Agricultural Trade: How Bad is the WTO for Development?

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Abstract

On the face of it, many developing countries, even least developed ones, seem to be doing just fine in terms of agricultural production and trade expansion. This paper cannot answer the question whether the present multilateral rules framework strengthens or imperils resource-poor countries and farmers. Instead, it describes a 'reform programme' which is far from being completed, and it shows where the 'development promises' of the General Agreement on Tariffs and Trade (GATT) and the World Trade Organization (WTO) remain unfulfilled. Based on the experiences with the Uruguay Round, it argues that even the completion of the Doha *Development* Round is likely to fail to address some specific concerns of net food-importing developing countries (NFIDC) and resource-poor farmers. A number of additional specific commitments by developed and emerging economies are required to fulfil the promise "to establish a fair and market-oriented agricultural trading system".

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1. Introduction

There are many ways to look at the impact on development of what was formerly the General Agreement on Tariffs and Trade (GATT) and is now the World Trade Organization (WTO). Agriculture is certainly a good litmus test when we consider its importance for many developing countries. It was easy to pinpoint protectionism and the lack of commitments as one of the main reasons for pre-WTO agricultural stagnation, and then to praise the results of the Uruguay Round as a boost provided to the multilateral trading system. While various shortcomings in the new agricultural trade rules and the consequences of the very limited

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tariff and subsidy reductions have become clear, it is less easy to analyse the development impact after 1995.

On the ground, agricultural production and trade appear to have found a path towards more fairness and market-orientation at least in some countries. A multitude of trade-distorting policies and practices persist; but a new interest in farming, after decades of neglect by investors and an apparently structural decline of world market prices, may actually have come as a collateral effect of the food price crisis of 2007–09. When the Food and Agriculture Organization of the United Nations (FAO) announced that the world's hungry had for the first time in history exceeded one billion people, everybody called for action, including in the WTO. Regrettably, there have been no rules or institutional changes since then, let alone a single tariff reduction (except for European Union (EU) banana imports) nor a lower subsidy ceiling.[1] Nonetheless, since 2012, prices have stabilised at somewhat lower levels, and production keeps increasing almost everywhere. According to the United Nations, the Millennium Development Goal of halving, between 1990 and 2015, the proportion of people who suffer from hunger "should be almost met by 2015".[2]

The rules negotiated more than 20 years ago are being criticised for their lack of development-friendliness. The same goes for today's tariff and subsidy limits. The continuation of the 'reform programme' promised in Article 20 of the Agreement on Agriculture (AoA) collapsed in 2008 with the Doha *Development* Agenda (DDA), leaving the 'haves' with spending ceilings way above those of the developing country 'have nots'.

For this and for several other reasons the reform programme remains far from complete. From a general development point of view, the frustration in respect of broken promises is especially understandable. The contention here is that even if 'Doha' is resuscitated and brings the WTO back on a path of trade liberalisation, the "losers" will not be able to enjoy even the low-hanging fruits unless their situation is recognised and duly taken into consideration in the final package.

Melaku Desta discusses this key question based on a comprehensive account of the history of the multilateral trading system. He submits that the 'development promise' made right at the inception of the GATT in 1947, and consistently repeated especially for agriculture, has remained unfulfilled. The 'long-term objective' of the AoA which is "to establish a fair and market-oriented agricultural trading system" – a unique formula in any WTO agreement, and again enshrined in the DDA adopted in 2001 – has eluded especially the poorest developing countries. Market dynamics, and the focus of trade diplomacy on the so-called mega-regionals, may yet exacerbate the gap between the rich trading nations and poor countries with major structural impediments. The latter not only have little food to export but now lack even some of the defense mechanisms available pre-WTO against surplus disposal. Their import bill increases with rising world market prices, but their (mostly subsistence) farmers lack the resources necessary to kick-start production and to cash in on the price bonanza.

