

**The need for flexibility
in national policy design
to address non-trade concerns**

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SUMMARY AND CONCLUSIONS

1. This paper examines the flexibility in national policy design that would be required to sustain domestic production necessary to address non-trade concerns (NTCs). While the WTO agricultural negotiation mandate laid down in Article 20 of the Agreement on Agriculture recognises the “*long-term objective of substantial progressive reductions in support and protection*”, it also lays down that further negotiations shall take into account, *inter alia*, experience gained from implementing the existing agreement, non-trade concerns and special and differential treatment. In order to achieve the objective to establish a fair and market-oriented agricultural trading system referred to in Article 20, there is a need to acknowledge, *inter alia*, the future coexistence of various forms of agriculture based on each country's production conditions and potentials and historical and cultural background.
2. The Agreement on Agriculture provides for a balanced negotiation mandate that takes into account the interests of all Members. Also, it must be ensured that the WTO policy reform is undertaken in a way that is consistent with other multilateral commitments. During the last 50 years, a number of international legal instruments relating to nutritional concerns and the right to food have been developed. The ensurance of access to adequate food is the responsibility of the state. The problems of both food-importing and food-exporting countries should be taken into account to ensure an equitable distribution of world food supplies in relation to need.
3. Agriculture is facing a considerable diversity of production conditions worldwide. At the demand side, for a number of reasons related to for instance their cultural, economic, or historical backgrounds, countries are demanding different goods or services from their agriculture, thus giving different weight and priority to different NTCs. At the supply side, a similar diversity exists. Such supply side variations, across and within countries and regions, are due to, *inter alia*, physical and natural conditions, social and cultural backgrounds and institutional and economic conditions.
4. Certain elements of the *dynamics* characterising the agricultural policy environment, such as for instance changes in societal priorities, production costs and economic situation, call for a long-term perspective in multilateral trade policy reform and national policy design. It is important to ensure that the developing countries' requests for better market access are properly addressed. Furthermore, the flexibility in national policy design and long-term room for manoeuvre for developing countries and economies in transition should not be reduced unduly even though many countries may not, for different reasons, be able to take advantage of this flexibility at present.
5. In the negotiations the need for flexibility should not be a *carte blanche* for any kind of policies. For instance, it seems difficult to justify export competition measures as part of a long-term strategy to ensure NTCs. However, given the considerable cost differentials between WTO Members, high-cost or low-potential agricultural producing countries are unlikely to be able to sustain production required to address NTCs by applying Green Box measures only, without having any impact on trade. Also, specific proposals relating to the special situation of developing countries should be carefully considered in the continuation of the reform process.
6. To conclude, in the WTO agricultural policy reform process, all Members, both developing and developed, must be given sufficient flexibility and room for manoeuvre in national agricultural policy design to ensure a viable domestic agricultural sector with domestic production required to properly address NTCs. In doing so, the specific situation of

each country, including national priorities and cost differentials, must be duly taken into account.

1. INTRODUCTION

7. According to Article 20 of the Agreement on Agriculture, non-trade concerns (NTCs) should be taken into account in the continuation of reform process. The Preamble of the Agreement recalls that the long-term objective “*is to establish a fair and market-oriented agricultural trading system*” and notes that “*commitments under the reform programme should be made in an equitable way among all Members, having regard to non-trade concerns, including food security and the need to protect the environment; having regard to the agreement that special and differential treatment for developing countries is an integral element of the negotiations ...*”

8. Important and legitimate NTCs are further described and discussed in Conference Papers 1-5, focusing on NTCs such as domestic agriculture’s contribution to food security, the viability of rural areas and aspects relating to the protection of the environment and the cultural heritage. While different countries are giving different weight and priority to the individual NTCs, their safeguarding is considered a key priority in both developing and developed countries.

9. Based on the analysis undertaken in these papers, three conclusions can be drawn with important implications for policy design. First, NTCs are often *specific* to the agricultural sector. Most of the actual NTCs safeguarded by agriculture cannot be provided by other sectors. Of the various NTCs listed so far by WTO Members, the viability of rural areas is likely among the few for which other sectors than agriculture can play, and are playing, an important role. However, in remote regions of many developed countries or in case of developing countries with predominantly agrarian economies, agriculture is a cornerstone whose contribution to rural employment and economic and social viability is fundamental.

