Reflections on the Exceptional Treatment of Agriculture in the WTO

Betrachtungen über die Sonderstellung des Agrarsektors in der WTO

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Abstract

The GATT gave special treatment to agriculture by allowing quantitative import restrictions when domestic output was also controlled, and made an exception to the ban on export subsidies by allowing them for primary products, subject to somewhat weak and imprecise conditions. Both were concessions to the operation of domestic farm policies in developed countries, primarily the US and the UK and later Canada and the EU, and full advantage was taken of these legal exceptions. Subsidies in general had been treated leniently in the GATT with merely the obligation to notify if they impacted upon exports. Domestic subsidies for agricultural products had significant impacts on both imports and exports and were seen to be a significant part of the trade problem, but operated under minimal constraints. So the exceptional treatment of agriculture in the GATT had led to a dysfunctional trade regime.

The Uruguay Round faced up to the inchoate conditions on world markets and the deterioration of trade relations that these exclusions allowed. The Agreement on Agriculture (URAA) specifically banned quantitative restrictions on imports, except those introduced to guarantee access and banned new export subsidies, capping and reducing existing expenditures on the programs and the volumes that could be subsidized. Domestic subsidies that were deemed to be most trade-distorting were capped and modestly reduced. The Doha Round would, if completed, eliminate export subsidies, severely limit the ability to provide trade-distorting support, and reduce the bound tariffs by a considerable extent.

The URAA was negotiated at a time when the US and the EU were the main players in the agricultural policy space and it represented a way of disciplining trade to avoid conflicts and reduce protection. Domestic policies were reformed in a way that was consistent with the URAA constraints. If the Doha Round is successful, most of the special provisions for agriculture will no longer be needed. But at that stage the URAA may inadvertently hamper the process of developing trade rules that meet new challenges.

Key words

WTO; GATT; agricultural trade; exceptionalism; normalism

Zusammenfassung

Der Agrarsektor erfuhr im GATT eine Sonderbehandlung, indem quantitative Einfuhrbeschränkungen im Falle der Beschränkung der heimischen Produktion erlaubt wurden. Zudem wurde der Agrarsektor vom Verbot für Exportsubventionen ausgenommen: Sie wurden für Primärprodukte unter relativ schwachen und unpräzisen Bedingungen erlaubt. Dies waren Zugeständnisse an die Gestaltungsmöglichkeiten inländischer Agrarpolitik in Industrieländern, und die rechtlichen Ausnahmeregelungen wurden vor allem von den USA und dem Vereinigten Königreich, später auch von Kanada und der EU, intensiv genutzt. Subventionen wurden im GATT im Allgemeinen nachsichtig behandelt: Es bestand lediglich eine Notifikationspflicht, wenn sie sich auf die Exporte auswirkten. Inländische Subventionen für Agrarprodukte hatten allerdings häufig starke Auswirkungen auf den Außenhandel, dennoch gab es kaum Beschränkungen für ihren Einsatz. Somit resultierte die Sonderbehandlung des Agrarsektors im GATT in einem weitgehend dysfunktionalen Handelsregime.

Die Uruguay-Runde beendete die weitgehende Regelungsfreiheit des Weltagrarhandels. Mengenbeschränkungen auf Importe wurden im Agrarabkommen (URAA) von wenigen Ausnahmen abgesehen ausdrücklich verboten. Für die Ausgaben für Exportsubventionen sowie die subventionierten Exportmengen wurden Obergrenzen eingeführt und sukzessive reduziert. Die am stärksten handelsverzerrenden inländischen Subventionen wurden ebenfalls beschränkt und reduziert. Im Falle eines Abschlusses der laufen-

den Doha-Runde würden Exportsubventionen ganz unterbunden, die Möglichkeiten für handelsverzerrende inländische Subventionen stark eingeschränkt und die gebundenen Zollsätze erheblich abgesenkt.

Das URAA wurde zu einer Zeit verhandelt, zu der die USA und die EU die wichtigsten Akteure in der agrarpolitischen Landschaft darstellten. Es eröffnete die Möglichkeit, Außenhandel zu regeln, um Konflikte zu vermeiden und den Außenschutz zu verringern. Inländische Politiken wurden gemäß den Beschränkungen des URAA reformiert. Wenn die Doha-Runde erfolgreich ist, werden die meisten der Sonderbestimmungen des URAA für die Landwirtschaft nicht mehr gebraucht werden. An diesem Punkt könnte das URAA unbeabsichtigt die Entwicklung von Handelsregelungen, die den neuen Herausforderungen gerecht würden, behindern. Viele der Bestimmungen des URAA waren als Übergangsregeln wichtig, es stellt sich aber die Frage, an welchem Punkt wir uns vom URAA lösen sollten und welches Regelwerk wir stattdessen brauchen.

Schlüsselwörter

WTO; GATT; Agrarhandel; Sonderstellung

1 Introduction

Agriculture has, in almost all multilateral, bilateral or regional trade agreements, been accorded special treatment. This exceptional treatment reflects a number of factors, most of which can be traced back to the special attention afforded by developed country governments to their farming sectors in the post-war period. This attention had been manifested by substantial tariff protection for many staple commodities and by price supports implemented by the state in buying up, storing and often exporting surplus products with subsidies. In many cases the state became the main buyer of farm commodities: in all cases governments set up specific departments and agencies to assist, regulate and oversee the agricultural and food sectors. This special treatment reflected a range of concerns of an economic, political and social nature, all embedded in historical narratives, that open markets could not be trusted in the agricultural and food sectors. Agriculture was seen as somehow "different".[1]

Perhaps the most striking example of exceptional treatment in trade agreements emerged from the Uruguay Round of negotiations under the General Agreement on Tariffs and Trade (GATT). The Marrakesh Treaty setting up the World Trade Organization (WTO) contained an Agreement on Agriculture (URAA) that established detailed rules for domestic farm support policies as well as for import tariffs and export subsidies. No other sector of goods trade, with the temporary exception of textiles, has its own set of rules in the WTO.[2] The URAA was arguably necessary as a way of disciplining the exceptional treatment of agriculture in developed countries. To the extent that it has succeeded it is reasonable to raise the question of whether or not it is still needed. In any case the future of the special treatment of agriculture in the WTO hinges on the way in which the URAA develops over the next decade or two.

Exceptionalism in trade rules and high protection go together. Limited market access will tend to make the application of trade rules to the sector more problematic. And if the high protection itself is a reflection of the political importance of the sector then the same forces that maintain the favored position at home will make sure that it is not undermined by trade agreements abroad. It follows that reducing the degree of exceptionalism in trade rules can only be attempted after some degree of "reform" in domestic policies.[3] This domestic reform allows for the negotiation of lower tariff barriers that in turn constrain the scope for trade-distorting subsidies at home. Once protection levels at the border have come down sufficiently, and a modest safeguard system together with some form of direct payments or income insurance has been introduced, the threat to domestic producers from im-

[1] It should be said that in historical terms agriculture has been treated rather badly by governments, who have seen the sector as backward and a source of labor and troops rather than a pillar of the economy. The wool trade in Western Europe was a counter-case, where wealth and prestige was based on an agricultural product. Assistance to agriculture (as opposed to status for landowners) appears to be a late nineteenth century phenomenon.