For Desta, the 'efficiency model' role of international trade, as advocated by Malthus, Smith, Ricardo, Samuelson, Dunoff and Hudec, simply cannot work on an uneven playing field. He refers to Sumner and others, noting that the decade-long efforts to reverse the

[1] Häberli (2012), p.76.
[2] UN, The Millennium Development Goals Report 2015. New York, 1 July 2015, http://www.un.org/millenniumgoals/2015_MDG_Report/pdf/MDG%202015%20rev%20%28July%201%29.pdf (last accessed 16 July 2015).

structural decline and the low returns on agricultural investment and labour could not succeed as long as rich farmers are allowed to address the 'non-trade concerns' of their governments in their 'multifunctional' role with border protection and trade-distorting subsidies. In 2008 the World Bank (International Bank for Reconstruction and Development, IBRD) observed that "Sub-Saharan Africa enjoys competitive advantage in agriculture." Yet the United Nations Conference on Trade and Development (UNCTAD) noted in the same year that developed countries are "the biggest exporters of food commodities in the international markets. This is in large part due to heavy subsidies to their agriculture. In fact, the inability of developing countries to compete with the subsidized agriculture of developed countries has turned them into net importers of food produced in developed countries."[3]

Desta argues that it is largely due to the special rules for agriculture in the WTO that the theory of competitive advantage fails to prevail: "Even today, agriculture is a class in itself." Agriculture symbolises a global economic system that is skewed against the poor. He even quotes former Director-General Pascal Lamy as seeing in the WTO a bias against developing countries: ten years after the inception of the organisation Lamy noted that "while political decolonization took place more than 50 years ago, we have not yet completed economic decolonization."[4]

In his conclusions, Desta acknowledges the progress GATT and WTO have brought about for industrial goods whose share in merchandise trade rose from 38% to 77% in the period from 1970 to 1996. But the corresponding loss of world market shares for agriculture continues, mainly because of WTO-legal subsidies in rich countries, and agricultural taxes in poor countries. Hence, "[d]eveloping countries are doomed to be the victims, yet again, of this lack of progress in the agriculture negotiations."[5]

This paper tries to show two things: It first concurs with Desta that under the present rules framework agriculture indeed remains 'special', even after tariffication and a (modest) reduction of border protection and factor-distorting subsidisation. It then looks at some recent policy changes and trade data possibly indicating a three-track development. On the first track, while rich countries have considerably reduced the trade-distorting subsidies to which they remain entitled, many now list 'food security' as a new objective for policies which in effect shield their farmers from competition, at the expense of their own consumers, and of more efficient farmers abroad. On the second track we note an increasing number of potentially or effectively trade-distorting practices in emerging economies, despite relatively constraining WTO limits. Some of these new support policies are notified under the so-called 'Developing Country Green Box'. However, many seem to consist in market management methods which in effect are comparable to (earlier) rich country practices. Some of them may even be damaging for developing countries without sufficient financial resources and thus adding to their problems confining them to a third track with few prospects for their poor farmers.

If this research hypothesis is correct, what would be required is a 'Doha Final Act' addressing these development issues beyond the too ambitious yet overly simplistic tariff and subsidy reduction arithmetic envisaged under the DDA. Failing such a comprehensive approach, both rich country and emerging economy policies may yet again deprive resource-

[3] As quoted by Desta (2016), at p. 22 and p. 29.
[4] As quoted by Desta (2016), at p. 32–33.
[5] Desta (2016), p. 37.

poor governments and farmers of their chance to benefit from the increasing trade opportunities which demographic and economic growth provide at least in theory to all producers with comparative advantages.

Section 2 describes the present rules and their failure from a development perspective. In Section 3 the potential Doha negotiation results envisaged back in 2008 are shown as bringing about both partial improvements and setbacks. But more recent farm policy and trade developments demand a refocusing of the negotiations from a development perspective, different from the old non-reciprocity and preference concepts. The intra-developing country divisions marring the Ninth WTO Ministerial Conference in Bali, in November 2013 should have sounded an alarm bell for development analysts.[6] In order to avoid yet another broken promise we can draw guidance both from the meaningless 'Marrakesh NFIDC Decision' and from the implementation of some 'Developing Country Green Box' measures. The conclusions in Section 5 suggest a way forward taking into account the growing differences between developing countries.

