the *ex-ante* and *ex-post* transparency requirements related to the design and application of standards and for establishing improved web-based information systems and consultation processes that include interested foreign parties. Since transparency displays the characteristics of public goods - non-excludable and non-rivalrous - it would appear likely that, at least in purely technical terms, the multilateral extension of these commitments would come at no additional economic cost for countries that have already implemented them unilaterally or regionally.¹³

2. The Way Ahead: Possible Elements of a Post-Bali Agenda

Keeping these fundamental changes in mind, several options can be envisaged for the crafting of a meaningful post-Bali agenda. To get a more meaningful result in agriculture negotiations, it is important to bear in mind that a significant package of issues will have to be addressed - including in other negotiating areas, starting with NAMA. Second, given the wide differences of views among WTO Members, overcoming the current impasse requires sharing ideas and exploring new options. Finally, any consideration of the way ahead has to combine the fact that there is a prevailing Chair's text on the table that a number of Members want to use as a frame of reference, while certain Members wish to embark with flexibility in relation to this text. One possible way of doing this is to try and identify the key points that need to be addressed for the negotiations to get substantive re-engagement and momentum.¹⁴

Market access

Since the launch of the Doha Round, market access conditions have been characterized by a downward trend in applied tariffs, as a result of unilateral liberalization as well as regional trade agreements. For the world as a whole, applied MFN duties were cut from an average of 24.6 percent in 2001 to 18.7 percent in 2010, and applied duties (including preferential tariffs) from 15.8 percent to 13.8 percent. The cut in MFN applied duties was especially steep for developing countries, from an average of 31.1 percent to 23.2 percent, with preferential applied tariffs going down to 19.8 percent in 2010.¹⁵

In spite of this, Laborde argues that 50 percent of the global gains from the market access and domestic support reforms of the DDA will come from the agriculture sector. Within the agriculture reform process, 89 percent of the gains will come from the exchange of market access concessions through reductions in tariffs.

The Doha Declaration adopted in 2001 has clearly stated an ambitious programme for addressing the major distortions of world trade and in particular agricultural markets.¹⁶ The formulas applied without exceptions would result in a cut of over 50 percent in applied rates, from 15.5 percent to 7.5 percent in developed countries and from 13.3 percent to 11.3 percent in developing countries that are not classed as "least developed countries" (LDCs).¹⁷ Nevertheless, the same level of ambition has made the negotiations more difficult than initially expected. The need to find a politically acceptable deal for domestic stakeholders has led negotiators to soften the disciplines by introducing flexibilities that have eroded the appetite to conclude the Round quickly. These flexibilities - e.g. sensitive and special products - more than halve the worldwide

13 Ibid.

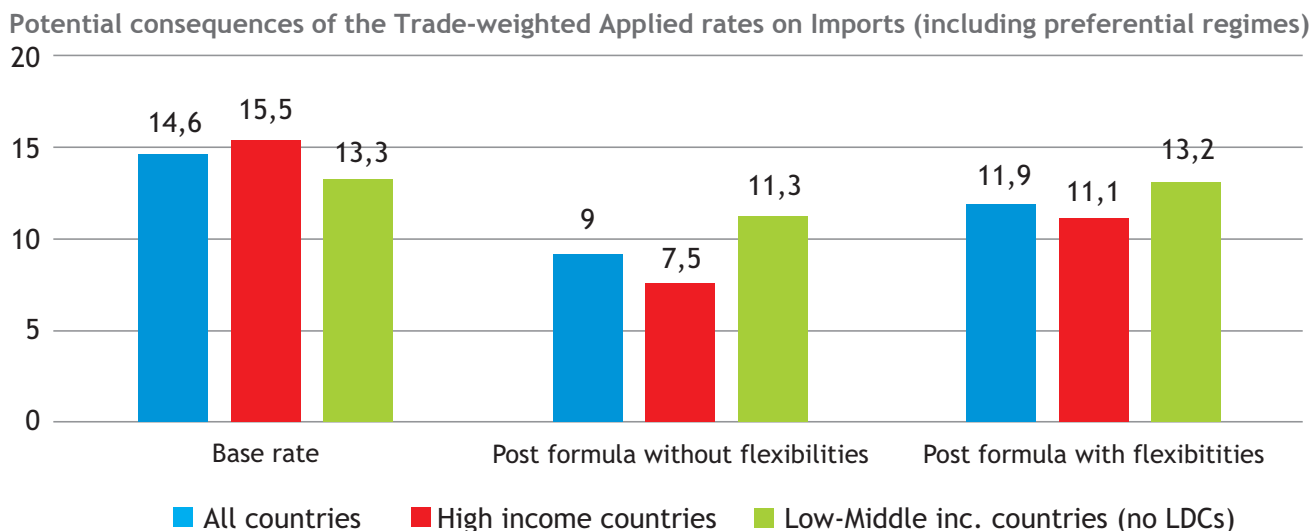
14 See Singh, H. V. (2014) "WTO Agriculture Negotiations: The Way Ahead" in "Tackling Agriculture in the Post-Bali Context: A Collection of Short Essays".