[2] The Agreement on Textiles and Clothing (ATC), also a part of the Uruguay Round outcome, established the conditions for phasing out textile quotas and hence for its own demise.

[3] The term "reform" is of course context-sensitive. In this paper it will be used in its post-1985 sense of changes to domestic agricultural policies that emphasize protection by modest tariffs at the border and the move away from heavy intervention by governments on the domestic market to stabilize and raise prices. It commonly is associated with the introduction of direct payments targeted at the farm household as compensation for reducing policy prices. In this context, such reform makes it easier to "reform" the trade rules as discussed below.

ports should be significantly reduced. Trade agreements can then be negotiated on the traditional basis of a balance of interests and an exchange of concessions without blocking threats from sectors determined to hang on to their border protection.

This progression was indeed at the root of the URAA. In the decade from the mid 1980s to the mid 1990s it appeared that several developed countries (and many developing countries) were moving down the path to domestic policy reform. The depressed state of world markets for agricultural products was causing budget problems for both the EU and the US: dumping surpluses onto the world market exacerbated the situation and led to many irritating trade conflicts. Latin American countries had begun to reduce their own level of protection as a part of structural adjustment programs. New Zealand and Australia began to implement reforms that essentially reduced the need for agricultural protection by lowering the manufacturing tariffs that were adding to farmers' costs. Only Japan and a handful of non-EU countries in Western Europe held on to the high levels of protection and resisted reform. So the concord between the EU and the US at Blair House in November 1993 represented an agreement to go ahead with significant restraints on domestic programs in the Uruguay Round, made possible by reforms undertaken or contemplated in Brussels and Washington.

Today the situation is very different. The US and the EU are much closer together, both in terms of the style of farm programs and their aspirations for global trade rules. The EU has dramatically changed its policy and moved to the type of "tariffs and decoupled subsidy" regime that fits in well with the URAA, though still under an umbrella of high tariffs. The US took two steps forward in the 1996 Farm Bill by abandoning market intervention and decoupling some payments but took one step back in 2002 when some price-triggered support was reintroduced and another step sideways in 2008, with the perpetuation of the 2002 programs but with a tentative introduction of a whole-farm insurance option for arable farmers.

But the biggest difference has been that the range of countries that have taken an active interest in agriculture rules in the WTO has widened. The rise of the influence of developing countries, and in particular the emerging trade powers of Brazil, China and India, in the direction of the trade system has already had profound implications. These countries have an active interest in agricultural trade and have policies that are somewhat different from those of the EU and the US. An US-EU deal no longer is a sufficient condition for closing the Doha Round: indeed it was just such a deal that in August 2003 sparked off the creation of the (agricultural) G-20 and led to the deadlock in the negotiations at the Cancun Ministerial. The implications of the change in the balance of influence in the WTO are already being felt. An agricultural component in the Doha Round will have to be supportive of the aspirations and sensitivities of developing and emerging economies. The historical background to "exceptionalism" may be less relevant.

This paper provides some reflections on the creation of the URAA as the emblem of exceptional treatment of agriculture in the trade system and on its future. On the one hand it did bring agriculture explicitly within the disciplines of the WTO. But it did so in a way that may well make it more difficult in the future to remove the special provisions and achieve full integration of agriculture in the trade system. So the question that one must ask is whether the URAA is still fulfilling its purpose of bringing discipline to agricultural trade? Or was it useful in a limited period when new rules were needed to extricate the trade system from the *cul-de-sac* of the prevailing tensions over EU and US farm policies? What relevance has the URAA to the current agricultural and food trade system? How suited is the URAA to the issues facing developing countries? Would it be better to work towards its removal, much as the ATC engineered its own demise?

2 Exceptionalism in the GATT

It was of course no accident that the GATT, the somewhat shaky pillar of the post-war expansion of trade, reflected the ideas of the time on the way on which trade rules interacted with domestic policy concerns in the area of agriculture. The backdrop was the way in which governments in the developed countries viewed their role in the regulation and promotion of domestic production. The rules governing agriculture in the GATT, and later the WTO, have deep roots in domestic farm policy.

2.1 The Domestic Roots of Exceptionalism

The special treatment of agriculture within the post-war trading system clearly owes its place to the political sensitivities of the sector in the major countries of Western Europe and North America. Several scholars have examined the historical development of agricultural trade policies in Nineteenth Century Europe

and noted the emergence of high levels of protection at certain times of economic stress (TRACY, 1964; SWINNEN, 2010). The opening up of the agricultural markets in the last half of that Century was followed in the 1880s by a flood of imports from the New World and Australia as well as from Russia. A widespread agricultural depression in Europe led to severe restrictions on trade. Ideas of the need to protect domestic farmers spread across Western Europe. Jules Méline in France and Otto von Bismarck in Germany influenced not only tariff policy but also established a philosophical tradition that has been the inspiration of autarkic agricultural strategies to this day.

The US has also undergone periods of protectionism where agricultural imports have been sharply restricted to aid domestic producers, but as an exporter of temperate zone products it has generally supported open markets. This began to change in 1929 when a legislative attempt to protect farmers from falling prices escalated into a sweeping across-the-board tariff increase for all products - the infamous Smoot-Hawley tariff of 1930 (IRWIN et al., 2008: 6). Later in the 1930s, policies were developed to boost rural incomes through control of supplies, both domestic and foreign, and agricultural trade policy became a tool of market management. These developments led to powerful coalitions in Congress and a close relationship between commodity producers, program administrators and rural politicians – the so-called "iron triangle" (GOLDSTEIN, 1993). Though certain political ideologies favor agriculture, one has to conclude that agricultural exceptionalism in the US is more the product of strong regional interests in the maintenance of support "entitlements" than a general feeling that agriculture is the backbone of the state and the economy.

The ideational roots of obsessive domestic support for agriculture are explored in a recent book by DAUGBJERG and SWINBANK (2009). The phrase "agricultural exceptionalism" and its relative "agrarian fundamentalism" are used in political science to indicate the notion that the agricultural sector has some particular characteristics that set it apart. It has been identified as one of the factors behind prevalence of the "State Assisted Paradigm" for the sector, which characterized the policy set in most industrial countries for much of the Twentieth Century. But perhaps as important as the ideational nature of the exceptional treatment was the institutional manifestation of these notions. The formation of ministries of agriculture in the 1930s and 1940s is an important part of the story. Ministries also collect and disseminate information about the sector. Many entered into a corporatist relationship with farm groups. These factors virtually ensured that international negotiations on agricultural trade rules would be difficult and confrontational. This was the background to the treatment of agricultural trade in the GATT.