10. Second, the different NTCs often have public goods characteristics. While private goods can be exchanged in a market, public goods are by definition lacking functioning markets. Also, the scope for market creation seems to be limited. While market creation remains a priority, government intervention may be justified to correct the underprovision of NTCs with public good characteristics as well as the internalisation of externalities.

11. Third, most NTCs cannot be disassociated from the agricultural production activity itself. This so-called joint production relationship between the different NTCs and the agricultural production activity is complex and may relate both to certain types of input use, farming practices or technologies, or agricultural output, as well as a combination of all these elements. For instance, as part of a country’s long-term food security, a certain degree of domestic food production may, in addition to other factors such as stable access to world markets, be judged as essential. Therefore, continued and sustained safeguarding of NTCs requires a viable domestic agricultural sector with agricultural production.

12. This paper examines the flexibility in national policy design that would be required to sustain domestic production necessary to address NTCs. Section Two analyses the international setting for national policy design, as it is laid down in existing WTO commitments, including commitments to further multilateral policy reforms. Other international commitments, in particular relating to the right to food, with relevance for the WTO policy reform process are also referred to. In Section Three, the considerable diversity of production conditions that agriculture is facing worldwide is discussed. Section Four studies certain elements of the *dynamics* characterising the agricultural policy environment, which call for a long-term perspective when multilateral trade policy reform and the flexibility required in national policy design are discussed. Section Five examines the

implications for the multilateral trade policy reform process of the need for flexibility in national policy design.

2. THE INTERNATIONAL SETTING FOR NATIONAL POLICY DESIGN

2.1. Trade-related commitments

13. The 1994 Uruguay Round Agreement on Agriculture represented a milestone in the evolution of the multilateral trading system. It brought agricultural trade policies and relevant associated domestic policies within a comprehensive framework of multilateral trade disciplines, and constituted an important element in the process of agricultural policy reform. These multilateral trade rules are a necessary prerequisite to ensure transparency, stability and predictability in the world trading system and help minimising conflicts between countries.

14. Both rights and obligations flow from a country's membership in the WTO. As a WTO member, a country's agricultural policy needs to be in conformity with its WTO commitment, in terms of bound ceilings of tariff protection, export subsidies and domestic support, as measured by the Member's Aggregate Measurement of Support (AMS) or *De Minimis* levels.¹

15. WTO Members are committed to continuing the multilateral agricultural trade policy reform process in accordance with Article 20 of the Agreement on Agriculture. While the negotiation mandate laid down in Article 20 recognises the “*long-term objective of substantial progressive reductions in support and protection.*”, it also lays down that further negotiations shall take into account *inter alia* experience gained from implementing the existing agreement, non-trade concerns and special and differential treatment.

16. As stated in its title, Article 20, represents an obligation to continue the reform process, but not necessarily finalizing it by reaching the long-term objective in the ongoing negotiations. Moreover, the size of the reductions in support and protection should, through negotiations, be determined by, *inter alia*, the experience and effects of the existing Agreement, non-trade concerns, special and differential treatment to developing countries and the objective to establish a fair and market-oriented agricultural trading system, as referred to in the Article.

17. The Preamble to the Agreement on Agriculture provides important information about the modalities of the reform process. The objective to establish a fair and market-oriented agricultural trading system is referred to in Article 20 and features prominently in the Preamble.

18. In order to achieve the objective to establish a fair and market-oriented agricultural trading system there is a need to acknowledge:

- that all countries, both exporting and importing, have legitimate interests;
- the future coexistence of various forms of agriculture based on each country's production conditions and potentials and historical and cultural background (see Section Three);
- that the Preamble notes that “*commitments under the reform programme should be made in an equitable way among all Members, having regard to non trade concerns, including*

¹ The exact levels of these bound ceilings are varying between Members, as they are related to the actual support and protection levels the Member in question had in the base years prescribed by the Agreement on Agriculture.

food security and the need to protect the environment, having regard to the agreement that special and differential treatment for developing countries is an integral element of the negotiations, and taking into account the possible negative effects of the implementation of the reform programme on least-developed and net food-importing developing countries;”

- that *market orientation* is not synonymous with a free market without regulations; and
- that in case of public goods (see Section One), no functioning markets exist.