15 See Bureau, Jean-Christophe, and Sébastien Jean. 2013. "Do Yesterday's Disciplines Fit Today's Farm Trade? Challenges and Possible Adjustments for the Multilateral Trading System". Paper produced for the ICTSD E15 Initiative.

16 See Laborde, D (2014) "Implications of the Draft Market Access Modalities on Bound and Applied Tariffs" in "Tackling Agriculture in the Post-Bali Context: A Collection of Short Essays".

17 This is partly because of the key features of the formula itself - i.e. smaller cuts and higher tier boundaries - and the greater binding overhang in many developing countries (the gap between the maximum permitted "bound" tariff and the actual tariff rate applied).

Figure 1. Consequences of the DDA modalities on WTO agricultural tariffs



Source: Laborde, D (2014) “Implications of the Draft Market Access Modalities on Bound and Applied Tariffs” in “Tackling Agriculture in the Post-Bali Context: A Collection of Short Essays”.

cut in tariffs, with particular effect in industrial countries where the cuts would be reduced from 8.0 percentage points to 4.4 percentage points. In contrast, in low- and middle-income non-LDC countries, cuts would be reduced from 2.0 to 0.1 percentage points. In spite of that, average applied agricultural tariffs for the EU, US and Japan would still be cut by 26 percent, a quite impressive figure considering that a large share of imports are made under preferential agreements. While Brazil and India would not have to undertake any effective reduction, China - with nearly no binding “overhang” - would still have to reduce applied rates, even after using all the flexibilities.¹⁸

Overall, finding the balance between the political constraints and the initial ambition of the Round remains difficult. Laborde argues that the political costs of an agreement to increase market access could be reduced substantially by using a proportional-cut approach rather than progressive tariff-cutting formulas. As highlighted by Singh, a similar approach was already contained in footnote 2 of the Chair’s text of August 2007, suggesting an overall 36 percent reduction with a minimum cut of 15 percent on each line, following the Uruguay Round model.¹⁹ Alternatively, Singh argues that future progress made in mega-FTAs might

facilitate further engagement, particularly in light of expected trends in imports resulting from the growth of the middle class in emerging economies. If WTO Members were to take this reality into consideration and use it to build on what appears to have been earlier consensus on issues such as India’s market access concessions, they may be able to establish a basis for moving forward - for example, by exploring the possibility of introducing tariff rate quotas for certain sensitive products in China as part of a broader deal.

Another critical issue relates to the special safeguard mechanism (SSM). Here, Morrison and Mermigkas show that the incidence of “import surges” has changed significantly since the early 2000s, reflecting the change from a context of low and relatively stable prices to the new market context of higher and possibly more volatile prices. While, as might be expected, price depressions fell to zero in most commodity groups surveyed between 2004 and 2011, it is interesting to note that the incidence of volume surges has also fallen significantly. However, the reduced incidence of volume surges reflected significant import increases at a more constant rate - and did not result from lower levels of imports or lower import growth rates.²⁰ This

18 See Laborde, D (2014) “Implications of the Draft Market Access Modalities on Bound and Applied Tariffs” in “Tackling Agriculture in the Post-Bali Context: A Collection of Short Essays”.

19 The footnote stated: “Pending final agreement on this aspect of the modalities Members may wish to keep under advisement the approach alluded to in the Chair’s Challenges paper to the effect that a basic approach analogous to the Uruguay Round could be an overall cut for developing country Members of 36 percent with a minimum cut of 15 percent on each line....”

20 See Morrison, J. and Mermigkas, G. (2014) “Import Surges and the Special Safeguard Mechanism in a Changing Global Market Context” in “Tackling Agriculture in the Post-Bali Context: A Collection of Short Essays”.