2.2 Agriculture's Place in the Early Stages of the GATT

The history of the special treatment of agriculture within the GATT has been told in detail elsewhere (JOSLING et al., 1996). The treatment of agriculture in the GATT reflects the place of the sector in domestic politics in the early post-war period. Discussions about the post-war trade system can be traced to the US/UK talks in 1942 on the Lend-Lease program and the Atlantic Charter (IRWIN et al., 2008). At first it seemed that agricultural trade might be treated in a similar manner to trade in manufactures in the post-war economic framework, a position initially taken by the UK. But this proved too controversial. The level of government involvement precluded that action. The US had introduced price supports for main farm products in 1933, and linked these to quantitative restrictions. Open markets for imports seemed impossible under such conditions. And the enthusiasm of the UK was ambiguous. By 1944 they abandoned the notion of a full integration and instead proposed a plan for a multilateral convention on trade in food products that would be appended to the convention on commercial policy (IRWIN et al., 2008: 53). They argued that control over food imports would likely be needed in the post-war economy: besides the UK had an empire that supplied it with foodstuffs, so lower tariffs on imports from other countries would have reduced the degree of preference that the Commonwealth enjoyed rather than lowering domestic prices. Even Canada, with a predominantly export-oriented agriculture, had begun building a raft of parastatal marketing agencies and was not willing to see their effectiveness reduced. So the architects of the GATT decided to avoid controversy and introduce special treatment for agriculture.

Besides an unwillingness to challenge the emerging domestic farm programs of the framers of the GATT, another theme runs through the discussions of the period. The main agricultural problems revolved around commodities, so it was "obvious" that the solutions lay in coordinated intervention in commodity markets. Though only two international commodity agreements existed at the time of the GATT (for

wheat and sugar) the negotiators went out of their way to leave the door open for this type of market management. One prominent supporter of international commodity agreements was John Maynard Keynes, who considered a system for commodity price stabilization to be an important part of the emerging architecture for the post-war economy. The enthusiasm for commodity price stabilization schemes continued through the 1970s, and could well return under conditions of uncertainty.

2.3 GATT Rules and the Articles XI and XVI

How did drafters of the GATT resolve the issue of countries wanting to keep autonomy for their domestic policies? The General Agreement on Tariffs and trade (GATT) does not in general differentiate trade rules by sector or product group.[4] The GATT referred to all goods trade and thus included agriculture.[5] Agricultural goods are also not defined in the GATT, but special provisions for agricultural or fisheries products, primary products and commodities are found in several places (TANGERMANN, 2002). These specific provisions each act in the direction of giving domestic farm policies more scope than those in other sectors of the economy.

This "GATT Exceptionalism" is centered on two articles: those dealing with import quotas and export subsidies.[6] In addition, the issue of commodity agreements is addressed in the GATT text, though not as fully as in the stillborn Havana Treaty. Import quotas are restricted by Article XI (General Elimination of Quantitative Restrictions) to certain specified circumstances. One of those circumstances relates to cases where agricultural programs restrict domestic supply: their effectiveness is clearly enhanced if imports can be quantitatively controlled as well. Article XI:2(c)(i) allows quotas to be applied to imports under those conditions, a concession not provided for other sectors in which similar conditions might apply. HUDEC (1998) notes that this "exception" did not in fact prove so easy as might be imagined for importers to implement in a way that stood the test of a challenge. The frustrated exporters facing such quotas brought disputes to the GATT Council charging the importers with improper use of this article. But in all sixteen such cases the panels involved found that the importers' use of Article XI as a defense was inadequate (TANGERMANN, 2002: 259). This GATT article does not seem to have been particularly helpful in regulating quantitative restrictions on imports. In any case, much of the controversy over Article XI was sidelined when the US requested and was granted a waiver in 1955 that allowed that country to use quotas in defense of domestic programs even when those programs did not control production. After that, countries felt less pressure to respect either the letter or spirit of Article XI.

The emergence of the European Economic Community (EEC, later the EC and then the EU) in the late 1950s posed a different problem: the CAP import regime for cereals and (*mutatis mutandis*) for other products had chosen a variable levy rather than a fixed tariff or a quota to protect against low priced imports. Though effective for avoiding the impacts of low and fluctuating world prices it was resented by exporters as undermining price competition in the EEC market. The clarification of the status of the "grey area measure" was never fully resolved, and it continued to be a point of contention until elimination of such variable levies in the URAA.

Export subsidies had begun to be used in agricultural markets early in the post-war period, and were considered necessary as a way of relieving pressure on domestic markets. The restraints on export subsidies (and domestic subsidies that might increase exports) in the GATT Article XVI were initially weak: essentially obliging countries to notify other countries that may be affected (BARTON et al., 2008). A stronger version was introduced in 1955 that banned export subsidies for all but primary goods. For these products the provisions are more lenient, obliging notification as before but adding a requirement that subsidizing countries should not capture more than an equitable share of the market. This infamous Article XVI:3 proved impossible to implement, and an attempt to supplement it in the Tokyo Round with an explicit Subsidies Code did little to help. As with challenges

[4] There is one exception to this generalization: GATT Article IV is entitled "Special Provisions Relating to Cinematograph Films".

[5] This point was emphasized by HUDEC (1998) who was correcting the misapprehension that agriculture was not fully included in the GATT rules.

[6] The significance of Article XX (General Exceptions) to agriculture has long been recognized: import restrictions are allowed in support of certain policy objectives, including avoiding threats to human, plant and animal health. Health and safety regulations commonly increase the cost of trading agricultural and food products and exporters have suspected that they are on occasions used to protect domestic producers. But for convenience this Article is not discussed here as it is not strictly a part of agricultural exceptionalism.

to Article XI, sixteen cases were brought, but only one panel actually found a country in violation of Article XVI. As TANGERMANN (2002) concludes, of the two special exemptions, that relating to export subsidies for primary products proved the more important from the point of view of giving legal coverage for agricultural policies.

3 Exceptionalism in the WTO

The exceptional treatment of agriculture in the GATT figured prominently in the discussions that lead up to the Uruguay Round, as well as becoming a major issue in the Round itself and in the URAA that emerged from the negotiations. The question that has persisted since that time is whether the URAA was a necessary step in the incorporation of agriculture fully in the provisions of the GATT? Or did it, by setting up a parallel system of agricultural rules that can occasionally differ from those for manufactured goods, perpetuate special treatment?

