IMPLEMENTATION OF THE AGREEMENT ON AGRICULTURE AND THE WORK OF THE WTO COMMITTEE ON AGRICULTURE

by
Nestor Osorio Londoño*

Working Paper #98-3

The International Agricultural Trade Research Consortium is an informal association of University and Government economists interested in agricultural trade. Its purpose is to foster interaction, improve research capacity and to focus on relevant trade policy issues. It is financed by United States Department of Agriculture (ERS, and FAS), Agriculture and Agri-Food Canada and the participating institutions.

The IATRC Working Paper series provides members an opportunity to circulate their work at the advanced draft stage through limited distribution within the research and analysis community. The IATRC takes no political positions or responsibility for the accuracy of the data or validity of the conclusions presented by working paper authors. Further, policy recommendations and opinions expressed by the authors do not necessarily reflect those of the IATRC or its funding agencies. For a complete list of IATRC Working Papers, books, and other publications, see the IATRC Web Site http://www.umn.edu/iatrc

*Nestor Osorio Londoño, Chairman of the WTO Committee on Agriculture. This address was given at the Annual Meeting of the International Agricultural Trade Research Consortium, December 14, 1997, in San Diego, California.

Correspondence or requests for additional copies of this paper should be addressed to:

Laura Bipes
Department of Applied Economics
University of Minnesota
1994 Buford Avenue
St. Paul, MN 55108

April 1998
ISSN 1098-9218
Working Paper 98-3
IMPLEMENTATION OF THE AGREEMENT ON AGRICULTURE AND THE WORK OF THE WTO COMMITTEE ON AGRICULTURE

Address by
Ambassador Nestor Osorio Londoño
Chairman of the WTO Committee on Agriculture

This address was given at the Annual Meeting of the International Agricultural Trade Research Consortium, December 14-16, 1997, San Diego, California
1. I would first of all like to say how much I welcome and appreciate the opportunity to address this very distinguished gathering of trade experts, academic and practicing economists, as well as former and current practitioners of the noble art of agricultural policy reform and international trade negotiation.

2. For at least fifty years Governments have been negotiating periodically in the multilateral framework of the GATT, now the WTO. Over this span of time an ever-expanding corpus of concessions and commitments has been built up and, on the whole, has been faithfully and effectively implemented.

3. In other words engrained in the GATT/WTO system is a culture of negotiation and a culture of implementation. Where these cultures differ is in the fact that negotiations, at least up to now, have been episodic. Negotiating rounds cannot go on forever. There are inherent political constraints to what is essentially a political process. Were this not the case the Uruguay Round would probably still be hard at it today.

4. Implementation on the other hand is a continuum. Implementation is not a one-off, single-subject, process. It is an on-going and increasingly complex pre-occupation of Governments and of their WTO representatives in Geneva. Once something has been negotiated, ratified and grafted into the broader accumulated body of commitments and disciplines, other WTO Members have a legitimate expectation, indeed a legal right to expect, that the agreements entered into will be implemented in good faith. Not only that but an expectation also that commitments will continue to be honored through foul as well as fair weather.

5. Of course, tariff concessions and commitments, since they are essentially contractual in nature, can be re-negotiated. But in doing so Members are under a formal obligation to endeavor to maintain a general level of reciprocal and mutually advantageous concessions not less favorable to trade than that which existed prior to such re-negotiations.

6. One of the key points that I would like to emphasize is that the general context
within which implementation is taking place under the WTO is vastly improved systemically compared to the old GATT. All Members of the WTO were required to accept and apply the constituent multilateral trade agreements on goods, services and intellectual property. There was no pick and choose, as was possible under the old GATT. Nor was it possible to enter reservations on acceptance or ratification of the WTO Agreements. The days of open-ended waivers, such as the US Section 22 agricultural waiver\(^1\), are now well and truly over. Waivers are possible but they are time-limited and subject to strict conditions and multilateral review.

7. Moreover the WTO dispute settlement system is a significant development of and improvement on the dispute settlement system as it evolved under the old GATT arrangements. The system is much more predictable and efficient. Most disputes continue to be settled out of court. But at the end of the day, if rulings are not effectively implemented, the counter measures that may be authorized are no longer restricted just to agriculture or to trade in goods. They now include the possibility of withdrawal or suspension of obligations in the areas of trade in services and intellectual property.