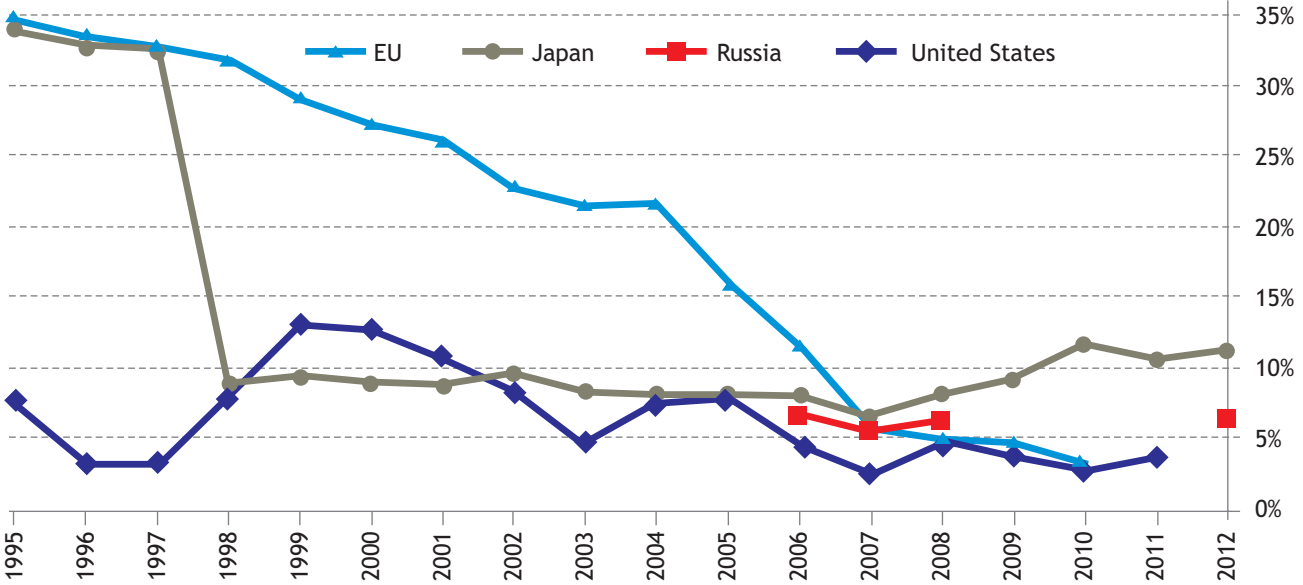
reality should nonetheless not imply that an SSM is not needed. As mentioned earlier, prices now tend to be more volatile, and are expected to remain so - lending weight to calls for keeping a simple, robust and effective instrument as part of an eventual Doha deal. Furthermore, prices might fall in the future: keeping such an “insurance mechanism” might therefore be important for many developing countries. The analysis suggests that import patterns - and hence the effectiveness of different trigger levels - can differ quite significantly depending on country groupings. Given their relatively high reliance on food imports as a proportion of total consumption, surges in some LDCs or “small, vulnerable economies” (SVEs) are unlikely to create significant deviations from the moving average. For such countries, a more sensitive (lower) volume trigger may therefore be appropriate.²¹

Domestic support

Having trended downward, non-green-box domestic support payments in the EU, US and Japan are presently at levels between 5 and 8 percent of the value of production, a level much lower than that seen in the Uruguay Round’s

1986-88 base period (see figure 2). According to Brink, the declines in non-green-box support are explained by policy changes, some involving administered prices, which reduced the measured support (e.g. Japan) or shifted it to the green box (e.g. the EU), while some payments shrank as market prices went up (e.g. the US). In contrast, Brazil, China, India and Indonesia show a pattern of increasing long-term trends. In the last two years notified, however, Brazil, India and Indonesia show significant drops. All of Indonesia’s non-green-box support, almost all of India’s and about one-third of Brazil’s consist of Article 6.2 subsidies. These are input subsidies (Indonesia), mainly input subsidies (India) or mainly investment subsidies (Brazil). China is not eligible for the Article 6.2 exemption. By 2008, Brazil, China and Indonesia had raised non-green-box support to some 2 to 4 percent of the value of production in agriculture, and India had raised it to 16 percent (see figure 3). Brazil’s level then reached 5 percent in 2010 before declining. As a result of these trends, Brink argues that the levels of non-green-box support expressed as a percentage of value of production now significantly overlap for large developed and large developing countries.²²

