

# AGRICULTURE IN THE URUGUAY ROUND OF MULTILATERAL TRADE NEGOTIATIONS

CHARLES E. HANRAHAN

## INTRODUCTION

A new round of multilateral trade negotiations under the auspices of the General Agreement on Tariffs and Trade (GATT) is well under way. Trade ministers from 74 countries meeting September 15-20, 1986 in Punta del Este, Uruguay, agreed to launch a new round, the eighth since the establishment of the GATT in 1948. Agricultural trade, which has become a source of conflict between the United States and some of its major trading partners, will be a major subject on the negotiating agenda.<sup>1</sup>

The main agricultural trade issues are the continued use of export subsidies and other measures which distort competition in agricultural trade, reliance on quantitative restrictions such as quotas and other nontariff barriers to restrict market access, and the use of health and sanitary regulations as barriers to trade. The underlying issue for negotiations is the adverse impact of domestic agricultural policies pursued by the major trading countries on competition and patterns of trade. Worldwide surpluses of agricultural commodities, depressed economic growth especially in countries that are usually importers of agricultural commodities, and protectionist pressures and policies constitute the context within which the negotiations will take place.

Although previous rounds, especially the Tokyo Round, made some progress in applying GATT rules and disciplines to agricultural trade, much more is required to incorporate agriculture fully into the GATT framework for the conduct of international trade.<sup>2</sup>

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Charles E. Hanrahan is Senior Agricultural Economist, Abt Associates, Inc., Washington, D.C.

1. "Ministerial Declaration on the Uruguay Round," appended to U.S., Congress, House, *Clayton Yeutter, Testimony on the GATT Ministerial Before the Subcommittee on Trade*, Committee on Ways and Means, 99th Cong., 2nd sess., 25 September 1986.
2. For a fuller discussion of agricultural trade in the GATT see Charles E. Hanrahan, Penelope Cate, and Donna U. Vogt, *Agriculture in the GATT: Toward the Next Round of Multilateral Trade Negotiations*, U.S. Library of Congress, Congressional Research Service, CRS Report No. 86-98 ENR, April 1986.

### THE GATT AND AGRICULTURE

The basic tenets of the GATT — nondiscrimination and reciprocity in trade and protection by bound duties — contained in Articles I and II of the GATT were intended to apply to agricultural as well as nonagricultural trade. Unfortunately a number of important exceptions to these basic principles have the effect of virtually exempting agricultural trade from GATT rules and disciplines.

Article XI of the GATT prohibits generally the use of quantitative import and export restrictions. However, exceptions to this general prohibition effectively nullify its application to agricultural trade. Thus the GATT itself permits the use of quantitative restrictions: in the case of temporary shortages of food or other essential commodities; when restrictions are necessary to enforce domestic marketing or production restriction programs; and when used in conjunction with the application of standards for classification, grading, or marketing of commodities.

Article XVI, which contains the general prohibition on export subsidies, includes special provisions for agriculture as well. This prohibition is weakened in the case of agriculture as member countries (contracting parties) are merely enjoined to “seek to avoid” the use of export subsidies on such products. If contracting parties apply export subsidies on primary products, they should do so in a manner that will not give them “more than an equitable share of world export trade” in the product concerned. Article XVI also contains fairly weak provisions relating to domestic agricultural subsidies such as income or price supports which have trade effects, i.e., subsidies which either increase exports or decrease imports. Such subsidies are not prohibited, but contracting parties must notify GATT of such subsidies and consult with other contracting parties when requested.

An important development reinforcing the special status accorded agriculture by the GATT was the granting in 1955 of a waiver to the United States permitting it to apply quantitative import restrictions on a wide range of agricultural products covered by price support programs. The United States needed the waiver of its obligations under Article II (nondiscriminatory application of concessions) and Article XI (prohibition of quantitative restrictions) to reconcile provisions of domestic law relating to price support programs with international obligations under the GATT. The GATT waiver for the United States permits the imposition of fees or quotas on imported agricultural products if such imports would undermine the operation of do-

mestic programs whether or not the programs included production or marketing controls. Authority for the imposition of import fees and quotas is contained in Section 22 of the Agricultural Adjustment Act of 1933 as amended.

The special treatment accorded agriculture by the GATT derives basically from the domestic agricultural policies of many contracting parties, especially the United States, the European Community, and Japan, which are designed in part to protect farmers from free market forces. This special treatment, particularly the exceptions to Article XI, and the U.S. Section 22 waiver, runs counter to the basic GATT goal of trade liberalization. The U.S. GATT waiver in particular provides a precedent for other contracting parties to use quantitative restrictions and other measures to protect their agricultural sectors.<sup>3</sup> The different treatment accorded agriculture in the GATT also provides contracting parties with a rationale for pursuing domestic price and income support policies without regard to their adverse effects on the trade of others.