2. The Agricultural Reform Programme: Progress and Shortcuts

Considering that all agricultural tariffs are bound (i.e. can no longer be increased without compensating affected suppliers), and that all subsidies for exports and for trade-distorting domestic support are limited, the Uruguay Round has achieved a substantial part of the reform programme of agricultural trade liberalisation. However, even a cursory look into the three pillars of the AoA provides a picture of a job at best half-done, and increasingly fragile.

First, it should be remembered that complete tariff bindings were a constant demand of agricultural exporters for half a century, together with the abolition of export subsidies. Today, tariffication in agriculture has virtually been achieved. From a systemic point of view and compared with industrialised goods, this is remarkable, even though some rather 'dirty' tariffication had to be accepted in the Uruguay Round negotiations and verifications (as well as very high ceiling bindings across the whole tariff range of some poor developing countries). Yet, after the very modest tariff reductions, many agricultural tariffs remain very high. The so-called 'tariff overhang' (i.e. the fact that the applied rates are often much lower, through regional or preferential trade agreements, or by way of unilateral measures) is no reason for contentment, because a re-increase to the bound levels is always possible, without WTO sanctions. This lack of ambitious market access commitments will neither reduce consumer prices nor improve food security by facilitating trade flows.

Secondly, it is in the domestic subsidy disparities that we find the biggest problems. All trade-distorting farm support is now limited. But the mandatory global reduction of only 20% in the previously high spending levels of rich subsidisers leaves them with a lot of leeway to support their farmers against foreign competition. Here too, the re-instrumentation of support, and the decline in world market prices after 1995, brought about a huge 'subsidy overhang': most developed countries have shifted much of their farm support from market and price interventions to publicly-funded government programmes and measures with "no, or at most minimal, trade-distorting effects or effects on production".[7] In March 2015 the so-called

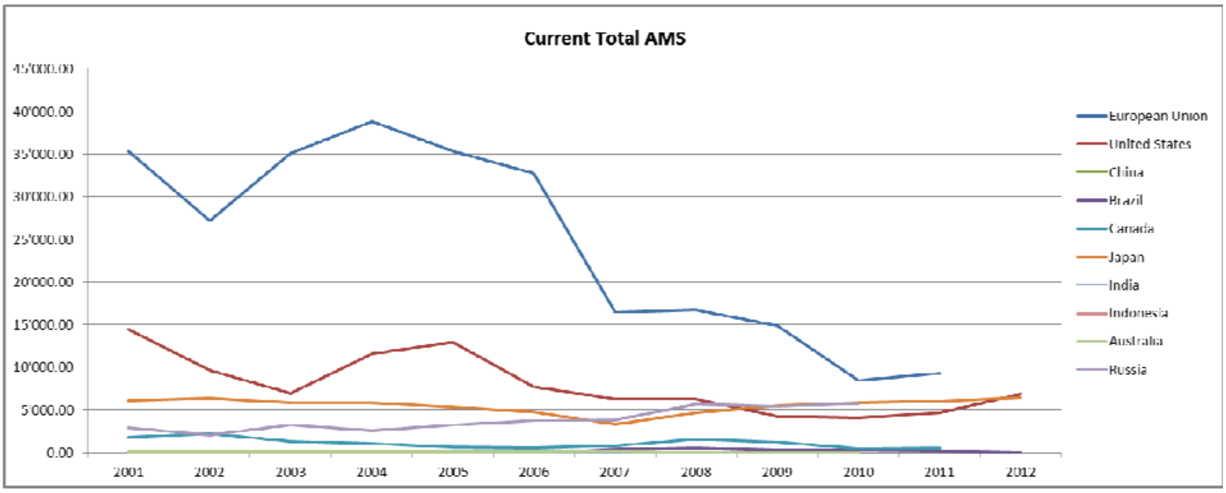
[6] Häberli C (2014) After Bali: WTO Rules Applying to Public Food Reserves. FAO Commodity and Trade. Policy Research Working Paper No.46, http://ssrn.com/abstract=2556233 (last accessed on 9 September 2015).
[7] AoA Annex 2 ('Green Box'), paragraph 1.