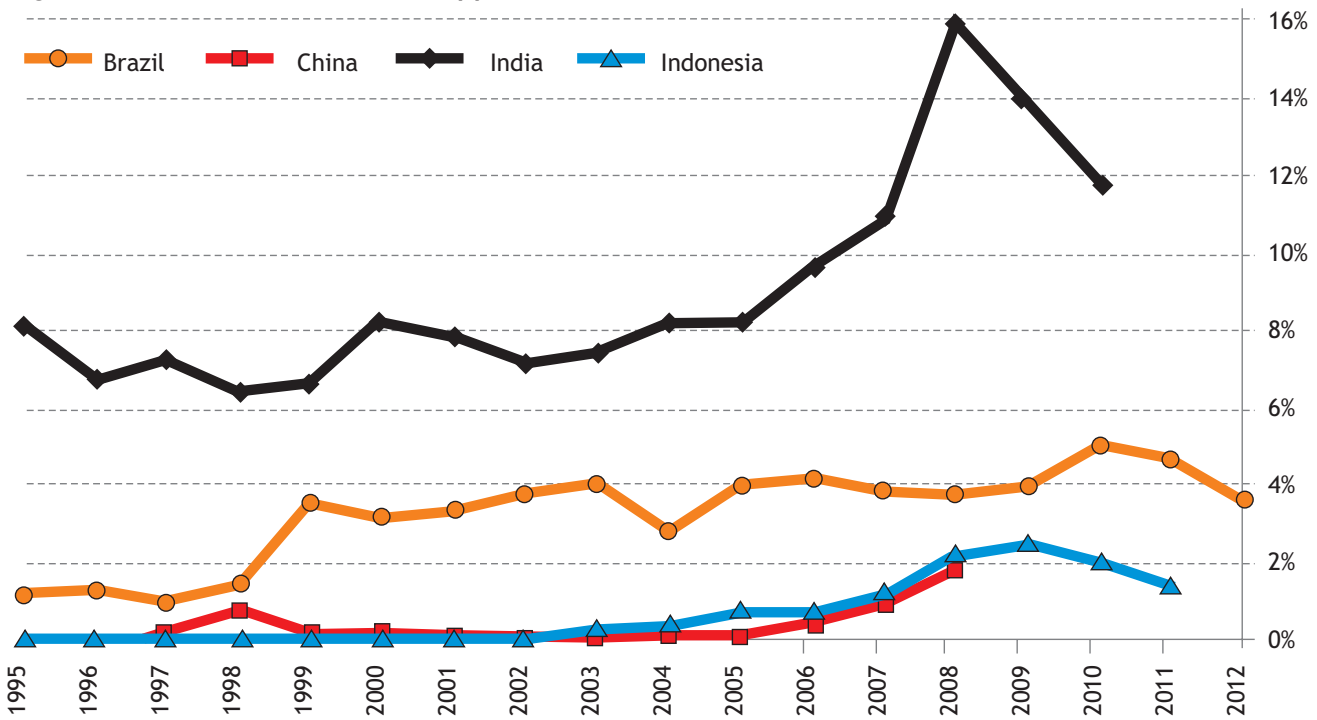
Figure 2. Non-Green Box Support Declines For Major Countries



21 Ibid.

22 See Brink, L. (2014) “Evolution of Trade-distorting Domestic Support” in “Tackling Agriculture in the Post-Bali Context: A Collection of Short Essays”.

Figure 3. While Non-Green Box Support increased in Brazil, China, India and Indonesia.



Source: Brink, L. (2014) "Evolution of Trade-distorting Domestic Support" in "Tackling Agriculture in the Post-Bali Context: A Collection of Short Essays".

As highlighted above, some of the main issues that arise in the present market and policy situation are that the US may risk providing a higher level of support than previously discussed in the negotiations.²³ Some agricultural exporting countries are nonetheless reluctant to water down the draft disciplines proposed for the US - and would also like to see tighter requirements established for domestic support in China and India. At the same time, these and other developing countries oppose further changes that would reduce the domestic policy options available to them under the current draft text.²⁴

Reconciling these views would require some innovative approaches. In this respect, Singh suggests certain avenues, including the possibility of changes in the reference period for overall trade-distorting support (OTDS). These changes could be combined with an OTDS amount that would be allowed to increase if the country providing the support were faced with an increase in imports (something like a safeguard mechanism). Other avenues could be inspired by

the ideas (not the exact disciplines) underlying the flexibilities contained in Annex VII and Article 27.4 of the Agreement on Subsidies and Countervailing Measures. For example, negotiators could explore whether consensus could be found around a model that would retain the *de minimis* levels proposed in the latest draft text for the larger developing countries, so long as a threshold level, defined in absolute terms, is not breached. This could be combined with a long implementation period while trade-distorting support is gradually phased out, before then reaching a new lower agreed level. Such flexibilities for emerging economies could be linked with an increase in OTDS for the developed economies. For example, if the OTDS for developed economies is increased by 10 percent in the draft text, there would be no change in the present conditions for *de minimis* support in large developing countries. However, if the OTDS for developed economies is not increased, a 10 percent decrease could be envisaged in the *de minimis* level of support for developing countries, in the event that these Members surpass a threshold level of support defined in absolute terms.