#### AGRICULTURE IN THE DILLON, KENNEDY, AND TOKYO ROUNDS

GATT negotiations have been more successful in liberalizing industrial trade than agricultural trade. This relative lack of success in past agricultural trade negotiations is attributable to many factors, including the strong links between domestic agricultural policies and trade policies in the major trading nations, the special provisions for agriculture in the GATT which have fostered widespread reliance on nontariff barriers and their proliferation, and the absence of agreed-upon approaches for negotiating the reduction or elimination of nontariff barriers.

Early Multilateral Trade Negotiations (MTN) rounds concerned themselves primarily with tariff reductions on trade in manufactured products. Beginning with the Dillon Round (1960-1961), agricultural trade issues and nontariff barriers to trade in agricultural products received greater attention. Since 1960 and the Dillon Round, trade issues between the United States and the EC have dominated the MTNs for agriculture.

The Dillon Round had to contend with the potential trade discrimination from the newly formed (1958) European Economic Community (EC). The EC was beginning to replace national tariffs with a common external tariff and withdrawing tariff concessions formerly agreed to by individual EC member

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3. John H. Jackson, *World Trade and the Law of the GATT: A Legal Analysis of the General Agreement on Tariffs and Trade* (Indianapolis: Bobbs-Merrill, 1969), p. 733-735.

countries. At the same time, under its Common Agricultural Policy (CAP), the EC began to replace tariffs and quotas with the variable levy as the primary means of protecting agricultural products. The United States and other non-EC countries wanted to maintain and extend their access to the enlarged European market. The United States tried to obtain, as compensation for the higher levels of protection that would be provided by the common external tariff and the variable levies, guaranteed access to the EC market for U.S. grains, a concession the EC refused to grant. Unable to reach agreement on agricultural trade issues, the United States and the EC deferred negotiations on trade in most agricultural commodities. The most significant concession obtained by the United States from the EC, although its economic potential was not recognized at the time, was the duty-free binding for the entry of soybean products and other oilseeds into the EC.

During the Kennedy Round (1963-67), the negotiating agenda was enlarged to include consideration of nontariff barriers and the effects of domestic agricultural policies on agricultural trade in addition to the traditional tariff reductions and bindings. The United States and the EC once again dominated the agricultural portion of this round. U.S. objectives were to moderate the growth of agricultural barriers in the EC and to maintain the EC market for U.S. agricultural products. The EC, for its part, offered some potential for expanded access to its markets for agricultural products but was unwilling to negotiate modifications of its domestic agricultural policy because it was in the early stages of developing the Common Agricultural Policy. In exchange for an offer of expanded access for grains to the EC market, the EC proposed to bind for three years the existing levels of price support for farm products in the Community. This proposal to "bind" domestic price support levels was an unprecedented approach to applying a conventional GATT rule to domestic policy measures. Such bound price support levels were to be used in conjunction with international prices for agricultural products to determine the level of import levies or export subsidies.

The United States and the EC could not reach agreement on greater access for grains into the EC market or on the proposals for binding support levels and establishing levels of protection. Although agricultural trade concessions of major value were offered and received by participants in the Kennedy Round, little progress was made toward bringing nontariff trade barriers or the trade effects of domestic agricultural policies under GATT rules.

In the Tokyo Round (1973-79), tariff reduction was again a main focus of the negotiations. Nontariff barriers to agricultural trade were also on the

agenda and, in contrast to previous rounds, the effectiveness of the General Agreement itself as an instrument for governing the conduct of international trade was a principal issue. For the first time in the history of the MTNs, agriculture was identified as a separate item on the negotiating agenda.

Agricultural trade conflict between the United States and the European Community once again dominated the agricultural negotiations. The United States sought improved market access for its grains and other agricultural exports and stressed the need to deal with levels of agricultural support and to devise techniques for moderating the effects on trade of domestic agricultural policies, especially the effects of the Community's Common Agricultural Policy. In contrast, the EC proposed price stabilizing and market sharing international commodity agreements among GATT members and declared off limits any consideration of the CAP or its effect on trade.