Cairns Group (of agricultural exporting nations lobbying for agricultural trade liberalisation) compiled the notified domestic support data from 2001 to 2013 (Figure 1). These data suggest that the current total aggregate measurement of support (CTAMS) of the top ten global traders of agricultural products in 2012 (sum of exports and imports) 'declined dramatically' in most developed countries, "sometimes very significantly to levels well below the legally agreed limits".[8] However, developed countries increased Green Box expenditures, reaching on average 14.2% of the value of production. The four developing countries covered also increased Green Box support, which rose on average to 7% of the value of their production.

The Cairns paper further underlines that

> in absolute terms, the total support of all 10 increased between 2001 and 2012, growing more rapidly in the four developing countries (China, Brazil, India and Indonesia) where the starting base was much lower. When compared to the value of production, support in developed countries was stable while in developing countries the proportion increased, although at the end of the period developed countries' support was still proportionately higher, at, on average, 19.3% of the value of production, whereas in these developing countries it was on average 12.4%.[9]

<u>Figure 1</u>: Trends in Domestic Support



<u>Sources</u>: Document G/AG/W/141, and the spreadsheet in the Annex, https://www.wto.org/english/news_e/news15_e/agcom_04mar15_e.htm (last accessed on 8 July 2015)

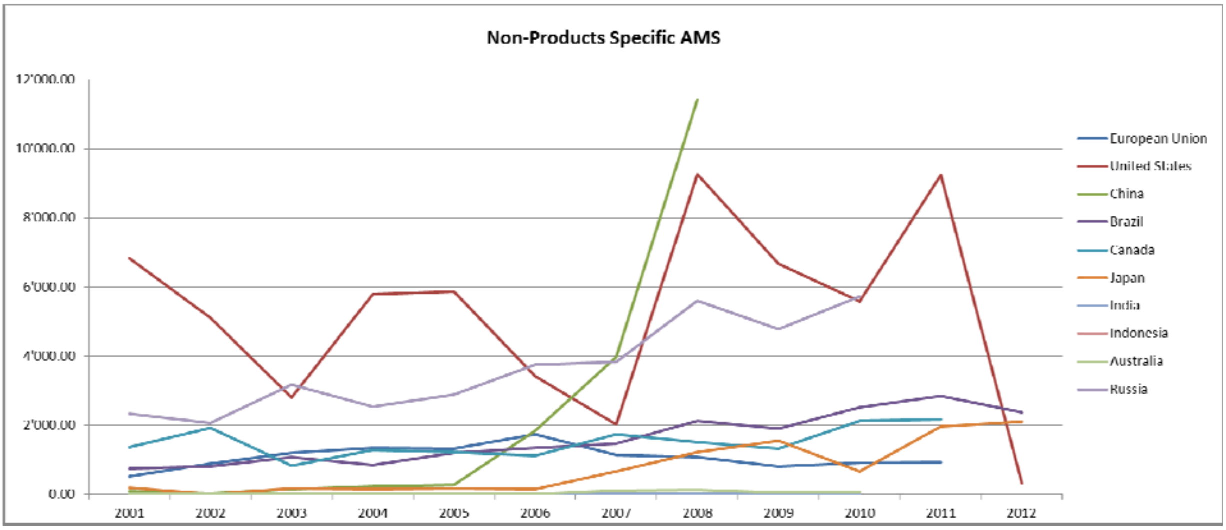
Let us presume that this massive shift into the Green Box is not another case of 'box painting' and will indeed eliminate trade-distorting effects. We would still argue that such measures may have a negative development impact, simply because farmers benefiting from them can better displace non-subsidised imports, and because poor countries lack the financial resources for such support.[10] Indeed, those figures fail to reflect the difference between large amounts paid per farm in commercial operations, and the often much smaller amounts paid to

[8] WTO Committee on Agriculture, Trends in Domestic Support. Communication from the Cairns Group. (Document G/AG/W/141 dated 2 March 2015), with a summary by the WTO Secretariat, https://www.wto.org/english/news_e/news15_e/agcom_04mar15_e.htm (last accessed on 8 July 2015).
[9] Summary by the WTO Secretariat downloaded, https://www.wto.org/english/news_e/news15_e/agcom_04mar15_e.htm (last accessed on 8 July 2015).
[10] Häberli (forthcoming 2015), at chapter 20.

poor farmers – let alone the incentives for agricultural foreign direct investment.[11] Worse, a re-increase of CTAMS within the bound ceilings always possible, and this is a serious handicap for poor countries.