2.2. International commitments relating to the right to food

19. During the last 50 years, a number of international legal instruments relating to nutritional concerns and the right to food have been developed. The fundamental right of everyone to be free from hunger is recognised. The ensurance of access to adequate food is the responsibility of the state. The problems of both food-importing and food-exporting countries should be taken into account *“to ensure an equitable distribution of world food supplies in relation to need”*².

20. In 1948 the United Nations adopted the Universal Declaration of Human Rights which in Article 25-1 states that everyone has the right to a standard of living adequate for the health and well-being of himself and his family, including food. The International Covenant on Economic, Social and Cultural Rights (ICESCR), adopted by the UN in 1966³, further develops the various rights expressed in article 25. Article 11.1 of the Covenant reads:

The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food ... The State Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.

21. The 1996 World Food Summit emphasised that access to sufficient and adequate food is a right applying to everyone⁴. Objective 7.4 of the Plan of Action adopted by consensus at the Summit underlines that *“governments, in partnership with all actors of civil society, will, as appropriate...make every effort to implement the provisions of Article 11 of the...Covenant...”*

22. In accordance with Objective 7.4.e) of the Plan of Action, the UN Committee on Economic, Social and Cultural Rights⁵ adopted in May last year at its Twentieth Session a *General Comment* on Article 11 in order to assist State parties in their interpretation and implementation of the provisions of the right to adequate food. Specifically, the Committee urges States *“to take into account its international legal obligations regarding the right to food when entering into agreements with other States or with international organizations”*. The government commitments relating to the right to food are basically result-oriented, and the international conventions do not prescribe any specific policy instrument.

² Article 11.2.b of the International Covenant on Economic, Social and Cultural Rights.

³ At present ratified by 142 States.

⁴ It should be noted that the outcome of the World Food Summit consists of recommendations that do not have any legally binding status.

⁵ The Monitoring Body of the ICESCR, composed of 18 experts elected by the State Parties to the Covenant. Declarations made by the Committee are authoritative but not binding for the State Parties.

23. To conclude, the various provisions in Article 20 and the Preamble to the Agreement on Agriculture provide for a balanced negotiation mandate that inter alia takes into account NTCs, special and differential treatment and the interests of all Members. Moreover, it must be ensured that the WTO policy reform is undertaken in a way that is consistent with other multilateral commitments.

3. THE DIVERSITY OF COUNTRY SITUATIONS

24. The analysis undertaken in Conference Papers 1-5 shows the diversity of situations, both at the supply and demand side, that different countries are facing. At the demand side, for a number of reasons related to for instance their cultural, economic, or historical backgrounds, countries are demanding different goods or services from their agriculture, thus giving different weight and priority to different NTCs.

25. For instance, predominantly agrarian countries or countries with few alternative employment opportunities for their rural populations, tend to put more emphasis on agriculture as a rural employment generator than countries for which their rural population can relatively easily find jobs in other sectors. Moreover, regions with low population densities tend to put more emphasis on decentralised settlement policies. Furthermore, in countries in which farming has been an economic activity since ancient times, agriculture makes important contributions to biodiversity and cultural heritage. A third example is the issue of food security, which is approached differently in net food-importing versus -exporting countries. A fourth example relates to certain environmental and food safety issues, for which consumer sensitivity varies between countries.

26. At the supply side, world agriculture is facing a considerable diversity of production conditions. Such supply side variations, across and within countries and regions, are due to physical and natural conditions (e.g. climate, soils and topography), social and cultural backgrounds (e.g. agrarian structure) and institutional and economic conditions (e.g. infrastructure and labour costs).

27. As a result of this considerable diversity of production conditions, agricultural production costs vary substantially within and across countries. For instance, according to independent economic surveys, in the OECD area, costs in dairy production can be as much as 6-7 times lower in the most efficient production countries, compared with high cost production countries.⁶

28. Many developing countries, due to for instance poor soils, difficult climatic conditions (e.g. low and erratic rainfall), small farms, poor infrastructure and limited access to new technologies are facing production costs above world average. These cost differentials contribute to determining to what extent the various WTO Members are able to compete or not in world agricultural markets.