3.1 Agriculture and the Uruguay Round

The "Waterloo" for the agricultural exceptionalist argument came in 1986, at the start of the Uruguay Round. Prior to that time the EU had been insisting that the issue of domestic policies could not form a part of the negotiations. It was a key intervention by some small countries like Colombia and Switzerland (the "Café-au-lait group") that resolved the issue. The result was the inclusion of some ambitious objectives in the Punta del Este Declaration (GATT, 1986) that launched the Round but these were set in the context of an exceptionalist framework. Agriculture was to be included though in its own negotiating group. More importantly, domestic agricultural policies were for the first time to be part of the agenda for the Round. The final outcome needed the agreement on all groups as a package (the Single Undertaking) to allow for trade-offs among sectors.[7]

The Agricultural Negotiating Group had plenty of ideas and analysis on which to build. The GATT had set up a Committee on Trade in Agriculture in 1982. The OECD had followed suit with a Committee on Trade and Agriculture, which mandated its Secretariat to explore ways of reconciling domestic farm policies with more open trade rules. The GATT Committee on Agriculture produced a detailed report that included, among other things, that a conversion of non-tariff barriers to tariffs would be a constructive move. The OECD showed that it was possible to develop quantitative indicators of domestic support along with market access and export subsidies. Initial proposals for the Uruguay Round talks on agriculture explored the idea of using such a comprehensive indicator to act as a basis for support reductions. This would indeed have been a radical departure and would have reinforced the separate nature of agriculture – unless the notion was extended to other sectors where domestic market interventions were prevalent. By 1988 the idea of a comprehensive indicator was abandoned in favor of having separate obligations on three elements: market access; export competition and domestic support. What we know as the URAA emerged from a 1990 "Chairman's Draft" and the 1991 "Dunkel Draft". The comprehensive measure had been reduced to a way of calculating the amount of trade-distorting domestic support.

The URAA proved to be a watershed in the history of agricultural trade and domestic policy. DAUGBJERG and SWINBANK (2009) consider it the end of agricultural exceptionalism for practical purposes. They argue that this historical perception was replaced by a new idea that they call "agricultural normalism", the notion that agriculture can be covered by the same trade rules as other goods. The Agreement in effect cemented the shift in domestic policies from the State Assisted paradigm to a Market Liberal paradigm, as appeared to have been gaining ground in the period after 1985 (SKOGSTAD, 2008). Indeed, it was the MACSHARRY reform of the CAP (lowering support prices and paying compensation payments unrelated to production) that allowed the EU to conclude a deal with the US at Blair House that limited export subsidies and put domestic support into colored boxes.

It is unquestionable that the URAA made a remarkable stride toward bringing agricultural trade more explicitly under GATT rules. New rules were added and reductions in trade barriers and distortions were agreed. The URAA formed a comprehensive framework for the regulation of measures that restrict trade in agricultural products (WTO, 1995). Market

[7] DAUGBJERG and SWINBANK (2009) argue that the Single Undertaking was needed to allow the EU to participate actively, as it knew that within the agricultural talks it would be on the defensive. Success in other areas of trade would be needed for the EU Commission to agree to any concessions on agriculture. Later the Single Undertaking served a different task by obliging the developing countries to sign on to the whole UR package or be left on the roadside.

access rules included the conversion of all non-tariff import barriers (quotas and restrictive licenses) to tariffs (Article 4.2). Hence Article XI:2(c) was no longer needed, as quotas were no longer allowed. A footnote to Article 4.2 specifies some of the non-tariff measures that are now prohibited, including variable levies. Moreover, it was agreed that tariff levels were to be bound and that tariff-rate quotas (TRQs - quantities that can be imported at a zero or low tariff) were to be established to maintain market access as "tariffication" took place. A Special Safeguard (SSG) was introduced triggered by either price or import quantity changes.

Domestic support was defined to include payments to farmers in addition to the transfers from consumers through administrative price systems. These included deficiency payments, direct income supplements, and subsidies tied to research and extension, conservation compliance and other programs that benefited farmers directly. These elements of domestic support were put into three categories, which have become known as the Amber Box, the Blue Box, and the Green Box. Amber Box measures were those tied to output or input prices or to current output levels. The Blue Box contained subsidies that were tied to supply control programs: such subsidies were regarded as less obviously output-increasing. There was no reduction obligation for Blue Box policies, but such subsidies were restricted to payments based on fixed acreage and yield or paid on a maximum of 85% of production (Article 6.5). Green Box subsidies were defined (in Annex 2) as those unrelated to price and output ("decoupled") and included research and extension, payments designed to compensate farmers for the cost of compliance with environmental regulations and domestic food assistance programs. Both the general criteria (that they be provided from public funds and not act as price supports) and the specific criteria for each type of subsidy identified have to be met. Those subsidies that qualified as Green Box payments were not constrained, though they had to be notified.

The domestic support commitments were implemented by means of a calculation of the Total Aggregate Measure of Support (AMS) (Article 6) for the base period. This included market price support given by administered prices (calculated by a price gap relative to a reference price), non-exempt direct payments, and other subsidies. These were to be reduced by 20% (in aggregate) relative to the base period (1986-90), subject to exemptions including the Blue Box and Green Box subsidies and a *de minimis* amount of 5% of the value of production for non-product specific subsidies and 5% of the value of the output of an individual commodity for product specific payments. The reduction commitments were applied to the Base AMS to give the annual commitment levels included in the country schedules, and each year the Current Total AMS is compared to this commitment.

The rules regarding export competition included a prohibition on new export subsidies (Article 8) and a reduction of existing subsidies by both volume and expenditure. A list of export subsidy practices that are covered is given in Article 9.1. Following the agreed modalities, country schedules were drawn up that provided for reductions relative to the base period of 36% by expenditure and 21% by quantity subsidized. In addition, rules were made more explicit with regard to food aid (Article 10.4) and countries agreed to negotiate limits on export credit guarantees (government underwriting of sales to purchasers that might lack creditworthiness) (Article 10.2). So Article XVI:3 of GATT no longer is needed to discipline export subsidies, as they come explicitly under the constraints of the URAA.

In the context of multilateral trade rules, the URAA introduced exceptionalism in a permanent rather than transitory way. As TANGERMANN (2002) points out, the WTO includes an agreement that regulates agricultural trade and domestic policy in much more detail than the GATT articles that relate to trade in goods. While the URAA removes many of the exceptions in GATT Articles XI and XVI it does so by creating a new and separate set of rules for trade in agricultural goods. It is difficult to argue that agricultural policy should lose its place as a matter of national, cultural and social identity when it is treated more leniently than other sectors in trade rules.

A comparison with textiles is striking. In that case the issue was not so much the special provisions in the GATT but the fact that the prohibition on quotas in trade (Article XI) had been deliberately ignored by countries who set up a series of international agreements (not under the rubric of international commodity agreements but more akin to voluntary export restraints) to divide the main import markets among suppliers. The latest one, the Multi Fibre Agreement (MFA) was up for renewal during the Round. The Uruguay Round established an Agreement on Textiles and Clothing that set a timetable for the expansion of the MFA quotas and their transformation into global quotas and then to a tariffs only system. The ATC abolished itself when this conversion to tariffs was complete.