23 See Smith, V. (2014) "The 2014 US Farm Bill: Implications for the WTO Doha Round in a Post-Bali Context" in "Tackling Agriculture in the Post-Bali Context: A Collection of Short Essays".

24 See Singh, H. V. (2014) "WTO Agriculture Negotiations: The Way Ahead" in "Tackling Agriculture in the Post-Bali Context: A Collection of Short Essays".



With respect to the use of administered prices for the purchase of food for public stockholding purposes, Montemayor reviews possible options for a permanent solution that could address the concerns of countries at risk of breaching their *de minimis* ceilings, as well as the concerns of their trading partners. Based on a series of simulations covering a set of countries currently using such schemes, his analysis suggests that countries could set a limit to the scope of their price support scheme, as suggested by the Appellate Body ruling on the Korean beef case.²⁵ This could represent a practical approach to be adopted if countries were keen to maintain their price support programmes but did not plan to absorb large portions of their domestic production. By doing this, countries could legitimately only account for the quantity effectively purchased and therefore maintain their aggregate measure of support (AMS) under the 10 percent *de minimis* ceiling. This option would not require any change in existing rules and could even allow countries to increase their procurement levels.²⁶

If this option is not able to address the concerns of some countries, one of the least contentious alternatives would be to allow the use of US dollars in notifying prices and monetary values in AMS calculation and to equate “eligible” production only to the portion of local production actually marketed. A third option could consist in exempting certain developing countries from *de minimis* caps if their actual procurement does not exceed a given percentage of local production. This could address the concerns of countries with small procurement programmes that arguably contribute little to market distortions. Finally, other options could also be explored, such as redefining the external reference price (e.g. by using a three- or five-year moving average for international prices) or adjusting them for inflation through the use of producer price indices. These might nonetheless be difficult to pursue since they run counter to the “fixed” nature of reference prices. Finally, developing countries have the option to convert their buying programmes to green box measures by removing administered prices altogether and just purchasing the food at market prices.²⁷ Alternatively, WTO Members could

25 DS161. Korea - Measures Affecting Imports of Fresh, Chilled and Frozen Beef.

26 See Montemayor, R. (2014) “Market Price Support in Large Developing Countries” in “Tackling Agriculture in the Post-Bali Context: A Collection of Short Essays”.

27 Ibid.

consider that if the administered price is at or below the market price, it should not be considered as providing price support and therefore could be considered green box compatible.

“Green box” measures

As highlighted above, since the end of the Uruguay Round, traditional providers of farm support have reduced their trade-distorting support - a move often accompanied by a proportionate increase in green box subsidies. At the same time, green box support has been steadily growing in a number of “emerging” economies, such as China or India. As a result, green box payments represent today by far the largest share of global agricultural support with, however, large differences in the composition of such payments among WTO Members.²⁸ As an ever greater proportion of subsidies are notified as “green box”, maintaining the non-trade-distorting nature of the category has gained importance. While the architects of the Agreement on Agriculture clearly intended to encourage governments to shift support away from more trade-distorting measures, research has shown that even the most apparently “decoupled” policies still tend to have some trade impact and, with the rapid increase in green box spending in some parts of the world, even a small trade impact per dollar may no longer be small if multiplied by a large number of dollars.

The draft 2008 “modalities” text contains a number of proposals aimed at strengthening or refining existing criteria based on the experience so far. These should be pursued and implemented as part of a possible Doha Package. Yet, the question of whether a given measure has more than a minimal effect on trade and production is an empirical issue that can hardly be assessed ex ante. In the longer term, it might therefore be sensible to envisage some alternative approaches. As highlighted by Hepburn and Bellmann, such an approach could consist in making a distinction between “payments for public goods” and “income support”. Measures that aim at

correcting persistent market failures or ensuring the delivery of public goods, such as biodiversity conservation, climate change mitigation, infrastructure development, or research and development might require long-term government intervention. Even if some limited production and trade impacts were to result from these policies, there would be no clear logic for constraining them as long as those market failures persist. On the other hand, measures primarily aiming at providing income support to farmers might need some form of limitation or cap. Although these may play a critical role in facilitating reforms by compensating negative income effects resulting from cuts in the more trade-distorting measures, they arguably ought not to be provided on a permanent basis and should therefore be time-limited. Limiting such payments would alleviate concerns around “box shifting” and provide greater parity between governments with high fiscal revenues and those without.²⁹

Export competition: potential for compromise

According to Diaz Bonilla and Harris, the overall trend for export subsidies is declining, even though almost USD 500 million of export subsidies were still in place in 2011-12, mainly in the EU, Canada and Switzerland. At the same time, 20 WTO Members reported the existence of 77 agricultural exporting State Trading Enterprises (STEs).³⁰ While some of the important agricultural exporting STEs that were operated by developed countries have been reformed or are in the process of being reformed - such as the Canadian Wheat Board - the presence of STEs appears more important in developing countries.