Meanwhile, China, India and Brazil have considerably increased their CTAMS (and Japan its Blue Box expenditures, see Figure 2). Not reflected in these figures are – as expounded further down – input and investment subsidies notified under AoA Article 6.2. Such subsidies, whether trade-distorting or not – have at least trebled in Brazil, India and Indonesia; they have also increased as a proportion of production value.

Figure 2: Domestic Support by the Top Ten Agricultural Traders (2001–12)



Sources: Document G/AG/W/141, and the spreadsheet in the Annex, https://www.wto.org/english/news_e/news15_e/agcom_04mar15_e.htm, (last accessed 8 July 2015). Green Box and Art.6.2 support measures are not reflected here.

Thirdly, export subsidies provide the best example of non-completion of the reform programme: only countries which had provided export subsidies during the base period may still maintain them, at a reduced amount, albeit not for other products. All other countries, including newly acceded ones, have no such rights. Moreover, it is in this third pillar of the AoA that we also find the largest ‘overhang’ between possible and applied expenditures, notwithstanding the declarations of intent made by WTO Ministers in Hong Kong (2005) and Bali (2013), to eventually abolish this form of farm support which Desta calls “anomalous and totally unfair and unjustifiable”. Moreover, when considering the whole picture of *export competition* it is also the pillar with the fewest overall disciplines. This is even more significant when we come to analyse the Doha Round ‘modalities’ from a development perspective.

[11] Häberli and Smith (2014).

3. Doha: What about the poor countries?

On 6 December 2008 the chairperson of the Agriculture Committee in Special Session, Ambassador Crawford Falconer of New Zealand, submitted the 'Revised Draft Modalities for Agriculture', a text of 131 pages reflecting seven years of negotiations and summarised in Box 1.[12] It shows the considerable progress achieved since 2001, as well as the outstanding issues.

Box 1: The 2008 'Modalities' for the Doha Round Agricultural Negotiations

For *market access*, tariffs would be mainly reduced according to a formula, with steeper cuts on higher tariffs and ranges of cuts all in single figures. For developed countries the cuts would rise from 50% for tariffs below 20%, to 70% for tariffs above 75%, subject to a 54% minimum average, with penalties for *peak* tariffs above 100% (*capping*). For developing countries the cuts in each tier would be two-thirds of the equivalent tier for developed countries, subject to a maximum average of 36%. Some products would have smaller cuts thanks to a number of flexibilities designed to take into account various concerns (i) *sensitive products* (available to all countries) with smaller cuts offset by tariff quotas allowing more access at lower tariffs (ii) *special products* (for developing countries only, for specific vulnerabilities). The existing *special agricultural safeguard* (SSG) allowed for all tariffied products under AoA Article 5 to be scrapped, and replaced by a new, still hotly contested *special safeguard mechanism* (SSM) for developing countries only.

For *domestic support*, the most important result would be a general commitment limiting the *overall trade-distorting domestic support* (OTDS).[13] Reductions by way of a *tiered formula* – implying higher cuts for higher levels – would have the EU reduce its base period OTDS by 80%, the US by 70% and Japan by 75%. All other countries would reduce OTDS by 55% (developed countries with high relative levels of OTDS to make an additional effort). Implementation in six steps over 5 years, with a "down payment" of one-third on the first day of implementation (25% for developing countries), and then in equal annual instalments. Developing countries with *de minimis* entitlements would make two-thirds of the cut over three years to 6.7% of production, except for support mainly destined for subsistence/resource-poor farmers. A modest but systemically important innovation would be to separately list and limit domestic support by major products, in order to avoid easy support shifting and *product targeting*. NFIDC without Blue Box programmes, and recent new Members, would not have any OTDS limits, but still face Amber Box and de minimis constraints.