Two questions can be distinguished in assessing the role of the URAA in agricultural exceptionalism. The first is one of tactics: was it easier for those who wanted to eliminate the special treatment of agriculture in Articles XI and XVI and tighten up disciplines on subsidies to do so with a new Agreement, as opposed to modifications of the offending articles themselves? Obviously this was the implicit assumption behind the decision to negotiate the URAA. But it may have reflected the view that the importer policies that the exporters were concerned with had to be regulated very specifically, with detailed rules, notification, and schedules for reduction. This judgment seems in hindsight to have been correct. It is the comprehensive nature of the notifications of export subsidies and domestic support that made it difficult, if not impossible, for countries to hide their trade-distorting programs. The notifications themselves in effect saved the alternative step of extensive litigation in the dispute settlement process. Amendments to Article XI might have been possible as an alternative to including market access in the URAA, but the details of tariffication and the specification of TRQs and the Special Safeguard also suggest that a sector-specific approach was desirable.

Another question is whether the distinction between market access, domestic support, and export competition which emerged particularly after the Montreal Mid-term Review in 1988, was a sound way to define the agricultural agenda. The main proposals by governments certainly made a distinction between market access and export competition as rules (i.e. addressing the Article XI and XVI special treatment provisions) but the adoption of domestic support as a separate item for discipline with its quantitative basis (the AMS) somehow divorced from the protection given by tariffs and export subsidies was a much less defensible decision. Initially the proposals tabled in 1987 from the US, the EU and the Cairns Group (and Canada) moved towards the notion that domestic support be thought of as a combination of benefits to producers through border measures and subsidies (on products or inputs). But concerns about the possibility that policy makers in importing countries might keep up high "administered prices" even when the bound tariff was reduced (through control over the supplies on the domestic market) persuaded negotiators from the exporting countries to insist on a "belt-and-braces" strategy, disciplining both market access and the "market price support" element of the AMS, calculated from the administered price. As discussed below, this has largely been ineffective.

3.2 WTO Disputes

Exceptionalism shows its face in the legal side of the WTO activities. Agricultural trade accounts for a small and declining share of global merchandise trade.[8] But its share of trade disputes is large and shows few signs of declining.[9] For the first fifty years of the GATT/WTO multilateral trade system one could have put this down to imprecise rules and inadequate enforcement mechanisms in that sector (JOSLING et al., 1996). With the introduction of the Uruguay Round Agreement on Agriculture (URAA) much of the ambiguity was removed, but this did not stem the flow of disputes. Indeed, the strengthened legal provisions of the Dispute Settlement Understanding (DSU) gave encouragement to complainants to attempt to settle long-standing disputes that had eluded the weaker GATT dispute settlement process.

Many dealt with market access issues, in part over the interpretation of the new obligations. More recently, agricultural disputes have challenged the scope for domestic and export subsidies, under the Agreement on Agriculture and the Agreement on Subsidies and Countervailing Measures. In the absence of an agreement in the Doha Round one might expect these conflicts to intensify, as countries attempt to use litigation to achieve what might otherwise be gained through negotiation. And if the Agreement on Agriculture does become revised in a successful Doha conclusion, there will certainly be several more issues that will need to be resolved through the DSU.

Market access issues were the most important in the early days of the WTO, as countries explored through the DSB the practical implementation of the new rules and the agreed schedules. The process of tariffication was fairly smooth, and the introduction of the SSG also was without major problems. However, the establishment of TRQs did lead to several conflicts, as one might imagine in cases where government decisions had immediate commercial impact. The success in limiting trade-distorting subsidies has been somewhat more elusive. Export subsidies that were included in the schedules in general caused few disputes, in part because the limits were well above actual levels. But panels examining country policies unearthed several policies that acted as export aids

[8] Agricultural exports now make up 8% of global exports. For further discussion of the recent WTO agricultural cases see JOSLING (2009).

[9] Of the 367 requests for consultations made to the Dispute Settlement Board, 100 have primarily been about agricultural trade, a share of 27%.

within the terms of the WTO but had not been notified as such. Thus the major challenges to domestic farm programs in the EU and the US came from other exporters complaining that the export subsidy restrictions were being circumvented.

Cases brought against particular types of domestic support have been infrequent. With inconclusive debates in the Committee for Agriculture and without the guidance of panel reports, countries were able to largely decide for themselves whether particular policies were consistent with the definitions of the Green and Blue Boxes, and hence not subject to reductions. As long as countries were way below their limits on domestic support it was not a priority to challenge the notifications themselves. But the jump in funding for the 2002 US Farm Bill caused a rethinking of this situation, with the possibility that the limits may have been breached if notifications had been erroneous. The statement of the US-Cotton panel that some of the expenditures that the US had claimed as "green" may have been mislabeled turned this possibility into a contestable proposition.

The current case brought by Canada and Brazil, challenging the level of US farm subsidies as notified under the categories used by the URAA, illustrates that ambiguity still exists.[10] On the one hand, it is a remarkable case, which could clarify the somewhat fuzzy nature of the domestic support "boxes". On the other hand, it refers to past notifications that were alleged to wrongly classify certain subsidies. So the remedy in the event of a successful challenge is presumably to oblige a re-notification by the US of its domestic support for several historical years. But the US could well argue that in the current period of high prices, support levels are already well below the limits set in the schedules even with re-notification. So it would not be clear what the US could do to make amends: changing current policies would not be an appropriate remedy, and compensation for past violations is not contemplated in the DSU.

This does not drain the interest away from the case. The re-classification of direct payments in the US away from the Green Box in a revised notification would indeed be a small prize for competing exporters. But add the possibility of a new set of limits in the Doha Round, and the case becomes critical. If the Doha Round succeeds in reducing allowable trade-distorting subsidies (as calculated by the Aggregate Measure of Support, or AMS), the allocation of subsidies to these boxes becomes sensitive. The prospect exists that the major driver of change in US farm policy could indeed be the WTO dispute settlement process, and the decisions on the classification of subsidies. That could also set up some controversy over the role of WTO rules when they clash with powerful political interests.

3.3 WTO Doha Negotiations

Article 20 of the URAA mandated (the start of) further talks on agriculture to begin by the year 2000. These talks, part of a "built in agenda" that included some service sector negotiations, did indeed start (approximately) on time, but were soon to be incorporated in the Doha Development Agenda (DDA, or Doha Round) that was launched in November 2001. The assumption was made that more progress could be made and more ambition contemplated with trade-offs possible among sectors. It is not clear, with hindsight, that this assumption was well-founded: though agriculture-only talks have always been considered to be doomed to failure, a simple continuation of UR cuts in agriculture together with some attractive progress in services may well have been possible early in the decade.

Agricultural exceptionalism permeates throughout the DDA because the structure of the URAA was taken as the basis for the Doha discussions. Once again, agricultural issues are negotiated in a separate Committee, reflecting the locus of interest and expertise but perpetuating the exceptional character of the sector. The notion of a Single Undertaking was again endorsed and so agriculture is an essential part of the final package. The fact that agriculture requires separate treatment even when the Article XI and XVI anomalies have been removed is mainly a reflection of the incomplete nature of the URAA. The rule changes were accompanied by some reductions in the levels of protection and support, but agreeing on the rules was a multi-year task itself, and the liberalization aspect was in large part put off to the Doha Round. So the choice of the structure of the URAA as a framework for the liberalization phase was perhaps inevitable. The Doha Round was needed to complete the task of getting agriculture into a position where it can be fully incorporated (like textiles) into the GATT rules and procedures. The problems facing the Doha Round are much the same as those discussed in the Uruguay Round, only this time there is a greater sense of reality.