The reduced use of export subsidies clearly offers the possibility of finally unifying the treatment of export subsidies, eliminating the special treatment of the AoA. The 2008 draft “modalities” text offers a template for this. Agricultural export subsidies should be banned and the system unified under the Agreement on Subsidies and Countervailing Measures (ASCM). The 2008 text

28 For example, the EU largely focuses its support on direct payments, essentially through decoupled income support, whereas the US privileges domestic food aid, notably through its food stamps programme. China, on the other hand, puts much more emphasis on infrastructural services, extension services, research or pest and disease control, while India prioritises public stockholding for food security purposes.

29 See Hepburn, J. and Bellmann C. “The Future of Green Box Measures” in “Tackling Agriculture in the Post-Bali Context: A Collection of Short Essays”.

30 The countries with more STEs were China (25), India (14), and Colombia (14).



also provides an appropriate template for export credits, export guarantees and insurance. For Diaz Bonilla and Harris, however, the treatment of STEs in the 2008 draft may require further thinking. First, STEs in developed countries are exempt from the obligation of ending monopoly powers if the exported product represented no more than 0.25 percent of total world trade in agricultural products in the 2003-05 base period. The percentage seems small, but it can represent between 8-12 percent of world trade in individual products such as wheat, maize or soybeans. Other adjustments might be required for developing country STEs.³¹ Reforms might also be needed so as to enhance transparency and improve WTO notifications about those STEs not operating under commercial terms but still claiming “commercial confidentiality”. Finally the need to cover importing STEs should be explored further.³²

With respect to food aid, Clay argues that a new policy environment for international food aid or food assistance is emerging as developed and developing countries continue to reformulate the

post global crisis food security agenda. However, food aid appears increasingly unable to address not manage acute food insecurity risks, not least because of its declining levels. Under this scenario, Clay suggests that a simplified “safe box” may be appropriate to avoid impeding urgent humanitarian assistance. Second, a balance must be found between facilitating national food security - especially for LDCs - while avoiding export restrictions on humanitarian assistance. The WTO, along with other relevant forums such as the G-20, should persist with efforts to agree upon voluntary principles with regular peer review to avoid restriction on humanitarian aid. Finally, the DDA *draft disciplines* (Annex L) are still relevant as a key building block for the future governance of international food aid, insofar as they recognize the need to minimize the risk of food aid becoming a vehicle for transitory surplus management.

Overall, as Singh observes, the existing draft modalities in this area are not really questioned, though some fine-tuning may be required. Export competition should therefore be brought centre stage and efforts begun to address it. This will provide major impetus towards creating greater engagement, trust and confidence in a system where these are presently missing.³³

Export restrictions: disciplines could limit damage

While often used in case of food shortages, export restrictions can significantly contribute to exacerbating the negative effects of price spikes on food security, by reducing the ability of poor consumers in food-importing countries to access adequate food at affordable prices. In the medium term, those restrictions also undermine confidence in international markets as a trustworthy source of food. They also lower the propensity to invest in agriculture in exporting countries, where a competitive advantage in

31 The 2008 draft modalities text allowed developing countries to maintain STEs with monopoly powers “to preserve domestic consumer price stability and to ensure food security.” If those were not the objectives, they could still maintain monopoly power if their share of the world’s exports of the agricultural product(s) involved was less than 5 percent for three consecutive years. This percentage, however, appears quite significant.

32 See Diaz-Bonilla, E. and Harris, J. (2014) “Export Subsidies and Export Credits” in “Tackling Agriculture in the Post-Bali Context: A Collection of Short Essays”.

33 See Clay, E. J. (2014) “Trade Policy Options for Enhancing Food Aid Effectiveness: Revisiting the Draft Doha Deal” in “Tackling Agriculture in the Post-Bali Context: A Collection of Short Essays”.