No agreement was reached with respect to these opposing approaches to organizing international agricultural trade. However, the negotiations did take some significant steps toward improving the effectiveness of the GATT itself. Discussion of the GATT as a framework for the conduct of international trade led to the adoption of "codes of conduct" intended to extend and strengthen the GATT. The most important of these codes for agriculture is the so-called Subsidies Code. It provides more specific guidelines than the General Agreement for counteracting the adverse effects of export subsidies and provides a definition of "equitable share of the market" lacking in Article XVI. The Subsidies Code does little, however, to address the issue of the trade effects of domestic subsidies such as price or income supports.

#### AGRICULTURAL ISSUES IN THE URUGUAY ROUND

Bringing agricultural trade more fully under GATT rules and procedures will likely be as difficult in the Uruguay Round as it has been in previous MTNs. The major issues remain unresolved. These include the use of subsidies to make exports more competitive, the proliferation of quantitative restrictions and other nontariff measures such as health and phytosanitary regulations to impede market access, and domestic agricultural policies which have the effect of restricting imports and subsidizing exports.

Subsidization of agricultural exports is currently the most contentious agricultural trade issue between the United States and the EC. The operation of the EC's CAP with its internal price supports higher than prevailing world

market prices, means that the EC has to rely on export subsidies to make its exports competitively priced in world markets. Export subsidies are provided almost automatically under the CAP whenever price-supported commodities are in surplus in the Community.

The United States contends that with its export subsidies, the EC has increased its share of world markets and that it has unfairly edged out the United States in some of its traditional markets by selling exports at below world market prices. Technically, the United States argues that the EC is in violation of both Article XVI of the GATT and of the Subsidies Code. The EC, not surprisingly, considers export subsidies an allowable practice under the GATT; that its export subsidies have not gained for the EC more than its equitable share of world export markets; and that the United States also uses export subsidies in the form of subsidized credits, concessional food aid, and various export enhancement programs.

Closely related to the export subsidy issue is the issue of GATT procedures for dispute settlement, another subject on the Uruguay Round agenda. Many recent GATT disputes have involved agricultural trade issues, especially subsidies. The United States, in particular, finds that GATT dispute settlement procedures lack legal precision and that rulings are often not effectively enforced. The counterview is that the resolution of disputes in the GATT is essentially a process of reaching consensus among the parties to a dispute. In this view, adding legal precision to GATT procedures for dispute settlement will not make the procedures more effective in the absence of consensus.

The prevalence and proliferation of quantitative restriction and other non-tariff barriers which impede market access of agricultural commodities such as quotas, variable levies, and voluntary export restraints is a second unresolved agricultural trade issue. Reduction or elimination of quantitative restrictions and barriers has been difficult to negotiate within the GATT framework. Members of the GATT, including the United States, the EC, Japan, and many developing countries, have been unwilling to negotiate reductions in quotas and other quantitative restrictions because such restrictions prevent imports from interfering with domestic agricultural support programs. Furthermore, there is no agreed upon method for negotiating modifications in quantitative restrictions as there is for tariffs. Voluntary export restraints, for example, are not even mentioned in the General Agreement. A special category of restriction is constituted by the sanitary and phytosanitary regulations that many countries apply to imports of agricultural products. It has been difficult in the past to distinguish between legitimate measures to protect the health

and safety of consumers of imported agricultural products and those that are, in the words of the U.S. Special Trade Representative, "phony."<sup>4</sup>

The link between domestic agricultural policies and agricultural trade makes the issue of adjusting domestic policies to reduce or eliminate their adverse effects on trade the critical underlying issue facing trade negotiators on both sides of the Atlantic. All the other agricultural trade issues are tied to this one. The problem of excess capacity to produce farm products, common to both the United States and the EC, makes negotiating domestic policy adjustments very difficult.<sup>5</sup> Reductions in systems of farm price and income support could ultimately eliminate the excess capacity problem and simplify the agricultural trade negotiations. It is unlikely, however, that either the United States or the EC is prepared to take the steps required to bring farm prices down to levels that would eliminate excess capacity.

The difficulties involved in reducing the trade effects of domestic agricultural policies are probably as great today as in the Kennedy and Tokyo Rounds. There are, nevertheless, some factors that might lead to progress on this issue. First is the growing appreciation that it is the trade effects of domestic policies, not the policies themselves, that would be the subject of negotiations.<sup>6</sup> Thus, although some modification of domestic policies may be called for, neither the objectives of domestic policies nor the instruments used need to be replaced on a wholesale basis. Modest changes at the margin may accomplish the objective of mitigating the adverse effects of domestic agricultural policies on trade. Second is the progress, albeit limited, in strengthening GATT provisions on export subsidies in the Tokyo Round. A logical extension is a strengthening of the Subsidies Code to deal with trade effects of domestic subsidy programs. The third and strongest force for modification of the trade distorting effects of domestic policies is the large and growing budgetary cost of agricultural support programs in both the EC and the United States.