Export subsidies would be eliminated by 2013 (2016 for developing countries), subject to DDA completion. Three other forms of *export competition* would have new rules and limits: (i) *export credits, insurance and guarantees* by way of a new Article 10.2 of the AoA. (ii) New disciplines for *food aid* would try to prevent "commercial displacement" of other Members (but not food dumping at the expense of local farmers).[14] (iii) *Exporting state trading enterprises* would be subject to a slight revision of GATT Article XVII with specific rules for monopolies.

Least-developed countries (LDC) would not be obliged to make any commitments for tariff or subsidy reductions.

Cotton issues are being addressed in three types of activities: (i) since 2004 in a specific Sub-Committee of the agriculture negotiations, since the 2013 Bali Ministerial Conference (ii) through discussions dedicated to the evolving trade situation, and (iii) in the Consultative Framework Mechanism, chaired by the Director-General or a Deputy Director-General of the WTO. This third activity is to track developments and to exchange information on aid for cotton through its monitoring tool, the "Evolving Table on Cotton".

[12] WTO, Committee on Agriculture in Special Session, Revised Draft Modalities for Agriculture, Document TN/AG/W/4/Rev. 4, dated 6 December 2008, https://www.wto.org/english/tratop_e/agric_e/agchairtxt_dec08_a_e.pdf (last accessed on 9 September 2015).
[13] OTDS adds up Amber Box support, de minimis expenditures and Blue Box support. The so-called de minimis expenditures allow for farm support of 5% or less in the case of developed countries and 10% or less for developing countries, compared with the total value of the product or products supported. Blue Box support is linked to production, but subject to production limits, and therefore minimally trade-distorting.
[14] Heri and Häberli (2011).

Export restrictions – very frequent during the 2007 to 2009 food crisis – remain a big, and still unaddressed, issue affecting especially NFIDC. The same goes for the development-sensitive issue of *differential export taxes* (a common practice in revenue-poor states). Unfortunately for countries negatively affected by such measures, these topics are not even included in the DDA.

No other comprehensive negotiating texts have emerged since 2008 and up to the time of writing this chapter. Many, namely developing country negotiators, still consider this as a basis to finalise the agricultural negotiations. In the next section the question of the development impact will be addressed on the basis of the existing rules and the changes and new disciplines foreseen in 2008 and of recent agricultural policy and trade developments.

4. Outstanding Development Issues: Food Security Governance

Looking at some of the production and trade data, one may think that despite its shortcomings, the WTO-induced reform programme has had at least some success. Agricultural production in developing countries and their world market shares have substantially increased since 1995.[15] The FAO and the Organisation for Economic Co-operation and Development (OECD) note that crop production growth among the three groups of least-developed, other developing and developed countries is particularly strong for LDC. Brazil is poised to become the world's foremost supplier in meeting additional global demand over the next ten years. By 2024 real prices may have declined from their 2014 levels, but will remain above their pre-2007 levels.[16] Lastly, according to Grant and Boys and contrary to earlier research and despite the relatively modest extent of actual trade liberalisation in agriculture "participation in the GATT/WTO approximately doubles members' agricultural trade."[17]

The food crisis and the ensuing financial crisis also hit agricultural trade, exposing some of the weaknesses of the multilateral trading system. A recent study with new databases contends that world trade growth has not regained its pre-crisis momentum. By employing data on specific trade-distorting domestic subsidies and on export incentives beyond a narrow class of import restrictions, Evenett and Fritz estimated the impact on LDC exports of different classes of foreign trade liberalisation and foreign trade distortions. They computed

[15] In 2013, eight developing countries were among the fifteen leading exporters of agricultural products. (EU = 1; see Table II.14 in WTO International Trade Statistics 2014, Merchandise trade, https://www.wto.org/english/res_e/statis_e/its2014_e/its14_merch_trade_product_e.htm (last accessed on 16 July 2015)) Also see Anderson K and Strutt A (2011) Asia's Changing Role in World Trade: Prospects for South-South Trade Growth to 2030, Asian Development Bank, ADB Economics Working Paper Series No. 264, http://adb.org/sites/default/files/pub/2011/Economics-WP264.pdf (last accessed on 9 September 2015); and European Commission, Directorate-General for Agriculture and Rural Development, Monitoring Agri-trade Policy, Agricultural Trade in 2013: EU Gains in Commodity Exports, June 2014, http://ec.europa.eu/agriculture/publi/map/index_en.htm (last accessed on 13 July 2015).
[16] Increase in volume and percentage, 2024 relative to 2012-14. OECD/FAO (2015), OECD-FAO Agricultural Outlook, OECD Agriculture Statistics (database), http://dx.doi.org/10.1787/agr-outl-data-en, (last accessed on 13 July 2015). See also Table II.15 in WTO International Trade Statistics 2014, Merchandise trade, https://www.wto.org/english/res_e/statis_e/its2014_e/its14_merch_trade_product_e.htm (last accessed on 13 July 2015).
[17] Grant and Boys (2012), p. 2.