34 See Anania, G. (2014) “Export Restrictions and Food Security” in “Tackling Agriculture in the Post-Bali Context: A Collection of Short Essays”.

production exists. Finally, in the absence of international cooperation, their competing effects partially offset each other, significantly lowering the effectiveness of these policy instruments in keeping domestic prices low.³⁴

Agricultural export restrictions are a policy area that is “under-regulated” in the WTO. At the same time, this is an area where achieving political consensus remains particularly challenging. Bearing in mind this reality and assuming some traction in the post-Bali negotiations, Anania argues that changes could be introduced in the rules, even in a relatively low-ambition WTO agreement. Under this scenario, two options seem realistic, given the negotiating stands observed. As suggested by Clay, a first step could consist in ensuring that food is exempt from export restrictions or taxes in those cases where it is purchased by international organizations to be distributed on a non-commercial basis for humanitarian purposes. The impact on volumes traded and market prices would be marginal while benefits in terms of the amount of food such organizations would be able to distribute under their relatively rigid financial constraints would be sizeable. A second, relatively more ambitious, option would leave current disciplines unmodified, but would make them enforceable by clarifying some of the key terms used such as “temporarily”, “prevent”, “relieve”, “critical shortage” or “essential”, supported by stricter transparency and notification obligations.³⁵

In the longer term, more ambitious reforms could simply prohibit export restrictions and taxes and then define a set of exceptions limited to developing countries, circumscribed in terms of duration, product coverage, and based on transparent triggers (e.g. a significant increase in domestic price and one activated by a significant increase in exports). Finally a maximalist option would be to introduce full “symmetry” in WTO disciplines regulating import and export restrictions. This would include a “taxification” of existing restrictions other than taxes, i.e. their replacement

with “equivalent” export taxes, combined with reduction commitments. A special safeguard clause would make it possible to introduce an export tax above the maximum level otherwise allowed, for a limited time and under special circumstances. To guarantee minimum export volumes, export quotas at reduced tax rates, defined as a share of domestic production in a reference period and administered on a MFN basis, could be introduced.³⁶ Finally, special and differential treatment would apply to developing countries (longer implementation periods, the exemption from tax reduction and the introduction of bound tax rates instead, and smaller tax rate quotas).³⁷

Cotton: fresh approach needed

Cotton remains a symbol of the development dimension of the DDA. Yet, for Imboden, after Bali, a new approach might be needed both to reinvigorate the talks, and to reflect major changes in the world cotton market while maintaining the objectives of the C-4 initiative.³⁸ First, since the launch of the cotton initiative, prices have more than doubled and are expected to remain at relatively acceptable levels in the future. Second, actors on the international cotton market have dramatically changed: India, which was a net importer of raw cotton in 2002, is now the second largest exporter in the world; China has consolidated its position as the price-maker of the international cotton market and has become the biggest cotton producer in the world; the US is experiencing a long-term decline in cotton production and productivity, while remaining the biggest exporter of raw cotton; and EU cotton production has become negligible, although it remains the biggest subsidizer per unit.³⁹

Cotton policies have also evolved. Recent EU policy changes provide more flexibility to its Member States to reintroduce production-related payments. On the other hand, the new US Farm Bill will probably reduce cotton subsidies. This, along with the high prices for some competing products (in particular biofuel feedstocks),

35 Ibid.

36 Under certain circumstances, countries would be allowed not to replace an existing export restriction with an equivalent export tax; however, in this case, minimum export volumes would have to be larger than otherwise.

37 See Anania, G. (2014) “Export Restrictions and Food Security” in “Tackling Agriculture in the Post-Bali Context: A Collection of Short Essays”.

38 Cotton-4 countries: Benin, Burkina Faso, Chad and Mali. Initiative launched in 2003.

39 See Imboden, N. (2014) “How to Re-invigorate the Cotton Issue at the WTO: Generate Ideas, Spin Proposals, Weave Solutions and Avoid Stocks” in “Tackling Agriculture in the Post-Bali Context: A Collection of Short Essays”. in ICTSD’s volume.

suggests that it is likely that cotton production in the US will continue to decline. China, on the other hand, has become the biggest subsidizer of cotton in absolute terms. While it is unclear what share of those subsidies are “green box”, China’s cotton production remains largely isolated from international prices.⁴⁰

Reflecting those changes, Imboden suggests that possible options would consist in seeking to consolidate existing cuts in EU and US support, reducing this support further, and seeking commitment to refrain from introducing new export subsidies or marketing loans. China would limit its subsidies independent of their classification within the WTO to the average amount granted in the period 2000-05 (a period of relatively low prices). India would limit its cotton subsidies to the amount given to other competing crops and refrain from imposing export restrictions. Finally, all countries would grant duty-free and quota-free market access to LDC cotton producers.⁴¹