[10] The two cases brought by Canada and Brazil (DS 357, 365, respectively) have been merged. The complaint is that US exceeded its Total AMS limits in several recent years.

This gives rise to the question as to whether agricultural exceptionalism has not in fact been thrown a lifeline by the URAA? It may be much easier to prevent agricultural normalism if agricultural trade falls under its own set of rules. Or, to put it another way, the URAA was once the mechanism that agricultural exporters hailed as a means to get rid of quantitative trade barriers, curb export subsidies and shift countries toward less trade-distorting domestic support. It may end up as a means for protectionist importers to slow down the process of tariff cuts, maintain a quota system for imports of sensitive products and promote a complex categorization of domestic support that acts as a distraction to shelter new and more elaborate subsidies.

Exceptionalism manifests itself in many ways in trade negotiations. Without an Agreement on Agriculture there would not be a plethora of coalitions focused on one or more aspects of the talks. Of course, the country positions that underlie such groups would still be manifest in particular ways, but the existence of the G-20 that began as a reaction to the 2003 US-EU joint proposal on agriculture reflects the strength of feeling that surrounded the question of domestic support and the determination that it should be cut back in the Doha Round. Few issues could have cemented the disparate interests of the G-20 as effectively as agriculture. Similarly, the G-33 of developing countries that are the main protagonists for the Special Safeguard Mechanism in the Doha Round would not have been as cohesive if the issue were (say) being dealt with as an interpretative paragraph attached to the Safeguards Agreement.

Perhaps more fundamental are the national actors, the ministries of agriculture that act as the repositories of knowledge and wisdom about farm policies. In the developed countries, in particular, representatives from the agricultural ministries have traditionally been in command of negotiating positions on agriculture. This clearly narrows the flexibility of trade-offs among sectors: it is possible that without the direct involvement of agricultural officials and without the narrow focus of negotiations on agricultural rules the scope for reaching agreements might be expanded. Of course, one would expect pressure from special interest groups at home to keep agricultural officials involved in trade talks, but that in itself is an indication of the extent to which the “special treatment” of agriculture is beneficial to producer interests.

Finally, the separation of the agricultural talks from those in other areas leads to the concept of achieving a balance between, in the case of the Doha Round, manufacturing and other tariffs, liberalization of trade in services, and agriculture. This promotes agricultural exceptionalism. It would indeed be interesting to have a trade round where legitimate agricultural interests have to compete with the items that other sectors might wish to place on the agenda.

4 The Future of Exceptionalism

So what is the future of the exceptional treatment of agriculture in the WTO? Clearly, further agricultural tariff reductions in future rounds would bring protection into line with that for manufactured goods. This would imply very little room for domestic price policies and lock countries into developing agricultural programs that do not require border interventions for their effectiveness. Two problems would survive: the TRQs, which are a prominent aspect of agricultural exceptionalism, and the Special Safeguards (SSG and SSM) which again have no direct counterpart in other sectors. The problem with TRQs is that they set up incentives for their continuance: exporters who sell within the quota get a benefit that they may not wish to give up. Importing governments see TRQs as one of the few instruments (since tariff rates are bound) to control import levels. And in the context of regional and bilateral trade agreements the ability to grant access through TRQs to partner countries is useful. But is this the direction in which the trade system is heading?

4.1 A New Domestic Policy Context?

Perhaps the key issue is the future domestic policy mix for agriculture used by the major trading countries, including the emerging nations, and the trade rules that will be necessary to prevent negative impacts on other countries and on the trade system. The type of domestic policy that is encouraged by the URAA is one based on modest tariffs (zero for bilateral and regional trade partners, and for agricultural products not domestically produced, and at a comparable level to manufacturing tariffs to avoid negative real protection) and an effective safeguard against import surges and sharp price swings. Domestic subsidies would be decoupled from prices or production and thus be compatible with the Green Box. No export subsidies would be used. So the significance of the URAA is to constrain policies that do not conform to this “model”.

The farm policies in the US and the EU have in fact moved in this direction, as noted above. But changes in the last few years have cast some doubt on the continuation of this trend. The US has begun the process of deliberation for the next Farm Bill, expected in 2012. Among the issues are the choice between crop insurance and whole-farm revenue assurance and the future of the direct payments. These latter policies seemed to be tailor-made for the Green Box. But it is possible that the direct payments may be phased out and the funds used for other parts of the program: paying farmers in good years and bad is not politically attractive. The US has almost no Blue Box programs, but makes extensive use of "non-exempt direct payments" (i.e. not green or blue) and non-product specific AMS payments (those related to many crops). With these two categories liable to be squeezed in the Doha Round the question is what will be the types of policies that will replace them? The EU has embraced presumably Green Box payments of the Single Farm Payment and Single Area Payment schemes. But there is the possibility that pressure could rise for some counter-cyclical programs as employed in the US. The EU has also almost abandoned Blue Box payments, and with a Doha Round completion would have little flexibility for policies that did not fit in the Green Box. Again, the search is on for a politically acceptable way of making traditional payments to farmers without exceeding WTO limits.

One such candidate is the encouragement of biofuels, as a way of both reducing dependence of fossil fuels and in developing a "new use" for farm products. Corn in the US and oilseed crops in the EU have certainly boosted farm incomes by increasing demand. This poses a dilemma for the URAA: currently very few of the subsidies that have been necessary to build up the biofuels market have been notified as agricultural support, though some have been reported to the WTO as non-agricultural subsidies (JOSLING et al., 2010). In fact, the notion of a subsidy that increased the size of the market for and agricultural product was in itself somewhat of a novelty. Both domestic producers and foreign suppliers stood to gain, directly or indirectly. The effect was similar to a control over domestic output, which had rarely been the basis for a trade dispute.

The price spike in 2007 and 2008 threatened to change this traditional notion that trade rules were to protect the exporter from the actions of an importer. Exporters that restricted output (as the US had done for several decades, through the conservation reserve and acreage control programs) were now accused of jeopardizing food security. Similarly, those that restricted exports directly were taken to task for withholding supplies from poor consumers. So a "new" set of issues has surfaced on the agricultural agenda relating to food security and price stability, the latter having taken a back seat since the 1970s. It is not clear that the Agreement on Agriculture has much to offer in these matters.