8. Another no less important feature of the general WTO context within which implementation takes place is the much greater role of transparency through extensive notification requirements and the trade policy review mechanism. As a result implementation has generally become a more open, "hands-on", process. What goes on in your domestic backyard is increasingly a matter of legitimate interest to your fellow WTO Members.

9. For trade in agriculture and the Agreement on Agriculture these systemic improvements are particularly significant. The Uruguay Round Agreement on Agriculture introduced some very important changes in the rules and disciplines governing trade in agriculture. That, together with the negotiated reduction and other binding commitments, was a major contribution in its own right to bringing agriculture more fully into the multilateral trading system. But that contribution is immeasurably enhanced as a result of the general systemic improvements in the WTO multilateral trading system of which agriculture is but a part, albeit a very important part.

10. One consequence of these systemic improvements in the multilateral trading system under the WTO, is that more than ever everything tends to be connected to everything else. As Chairman of the WTO Committee on Agriculture, and as Colombia's WTO representative, I spend a lot of my time on agriculture. Colombia

---

\(^1\) Section 22 of Agricultural Adjustment Act. Waiver of March, 1995 concerning GATT Articles II and XI.
is also actively involved in the teamwork of the Cairns Group, which helps to keep one eye on the implementation ball and the other on the goal of further liberalization in the forthcoming negotiations on agriculture. But as Colombia's representative I also spend a great deal of time on a wide range of other WTO subjects and activities. In my opinion, and I am confident that this is a widely held view, there is a pervasive awareness among delegates that effective implementation of commitments on agriculture is one of the essential preconditions to broader progress and credibility within the WTO.

11. This applies as regards the implementation of other WTO Agreements as well. But agriculture tends to enjoy a particular status under the system, in part at least because it engages important and competing interests across the broad spectrum of the WTO Membership. Partly also, I suppose, because such a long and hard battle was fought in order to deliver such a comprehensive Agreement. Be that as it may, the point that I would like to highlight is that Members are not going to take the risk of allowing sub-standard implementation of the agriculture commitments to undermine the pursuit of their interests in other areas. Thus Governments that are taking the lead in negotiations on financial services, for example, or who are seeking to develop a broadly based consensus in potential new areas, are more or less compelled, in the nature of things, to give a high priority to the implementation of existing commitments and obligations.

12. Before taking up the specificity’s of the work of the WTO Committee on Agriculture in relation to the implementation of the Agreement on Agriculture I would like to make one or two additional points about trade in agriculture under the WTO. The first point is about the changing structure of international trade in agriculture. As many of you are no doubt aware, trade in the traditional bulk products has been outstripped over the last decade or so by a rapid expansion of trade in processed and other high value products. Trade in these processed and other high value products now dominate international trade in agriculture, with a share that almost doubled since the start of the Uruguay Round and which was approaching 50 per cent of total agricultural trade in the mid-1990s. The share of trade in the traditional bulk commodities, on the other hand, has shrunk to less than a third, with that of the so-called intermediate semi-processed products remaining relatively stable.

13. In most but not necessarily in all markets, these products are benefiting from the often higher-than-average reductions in tariffs that were not affected by the so-called "dirty tariffication" or tariff equivalence process. In addition, conditions of competition for these processed and other high value products has been immeasurably enhanced by the new rules banning non-tariff access measures and by the prohibition on the use of export subsidies on products not subject to reduction commitments, which by and large is the case for these processed and other high value products.
14. When the WTO Integrated Data Base, which is a unique source of trade data on a tariff line basis, is updated and extended it will become possible to analyze the impact of the Uruguay Round in this increasingly dynamic area of international trade. This is an area to which future negotiators will undoubtedly devote more attention. Trade in processed and other high value agricultural products (at least because it now represents such a significant share of total agricultural trade) is also a subject on which there needs to be much greater emphasis in the power houses of academic research and in the relevant international organizations.

15. Finally, in this general context, I would like to underline the fact that while the Agreement on Agriculture is at the center of the new commitments and rules for trade in agriculture, it is by no means the whole story in terms of implementation. The improved rules and disciplines under other WTO Agreements are in many respects no less important. This applies to the WTO Agreements relating to contingency measures, such as countervailing duties, anti-dumping duties and emergency safeguard measures under Article XIX of the GATT. It also applies to a host of other WTO Agreements and Understandings.