29. As continued and sustained safeguarding of NTCs requires a viable domestic agricultural sector with agricultural production, and as the production conditions in agriculture vary

⁶ Data from the Norwegian Agricultural Economics Research Institute and the International Farm Comparison Network (IFCN). IFCN is a world-wide network of actively participating scientists, advisors, farmers and representatives of agricultural organisations with the Institute of Farm Economics, Federal Agricultural Research Centre, Germany, as focal point, see <http://www.fal.de/english/institutes/bw/ifcn/html/ifcnhome.html>.

considerably among Members, standard solutions not adapted to this diversity of country situations are not likely to work. In the ongoing WTO agricultural policy reform process, in order to properly address NTCs, due consideration must therefore be given to the different situations in Member countries.

4. THE DYNAMICS OF THE AGRICULTURAL POLICY ENVIRONMENT

30. Due to the bound character of the WTO commitments, Members should take a long-term perspective in WTO negotiations, giving due consideration to possible future changes in the agricultural policy environment.

31. For many developing countries improved market access for the agricultural exports is a vital dynamic force. Improved access to the markets of industrialised countries is a major concern for the developing countries in the WTO negotiations. This applies particularly to agricultural products, textiles and clothing. For a large number of developing countries the agricultural sector is a major contributor to their gross domestic product and an important source of employment. Improved access for their agricultural exports will provide opportunities for increased production and profitability. This in turn can be an essential “engine of growth” for private sector development by also increasing opportunities for improvements in important supply side factors such as infrastructure, access to technology and choice of production methods. Improvements in socio-economic factors such as health and education can be other important spin-off effects.

32. To developing countries it is important to further develop a competitive agricultural sector and diversify agricultural exports by moving from a concentration on exports of raw materials to a larger extent of exports of processed food products. Countries may therefore choose to grant, *inter alia*, specifically targeted incentives and supports to the agricultural sector in order to move into more value-added industries. They may also need to improve related supply side constraints. Through economic development such support should be gradually faced out as competitiveness and profitability increase (the “infant-industry” argument).

33. In addition, it has been pointed out that several other elements may influence a Member's long-term need for flexibility in national agricultural policy design. First, socio-economic priorities may change in the process of economic development or as a result of external factors. For instance, society's demand for environmental services related to agriculture may increase. Furthermore, uncontrolled urbanisation may increase the focus on rural development and agriculture as a rural employment generator. External supply shocks and reduced food availability may in turn result in increased focus on domestic agricultural production, as was the case in Korea and Indonesia during and after the Asian financial crisis. The future demand for public goods, such as environmental services, rural employment and food security, may therefore change with subsequent changes in the need to safeguard domestic agricultural production.

34. Second, in developing countries, production costs, *inter alia* related to labour, may increase as a result of general economic growth and development. Under such circumstances, some countries with difficult production conditions and marginal areas, may in the future face increased need for support and protection, if domestic production is to be sustained and improvements in efficiency and production methods have not been sufficient to offset the increase in production costs.

35. Third, in the agricultural sector, many countries may at present apply tariff rates that are below their bound tariff ceilings. However, according to their commitments, these countries have flexibility to increase applied rates up to the bound tariff ceilings.

36. Fourth, due to budgetary constraints, a number of developing countries and economies in transition, may be unable to take advantage of the flexibility they may have at present according to their WTO commitments. However, in the future, these countries may improve their financial situation and thus their capacity for further developments of the production and trade of agricultural products.

37. To conclude, the *dynamics* of the agricultural policy environment should be recognised. When undertaking multilateral trade policy reform, it is important to ensure that the developing countries' requests for better market access are properly addressed. Furthermore, the flexibility and long-term room for manoeuvre for developing countries and economies in transition should not be reduced unduly even though many countries may not, for different reasons, be able to take advantage of this flexibility at present.

5. IMPLICATIONS FOR THE MULTILATERAL AGRICULTURAL TRADE POLICY REFORM PROCESS

5.1. The need for flexibility in national policy design to address NTCs

38. There is a broad consensus among WTO Members that NTCs are legitimate and valid concerns for all Members. Based on Conference Papers 1-5 it can be concluded that continued and sustained safeguarding of NTCs requires a viable domestic agricultural sector with agricultural production. In Section Three we noted the diversity of country situations that exists, both with respect to priorities and production conditions. In Section Four the dynamical dimension of agricultural development was recognised.