Another issue of considerable relevance to domestic farm policy is the wider range of interests involved in policy discussions and decision-making. This has subtle impacts on the issue of exceptionalism. If the domestic policies are under the control of agricultural ministries, with close relations to production agriculture, the trade mandates are going to be relatively uncomplicated. But many ministries (particularly in the European Union, where the responsibility for most agricultural and trade issues has been ceded to the Union level) have changed their names and embraced a number of rural causes that often inconvenience farmers and raise their costs. Under these circumstances it is by no means certain that exceptionalism is embraced at home and therefore may be nuanced in trade talks. Add to that major questions such as the role of agriculture in climate change mitigation strategies and the picture looks very different from that of 1986.

4.2 New Actors on the Scene

There is no disagreement over the rapidly rising influence of emerging countries on the world trade system. Countries such as India, China, South Africa, Egypt, Brazil, Chile and Argentina have taken an active interest in the WTO in the past few years. But in emerging countries the jury is still out as to what type of trade system these countries will favor and what parts of the present system they will find less than useful. Developing countries as a whole have in essence captured the agricultural trade agenda: the G-20 in particular has become a more active participant in that area than the US and the EU. But this raises as many questions as it answers. Countries such as Brazil would favor a trade system that had low tariffs for agricultural products and no subsidies for developed country farmers. As a competitive supplier of a number of products the possibility of expanding both south-north and south-south agricultural trade is appealing. But it is not so clear that India has the same view: small scale producers may need protection from the larger

scale agricultural farm sector in Brazil perhaps even more than from US competition. China has aspirations as a major exporter of farm products but also needs to ensure that rural areas with less productive farm sectors do not suffer too much from open markets. So the EU-US rivalry of the post-war period may be repeated among developing countries in the future.

Recent estimates by BRINK (ORDEN et al., 2011: chapter 2) indicate that in the post-Doha period the ability of developed countries to use trade-distorting policies will have been drastically curtailed. But the same is not true for large developed countries, who will be allowed to spend up to 10%of the value of their agricultural production on such support, even though they had "zero" bound AMS commitments. In fact, most of the allowable trade-distorting domestic support will be in those countries. So if the trend noticed by ANDERSON (2009) materializes, emerging countries (unless competitive exporters with relatively small home markets such as Brazil) may increase their protection levels. They have some flexibility in raising tariffs, but the more likely path is to spend more public funds assisting their rural sectors. In other words: they could resist the progressive opening of markets and develop their own agricultural policies. They would be moving away from the policy direction envisaged in the Agreement on Agriculture.

Presumably, the benign transition from domestic reform to full incorporation of agriculture in trade agreements development works best, if all (interested) countries are at a similar stage in the (cyclical or secular) path of agricultural protectionism. The prospect of developing countries moving toward more protection just as the developed world was embracing open markets would put strain on the Agreement on Agriculture as well as the concept of exceptionalism.

4.3 The Future of the URAA

Where does this leave the URAA? Is it a necessary part of the architecture of the WTO? Or has it served its purpose? What would be missed if it were to be phased out in the next decade or two? What would be involved in such a phase-out so as to preserve its positive aspects? What are the benefits of such an approach? Or is the URAA valuable as a permanent part of the WTO even when its primary task has been accomplished?

Clearly, the answer to these questions depends on the outcome of the Doha Round and on the behavior and intentions of the major trading countries. Assuming that an agreement along the lines of the December 2008 Draft Modalities is reached, much of the current URAA, and the associated schedules of commitments, could be phased out. These parts of the URAA would no longer be needed as a part of the WTO rules and much of the monitoring would no longer be necessary as part of the procedures.

With respect to the market access provisions in the URAA (Articles 4 and 5) certain aspects of the URAA would need to be retained but could be incorporated as amendments to the GATT (94). The tariffication provisions of the URAA are no longer needed, even in the absence of a Doha Round agreement. All non-tariff measures are now converted into tariffs and a revised Article XI would prevent their reappearance. The revisions would incorporate the improved definitions agreed in the Uruguay Round. In particular, Article 4.2 of the URAA would be needed to be incorporated in Article XI to be specific as to which non-tariff barriers were prohibited. As the WTO members have already agreed to this provision, no negotiation should be needed.[11]

The "exceptional" existence of TRQs as a way of ensuring minimal access to markets where tariffication was introduced in the Uruguay Round, and when Special Product status is called for in the Doha Round, will need to be handled in negotiation. A rapid elimination of TRQs is unlikely to be agreed: they are too useful as a way of controlling liberalization. However, they also constitute a major distortion in the way that some agricultural products are traded. The situation is similar to that involved in phasing out the textile quotas. The first phase could be the expansion of the TRQs on a progressive basis over a number of years and a continued effort to make their distribution on a non-discriminatory basis. The end-point would be the elimination of TRQs. The URAA in its present form seems to inhibit this change.

Some provision for agricultural safeguards would probably need to be preserved: developing countries consider an SSM to be an essential element of the trade system. On the other hand the SSG will be on its way out if there is a conclusion to the Doha Round (WTO, 2008). So the SSM could be added to the Agreement on Safeguards also agreed in the Uruguay Round. The provisions can be limited to developing countries and become a part of the effort to respond to the concerns of these countries.

[11] A temporary waiver may be needed for countries that still make use of the "rice provision" (Annex 5 of the URAA) to put off tariffication.

How much of the content of the Export Competition part of the URAA needs to be kept? If export subsidies are eliminated in the Doha Round, along with other forms of export enhancement (the subsidy element export credit guarantees, the beneficial treatment of state export agencies, and the provision of food aid that directly competes with commercial sales) then agriculture has lost its specificity in this regard. None of the Articles 8-11 would be needed (though, if necessary, the provisions in article 11 regarding subsidies in incorporated products could be addressed by a footnote to Article XVI or the SCM Agreement).

And what about Domestic Support (Articles 6 and 7 of the URAA)? This was a novelty introduced in the URAA and does not have a counterpart in trade in other products. But the experience with the monitoring and disciplining of domestic support has been mixed. It is not clear which parts of Articles 6 and 7 really do discipline domestic support. A forthcoming study (ORDEN, et al., 2011) delves into the details of the notifications of domestic support in several major countries, both developed and developing. The picture is one of inconsistent (and tardy) notification of support levels. But more worrying is that the support levels themselves are easily manipulated by changes in notifications that have little to do with changes in policy as it affects production. The major problem is with the reporting of Market Price Support, a critical part of the AMS. Taking administered prices (which in several cases have been changed with no impact on producers) and fixed reference prices (which relate to the 1986-88 base period) and multiplying the difference by "eligible quantities" which can vary from the amount purchased by the government to the whole of production gives a figure that has no resemblance to the level of incentive to producers. In other words: a key part of the constraints on domestic support have virtually no meaning.

Of course, it would be retrogressive to give up the monitoring and control of domestic support. But subsidies already have to be notified to the SCM Committee, and many agricultural subsidies are already included. A coordinated notification process may serve a better purpose for improving transparency.