16. The new WTO rules and commitments on trade in services and on intellectual property are also part of the broader WTO framework that has to be taken into account, both in terms of on-going implementation (the recent Banana Panel was the first in which the rules of the Agreement on Trade in Services were applied) as well as in terms of future negotiating strategies. Downstream agricultural processing, exporting and services industries are big users of a wide range of services. As trade in processed and other high value products continues to expand, WTO commitments in these areas will become even more important. Recent experience in accession processes shows that Members are increasingly linking trade in goods with trade in services, in a comprehensive approach to trade which recognizes the interdependence of the two sectors. Another example is trademarks and geographical indications (appellations d’origine) which play an important role in the value and marketing of many processed and high value products. The improved protection for such intellectual property rights under the WTO TRIPS Agreement and the scope for extending this protection for agricultural products in the future TRIPS negotiations are clearly important for trade in this increasingly dynamic area.

17. Agricultural trade negotiators will therefore have to widen their horizons if they are to fully exploit the opportunities, which the WTO system is now capable of delivering. This is all part and parcel of having brought agriculture more fully into a radically improved multilateral trading system.

18. Let me now turn to the more mundane world of the work of the Committee on Agriculture.
19. The basic task of the Committee on Agriculture is to review progress in the implementation of commitments negotiated under the Uruguay Round reform program. In accordance with its terms of reference the Committee, in addition to overseeing implementation of the Agreement on Agriculture, has an important role to play in affording Members the opportunity of consulting on any matter relating to the implementation of the provisions of the Agreement.

20. This process of regularly reviewing implementation of the commitments on agriculture is not unique to agriculture but my impression is that it is certainly more sophisticated and systematic than the arrangements generally applicable to most other areas of trade in goods.

21. The general practice is that it is up to governments to conform to the general rules and to implement the specific commitments entered into and, as I mentioned earlier, to do so in good faith as with any international obligation. If another WTO Member considers that a Member is in breach of its obligations or commitments, or is "nullifying" the value of commitments without necessarily having breached a rule, then it is up to that other Member to exercise its rights by taking up the matter in dispute under the consultation and dispute settlement procedures. It should be noted that the process of reviewing the implementation of commitments which is conducted by the Committee on Agriculture, and the notifications on which in part this "review process" is based, is without prejudice to the basic right of a WTO Member to have recourse to the formal consultation and dispute settlement procedures at any stage.

22. The role, which is conferred on the Committee, is in part a reflection of the special nature of the commitments on agricultural export subsidies and domestic support. For traded goods other than agricultural products export subsidies are generally prohibited and there are no scheduled reduction commitments on domestic support other than for agricultural products.

23. Another reason was that it was felt, as long ago as the pre-Uruguay Round preparatory work, that a regular monitoring or review process would be useful in strengthening the hands of governments in dealing with domestic pressure groups who, in many instances, would be unaccustomed to international constraints on domestic or trade policy options. The basic idea was also to enable WTO Members to keep a "collective eye" on how commitments were being implemented and to exert peer group pressure at the multilateral level.

24. By and large the Committee on Agriculture has been very successful in discharging its task of overseeing implementation and fostering effective compliance. In fact most of the compliance issues that have been raised in the Committee have been satisfactorily resolved, without recourse to the formal consultation and dispute
settlement procedures.

25. The review process is in part based on matters raised in relation to the regular notifications which Members are required to submit in the areas of market access, domestic support and export subsidies, as well as in relation to ad hoc notifications in respect of changes in domestic support Green Box Measures and export restrictions.

26. In addition, the review process provides an opportunity for Members, under Article 18.6 of the Agreement on Agriculture, to raise "any matter" relating to the implementation of commitments under the Uruguay Round Reform Program. Normally such questions are raised in writing in advance of the regular meeting of the Committee at which the matter is to be discussed. Such Article 18.6 matters can also be raised through the Chairman in the intervals between regular meetings of the Committee. Most of the Article 18.6 matters that have been raised relate to a very wide range of specific implementation issues or practices. Generic issues are also raised. Initially these generic issues related mainly to the administration of tariff quotas. More recently an increasing number of issues have been raised concerning export subsidy commitments in the context of the anti-circumvention provisions of the Agreement and in relation to the rules governing the use of the "downstream flexibility" in respect of unused export subsidy commitments under Article 9.2(b) of the Agreement.