Transparency, monitoring and the role of the Committee on Agriculture

The monitoring of obligations by the Committee on Agriculture has generated a considerable amount of information on agricultural policies. Yet, years of experience in implementing the AoA have revealed inconsistencies among Members in their notifications, a need to clarify certain norms, a lack of compliance, and important gaps in transparency requirements. To list just a few, among some of the problems identified so far, one can mention the categorization of crop insurance premium support and other subsidies as non-product-specific when to the individual farmer the support is product-specific; a lack of a clear definition of Article 6.2 subsidies; the measurement of market price support (MPS), including the use of administered prices, reference prices and eligible quantities; the fact that, under the green box, countries have to report spending under the 12 main headings of Annex 2 but are not required to explain or justify their classification decision; or the monitoring of export restrictions or biofuels subsidies.⁴²

For Josling, the most immediate improvement to transparency would follow from the adoption of the proposals in Annex M of the Doha Draft Modalities. Though negotiated as part of a package, there seems to be no reason why it should not stand alone. The proposal does not involve changes in national regulations and does not appear to favour any country over others. It would merely replace the somewhat vague obligations in Article 18 with more detailed requirements. More coordination within the WTO could also improve transparency and reduce overlapping activities. The notifications of subsidies made under the Subsidies and Countervailing Measures (SCM) Agreement have much in common with those under domestic support under the AoA. The SCM notifications are more descriptive and lack some of the structure of the AoA tables. There may be a case for combining the two notifications and allowing each committee to consider the combined report from their different viewpoints.

Beyond notifications, Ahmad and Bahalim insist on the need to strengthen the work of the regular Committee on Agriculture (CoA) and particularly its deliberative function. Beyond monitoring compliance with WTO disciplines, the CoA should be a place where WTO Members are able to consult with others on all facets of the AoA. As a place where they can consult, it may not have the ability to adjudicate, but it should help participants understand their respective challenges. The CoA already has a mandate as a consultative and implementation-oriented forum. The peace clause offered to developing countries in Bali that might be in breach of their AMS commitments was premised on transparency, accountability and the express authorization of the CoA. In simpler terms, if a Member would like to violate WTO rules to address food security needs, then it must consult with other Members, provide a large amount of information, give advance notice that it is likely to do so, and ensure that trade is not distorted or food security undermined. This rather straightforward set of conditions could allow countries to break the letter but not the spirit of WTO rules. Everything would be monitored and implemented through existing bodies and

40 Ibid.

41 Ibid.

42 See Josling, T. (2014) “*Transparency and Monitoring in Agricultural Trade: Policy Options for the Post-Bali Agenda*” in “*Tackling Agriculture in the Post-Bali Context: A Collection of Short Essays*”.



rules, which would likely encourage compliance with notification requirements. Extending this principle further, within the framework of the Agreement of Agriculture, could allow the WTO to move forward, strengthen the Committee on Agriculture and tackle trade and food security, while avoiding becoming mired in the political trade-offs that come with multilateral negotiations.⁴³

3. Conclusion

The instructions that trade ministers gave to negotiators at Bali - to prepare “*a clearly defined work programme on the remaining Doha Development Agenda issues*” - is an important opportunity. It could allow WTO Members to take the first tentative steps towards updating global rules on trade so that these are fit to address the new challenges facing food and agriculture in the world today. It could also allow negotiators to make progress in addressing a number of long-standing problems that, over decades, have undermined investment in farming, especially in the world’s poorest countries, with all the consequences this has had for farm livelihoods and rural development.

Despite repeated dire warnings of the threats it faces, the WTO has proved to be relatively robust. The framework of rules and dispute settlement mechanisms of which the institution

has been custodian has arguably weathered well the dramatic shifts in the economic landscape of the last two decades, while major players in food and farm markets such as China and Russia have joined a queue of often much smaller countries that have expressed their desire to seek membership.

Negotiators would be wrong, however, to become complacent about the strength of the institution and the set of rules it oversees. Like any global governance structure, its rules and decision-making processes will require constant investment and maintenance if they are to continue to be seen as credible and legitimate by domestic constituencies in the countries whose governments are its members. At the same time, agricultural markets are set to be placed under growing pressure in the years ahead, as a larger and increasingly wealthy global population requires more -and more varied - food and farm goods at a time when climate change is increasing the prevalence of extreme weather events affecting farming and directly altering the productive capacities of different ecological zones. In this context, post-Bali talks could allow governments to take the first much-needed step towards ensuring the global trading system is better equipped to deal with the challenges of tomorrow’s world, by building a more efficient, equitable and sustainable framework of rules on agricultural trade.

43 See Ahmad, M. and Bahalim, A (2014) “*Strengthening the Deliberative Function of the Regular Committee on Agriculture*” in “*Tackling Agriculture in the Post-Bali Context: A Collection of Short Essays*”.

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