Does one need the boxes of the URAA at all? They certainly seemed to help in constraining domestic farm programs. But if the AMS allowances for developed countries have been reduced to where trade distortions are minimal then what is needed is a way to prevent them from increasing and a way of relating them to the SCM. The Green Box definitions could be incorporated in the SCM by means of defining which types of agricultural programs are considered "specific" subsidies and which are covered by the definitions of "non-actionable" subsidies. This would presumably require the current Green Box to be split between programs that are in effect ways of providing for public goods and those that give specific benefits to particular producers. These latter subsidies would be actionable in that other countries could challenge them as causing serious prejudice to their economic interests.

The Blue Box could be jettisoned without any great loss in control of subsidies: it was a convenient device for getting an agreement between the US and the EU in the Uruguay Round: it is rapidly dropping out of use as fewer governments attempt to control domestic production. The AMS would be kept only as a way of monitoring subsidies that would be actionable. But the MPS part of the AMS would be dropped and the *de minimis* provisions could also fall by the wayside. If non-product specific support was ruled to be non-specific under the SCM then that too would no longer be monitored.

One article of the URAA stands out as useful and underused. Article 12 contains weak disciplines on export prohibitions and restrictions. "Due consideration" and advance warning should be given by developed country exporters before restricting agricultural exports. How unfortunate, that a provision that would be welcome by so many developing countries has remained on the back shelf of the Doha talks even at a time of high prices. It would seem both practical and politically acceptable to package this clause, with some more mordant language, with some other elements to constitute a "food security" obligation. This would seem a more widely defensible example of special treatment in trade rules.

This thought-experiment is intended not so much as a proposal, but as a way of taking stock of how much the Agreement on Agriculture really contains that is essential as a separate part of the trade rules. If the politics were right, the trade system could survive and prosper without the Agreement on Agriculture, however convenient it was in 1995.

5 Conclusion

Exceptional treatment of agricultural products in the WTO has been a function of the political difficulties of constraining domestic farm policies, the legacy of the GATT articles that appeared to allow quantitative import restrictions and export subsidies, and the high

levels of protection for the sector in many industrial countries. It is manifest primarily in the URAA that specifies in considerable detail the ways in which domestic and trade policies should be disciplined. It is perpetuated by the institutional arrangements in each country that reflect the "differentness" of agriculture and this spills over into trade negotiations. Agriculture plays a role in the balancing of concessions in trade agreements as well as having to strike an internal balance.

This exceptionalism will no doubt survive as long as these conditions exist. But it is useful to consider them in the broader context of trade rules. Bound tariffs are the norm in all sectors, with few exceptions: in that sense agriculture still has a little way to go but is essentially in line with manufactured trade. The remaining special treatment would be the TRQs, which would still be an agriculture-specific element of the WTO until they could be eliminated. Export subsidies are banned in other areas of commerce, and will be eliminated for agriculture after the Doha Round. Domestic subsidies are now covered by both the SCM and the URAA, with the constraints on trade-distorting support being of little value. Incorporating a relatively small number of paragraphs into the SCM and the Agreement on Safeguards would seem to replicate the current situation – or rather that in the post-Doha period.

What benefits might one get from phasing out the Agreement on Agriculture? This would plausibly improve the pace of trade negotiations, though the difficulty of reducing sensitive agricultural tariffs would not be avoided. The agenda for such future talks would certainly be simplified. Trade-offs will always have to be made within the governments that take part on the talks. At present, the trade-offs are often delayed while the special negotiators for agriculture discuss more and more arcane ways of achieving balance within the sector. Non-agricultural parts of the negotiations often have to wait until the agricultural portfolio is almost completed to get the "level of ambition" that needs to be matched in other areas. Most commentators agree that "agriculture only" talks are unlikely to be successful, as trade-offs are not present, but by the same token if agriculture were totally integrated the possibility of such give-and-take among national interests would be made easier. If the Agreement on Agriculture is becoming more of an empty shell, reflecting its use as a valuable transitional device, now might be a good time to think about eliminating it. Then, exceptionalism really would have taken a step backwards.

References

ANDERSON, K. (ed.) (2009): Distortions to Agricultural Incentives: A Global Perspective 1955-2007. Palgrave Macmillan, London and World Bank, Washington DC.

BARTON, J.H., J.L. GOLDSTEIN, T. JOSLING and R.H. STEINBERG (2008): The Evolution of the Trade Regime: Politics, Law and Economics of the GATT and the WTO. Princeton University Press, Princeton.

DAUGBJERG, C. and A. SWINBANK (2009): Ideas, Institutions and Trade. Oxford University Press, Oxford.

GATT (1986): Ministerial Declaration on the Uruguay Round. GATT Doc. MIN. DEC. (20 September). Geneva.

GOLDSTEIN, J. (1993): Ideas, Interests and American Trade Policy. Cornell University Press, Ithaca.

HUDEC, R.E. (1998): Does the URAA Work? Agricultural Disputes after the Uruguay Round. Working Paper 98-2. International Agricultural Trade Research Consortium, St. Paul, MN, USA.

IRWIN, D.A., P.C. MAVROIDIS and A.O. SYKES (2008): The Genesis of the GATT. Cambridge University Press, Cambridge.

JOSLING, T., S. TANGERMANN and T.K. WARLEY (1996): Agriculture in the GATT. Macmillan, London, UK.

JOSLING, T., D. BLANDFORD and J. EARLEY (2010): Biofuel and Biomass Subsidies in the U.S., EU and Brazil: Towards a Transparent System of Notification. IPC Position Paper, September 2010. International Food & Agricultural Trade Policy Council, Washington DC, USA.

JOSLING, T. (2009): Agricultural Trade Disputes and the WTO. In: Hartigan, J.C. (ed.): Trade Disputes and the Dispute Settlement Understanding of the WTO: An Interdisciplinary Assessment. Emerald Press, Bingley, UK.

ORDEN, D., D. BLANDFORD and T. JOSLING (2011): WTO Disciplines On Agricultural Support: Seeking a Fair Basis for Trade. Cambridge University Press, Cambridge.

SKOGSTAD, G. (2008): Internationalization and Canadian Agriculture. University of Toronto Press, Toronto, Canada.

SWINNEN, J.F.M. (2010): Agricultural Protection Growth in Europe, 1870-1969. In: Anderson, K. (ed.): The Political Economy of Agricultural Price Distortions. Cambridge University Press, Cambridge.

TANGERMANN, S. (2002): Agriculture on the Way to Firm International Trading Rules. In: Kennedy, D.L.M. and J.D. Southwick (eds.): The Political Economy of International Trade Law: Essays in Honor of Robert E. Hudec. Cambridge University Press, Cambridge.

TRACY, M. (1964): Agriculture in Western Europe. Praeger, New York, USA.

WTO (World Trade Organisation) (1995): The Results of the Uruguay Round of Multilateral Trade Negotiations: The Legal Texts. World Trade Organisation, Geneva.

– (2008): Revised draft modalities for agriculture. TN/AG/W/4/Rev.4, 6 December. World Trade Organisation, Geneva.

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