27. To give you some idea of the volume of the work of the Committee, in 1997 the Committee reviewed 242 regular and ad hoc notifications compared with 193 in 1996. Domestic support and export subsidy notifications accounted for most of this increase. The record for the number of notifications reviewed at a single meeting was 111 in September 1996. In addition, in 1997, nearly fifty distinct implementation and compliance matters were raised in the Committee under the procedures of Article 18.6 of the Agreement.

28. The follow-up to matters raised regarding implementation that are not satisfactorily explained or resolved can take a variety of forms. Formal consultations under the dispute settlement procedures are one recourse. But in a large number of cases, at the request of the Members directly concerned, or where there is a general consensus to explore more generic issues in depth, the Chairman will organize informal consultations. The object of such informal consultations is basically to assist in clarifying the factual elements of the matter in question and to provide an opportunity to exchange views on the applicable rules and disciplines. This process of informal consultations on current implementation issues has helped to resolve or defuse a number of potential disputes or difficulties with regard to implementation. Some issues have not been resolved, such as a number of issues involving different methods of tariff quota administration. This is not at all surprising because this is an
area where the current rules allow Members a margin of flexibility as to how they administer tariff quotas. This is not to say that the law of the jungle prevails in this area. On the contrary, the recent Panel and Appellate Body reports in the Banana case have made rulings on certain key aspects of tariff quota administration, which should provide authoritative guidance in this complex area.

29. Other elements of the work of the Committee, on which I do not have time to enlarge in this context, include the monitoring of the follow-up to the Marrakesh Ministerial Decision on Measures Concerning the Possible Negative Effects of the Reform Program on Least-Developed and Net Food-Importing Developing Countries and the annual consultations that are held on Members' participation in the normal growth of world trade in agricultural products pursuant to Article 18:5 of the Agreement on Agriculture.

30. As a result of the Singapore Ministerial Conference of the WTO, the informal work of the Committee has taken on a new dimension. At Singapore WTO Ministers agreed that a process of analysis and information exchange on agriculture should be undertaken in order to allow Members to better understand the issues involved and to identify their interests before undertaking the agreed further negotiations under Article 20 of the Agreement on Agriculture.

31. This "AIE" process, as it is referred to in Geneva, is being undertaken through informal open-ended ("Members only") meetings of the Committee. Four sessions of the AIE process have been held this year. The subject matter of the AIE process is driven by informal papers submitted by Members, with the WTO Agriculture and Commodities Division providing background notes based, inter alia, on information and data that has been notified to the formal Committee. So far eleven informal papers have been submitted by Members. Four of these informal papers are on various aspects of tariff quota administration. The other topics on which informal papers have been submitted include: circumvention of export subsidy commitments, Green Box Domestic Support, implementation of tariff commitments, the Blue Box, state trading enterprises (single desk buyers and single desk sellers) and issues of interest to developing countries. The scope and depth of the work of this informal AIE process can be expected to evolve in the run up to the further WTO negotiations on agriculture that will get underway at or about the turn of the millennium.

32. These negotiations, which aimed at furthering the on-going process of "substantial progressive reductions in support and protection resulting in fundamental reform", are therefore not so far away: some might say only two WTO Ministerial meetings away.

33. Multilateral trade negotiations have generally operated through a process of
give and take aimed at achieving reciprocity across a broad range of sectors. In the Uruguay Round the spectrum for trade-offs covered agriculture, other merchandise trade, services and intellectual property. One way or another, linkages will also be made in the wide-ranging negotiations that have to take place under the WTO's built-in-agenda. What configuration the future WTO negotiations will have has yet to be determined, but the service sector and intellectual property are definitely part of the convoy that will eventually be formed.

34. While it is evident that the future negotiations will take some time to arrive at a conclusion, there are some built-in constraints on their duration. The due restraint or "peace clause" under the Agreement on Agriculture runs out in 2003, and the right to continue to use the special agricultural safeguard mechanism, where applicable, is contingent on a successful outcome to the further negotiations. In the interim, WTO rules offer no retreat from the commitment levels for domestic support and export subsidies reached at the end of the current implementation period. The WTO commitments, on export subsidies in particular, have already become a significant constraint for some products in some Member countries and it is likely that the net will progressively tighten over time, and, I would stress, beyond the end of the implementation period itself. This of course means that the WTO Committee's process of reviewing the implementation of the Uruguay Round commitments will continue to function in parallel with the further negotiations.