#### APPROACHES TO THE AGRICULTURAL NEGOTIATIONS

The Ministerial Declaration on the Uruguay Round commits GATT members to seek to liberalize agricultural trade and bring all measures affecting

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4. Clayton Yeutter, *Testimony on the Results of the GATT Ministerial before the Subcommittee on Trade*, p. 2.

5. Kenneth L. Robinson, "The Consequences of U.S. and European Support Policies," in Curry Foundation, *Confrontation or Negotiation: United States Policy and European Agriculture* (New York: Associated Faculty Press, 1985), p. 119.

6. Organization for Economic Cooperation and Development, *Problems of Agricultural Trade* (Paris: OECD, 1983), p. 129-132.

import access and export competition under strengthened and more effective GATT rules and disciplines. To accomplish this will require:

- improving market access through, *inter alia*, the reduction of import barriers;
- improving the competitive environment by increasing discipline on the use of all direct and indirect subsidies and other measures affecting directly or indirectly agricultural trade, including the phased reduction of their negative effects and dealing with their causes; and
- minimizing the adverse effects that sanitary and phytosanitary regulations and barriers can have on trade in agriculture, taking into account the relevant international agreements.<sup>7</sup>

The approach to agricultural trade negotiations contained in the Punta del Este declaration follows broadly from the 1982 GATT ministerial declaration that called for an initial examination of measures affecting trade in agriculture in the wake of the Tokyo Round. This approach also parallels generally the objectives of the 1984 GATT ministerial declaration that were based on recommendations made by the GATT Committee on Trade in Agriculture (CTA).<sup>8</sup> However, as discussed below, the approach in the Punta del Este declaration differs in several respects from that put forward in the report of the CTA.

In their 1982 meeting, GATT ministers had called for an examination of "all measures" affecting trade, market access and supply in agricultural products, including subsidies and other forms of assistance. The Committee on Trade in Agriculture was established to conduct this examination and make recommendations to the 1984 GATT ministerial meeting.

The CTA, during its two years of deliberation, reached an impasse between the United States and the EC on how to approach negotiations on subsidies, especially export subsidies. The final recommendations of the CTA which were accepted by the GATT ministers reflected this impasse. The CTA recommended that substantially all measures affecting trade in agriculture be brought under more effective GATT rules and disciplines. "All measures" were defined to include quantitative restrictions and related measures affecting

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7. "Ministerial Declaration on the Uruguay Round," p. 6.

8. Edward C. Wilson, "GATT Trade Talks Opened," *World Agricultural Highlights*, Economic Research Service, U.S. Department of Agriculture, 2 October 1986, p. 3.

imports and exports; restrictions maintained under waivers and other exceptions; and all subsidies affecting trade in agriculture, including export assistance and other forms of export assistance. The difference between the United States and the EC concerned the manner in which GATT would be strengthened to deal with export subsidies. The United States insisted on an approach based on a general prohibition of export subsidies subject to carefully defined exceptions, while the EC argued for an approach based on improvements in the application of existing GATT rules and disciplines.

The Punta del Este declaration makes no explicit mention of export subsidies largely because the EC would not accept language that singled out export subsidies, a central element of the Common Agricultural Policy, for negotiation. As a result, the Punta del Este Declaration contains broader language which invokes a commitment to phase out the negative effects of all direct and indirect measures affecting world agricultural trade. The broader language allows U.S. negotiators to address direct export subsidies administered as part of the CAP while providing the EC with some negotiating maneuverability. But the broader language also enables the European Community to focus on "other measures affecting directly or indirectly agricultural trade." This will severely test the U.S. contention that all its trade measures are open for negotiation.<sup>9</sup> EC negotiators are likely to target such U.S. measures as export credit subsidies, credit guarantees, food aid programs, and the export enhancement provisions of the recently enacted farm bill.

#### CONCLUSION

The history of the multilateral trade negotiations for agriculture and the contentiousness of current agricultural trade conflicts make it difficult to be optimistic about prospects for this latest round of agricultural negotiations. Yet there are some grounds for optimism that the changes in domestic agricultural policies that both the United States and the European Economic Community are now making will provide a partial basis for moderating the ways these nations are intervening in international agricultural markets. One should expect, however, that the Uruguay Round will result in modest rather than dramatic changes in the rules and procedures for conducting international agricultural trade.

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9. Wilson, p. 6.