39. This implies that multilaterally agreed solutions should allow for enough flexibility for adaptation to specific conditions and to the changing needs that characterise agricultural development. WTO policy reform should therefore not be based on a *one-size-fits-all*-approach. Due consideration must be given to the heterogeneity and diversity of country situations in order to ensure sufficient flexibility and room for manoeuvre to address NTCs in all WTO Member countries also in the future.

40. In the negotiations the need for flexibility should not be a *carte blanche* for any kind of policies. For instance, it seems difficult to justify export measures as part of a long-term strategy to ensure NTCs. Given the considerable cost differentials that exist between WTO Members, high-cost low-potential agricultural producing countries are unlikely to be able to sustain production required to address NTCs by applying Green Box measures only, without having any impact on trade.

5.2. Possible ways of addressing Members' need for flexibility

General considerations

41. As pointed to Section Three, there are two major reasons why a "world-market-only" scenario, in which all production-related policy measures (i.e. for instance AMS or *De*

Minimis support and border protection) have been replaced by green box support, is not sufficient in the long run. First, available data clearly indicate that in several countries a “world-market-only” scenario is unlikely to provide sufficient financial incentives to farmers to continue production in the long run.⁷ Second, extensive detailed targeting of measures directly to a number of NTC-related criteria that would be necessary to safeguard NTCs under a “world-market-only” scenario, would in many cases be difficult and involve high administration and control costs.

42. Several WTO Members seem at present to have a reasonable level of flexibility in their WTO commitments, in terms of AMS and tariff protection. In their case, the challenge in the negotiations would be to maintain the flexibility necessary to safeguard NTCs in the long-term, in accordance with the objective to establish a fair and market-oriented agricultural trading system. Some developing countries and economies in transition have noted that their bound support and protection levels in the agricultural area have proved to be insufficient.

Special aspects relating to the situation of developing countries

43. Below are presented some proposals relating to the special situation of developing countries that could be considered in the continuation of the reform process. Given the special situation of developing countries the various provisions on special and differential treatment of the existing Agreement on Agriculture should be further developed in the areas of market access, domestic support, export competition and technical assistance.

44. First, developing countries, in particular least-developed and net-food importing, should be granted improved market access, not only to markets of developed countries, but possibly also to markets of other developing countries, in particular of those that are somewhat more developed. Of course, tariff concessions granted to developing countries must be considered in conjunction with overall tariff concessions.

45. Conference Paper 5 highlights agriculture’s contributions to economic development in developing countries. Many of these developing countries rely on agricultural exports, often as part of preferential market access schemes. It is therefore of particular importance to ensure continued and improved market access for products originating in these countries, especially the least-developed and net food importing of them.

46. Second, developing countries may need continued protection of their own agricultural markets, in order to safeguard food security and other non-trade concerns and foster economic development. One may therefore consider whether tariff reductions undertaken by developing countries should be undertaken in a different manner compared to other Members. One may also consider to what extent the least-developed countries should continue to be exempt from tariff reductions. Furthermore, in cases in which present rules and commitments do not provide sufficient leeway and protection against sudden import surges one may consider extending the right to have recourse to the special safeguard provisions of the Agreement on Agriculture to net-food importing developing countries and least-developed countries not having this possibility at present.

47. Third, as regards domestic support, an increase of the *De Minimis* levels and the inclusion into the Green Box of additional measures adapted to the specific situation in developing countries could be considered.

⁷ For instance, in Norway, with world market prices only, production revenues would only cover 30-41% of total production costs, which is not sufficient.

48. Fourth, increased technical assistance to developing countries is necessary as the policy reform process proceeds. The *Ministerial Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries* should be effectively implemented. Furthermore, one should work towards reaching agreement on commitments for the provision of financial and technical assistance relating to the Decision as well as to trade-related capacity-building and trade-facilitating measures.

5.3. Conclusions

49. To conclude, in the WTO agricultural policy reform process, all Members, both developing and developed, must be given sufficient flexibility and room for manoeuvre in national agricultural policy design to ensure a viable domestic agricultural sector with domestic production required to properly address NTCs. In doing so, the specific situation of each country, including national priorities and cost differentials, must be duly taken into account.