the total reduction in LDC export growth due to foreign trade distortions for each of the years from 2009 to 2013, finding

> that foreign trade distortions, principally in the form of state-provided export incentives, are responsible for cutting LDC exports by on average 5.5% per annum. This retrograde step has occurred despite WTO rules on subsidies, calling into question the faith that should be placed in the rules-based trading system. That such trade distortions are frequently buried in the minutiae of national tax systems is a further example of murky protectionism and the tendency of governments to substitute transparent for more opaque policy instruments. […] Not only are the development prospects of the LDCs at stake, so is the reputation of a rules-based trading system during the greatest 'stress test' since its creation.[18]

This last study is not limited to agriculture. But given the importance of this sector in many LDC, and the importance of trade distortions caused by agricultural policies, Desta's contention of a broken promise looks all the more solid, even though the causal link between the AoA and the extent and the impact of these positive and negative developments is debatable.

As trade lawyers we must look at the legal content of the Uruguay (and Doha) rules and commitments to see whether they are "fair and market-oriented" and whether "in implementing their commitments on market access, developed country Members would take fully into account the particular needs and conditions of developing country Members." A particularly pertinent question is whether they can not only promote agricultural development generally but also prevent negative impacts. It is probably impossible to agree on the normative value of such terms, and on the commitments they imply for developed countries. What seems clear is that negotiations must be guided by principles such as

> commitments under the reform programme should be made in an equitable way among all Members, having regard to non-trade concerns, including food security and the need to protect the environment; having regard to the agreement that special and differential treatment for developing countries is an integral element of the negotiations, and taking into account the possible negative effects of the implementation of the reform programme on least-developed and net food-importing developing countries.[19]

If and when a negotiation is concluded, the result will have to be either ratified on the assumption that the envisaged commitments reflect those principles – or rejected, if it does not. True, the notion of a *Single Undertaking* (requiring acceptance of all agreements and commitments) makes it difficult to oppose specific results on the grounds that they do not fulfil the development promise. Nonetheless, the consensus rule prevailing in the WTO gives even its smallest Member a tool to block a result which goes against its fundamental interest. Mindful of past broken promises, countries failing to obtain development-specific rules and measures in the WTO's longest package negotiation may want to use one last chance for real improvement in a *Doha Final Act* which will one day, perhaps, mark the end of the Development Round.

Ever since 1979 when the 'Enabling Clause'[20] opened the door for non-reciprocal trade diplomacy and concessions, the traditional way to redeem development promises has been to provide special and differential treatment (SDT) to developing countries. The WTO Secretariat has produced several information notes on the utilisation of the umpteen SDT

[18] Evenett and Fritz (2015).
[19] AoA Preamble, Recital 6.
[20] Differential and More Favourable Treatment, Reciprocity and Fuller Participation of Developing Countries (Enabling Clause), GATT Doc L/4903, Decision of 28 November 1979, paras 1 and 2(a).

provisions contained in all WTO agreements. They allow for non-reciprocal concessions, longer implementation periods, and smaller tariff and subsidy cuts for developing countries (with no such obligations for LDC).[21] The opinions on the general usefulness of SDT vary widely.[22] But perhaps two Uruguay Round legal texts specifically addressing agricultural development concerns allow for an assessment of their success and of possible pitfalls. Both texts had unforeseen consequences: the first turned out to be a blind alley, while the second might quickly become a tool for justifying increased farm support limited only by the financial capacity of the developing country concerned.

1. The special situation of the NFIDC gave rise to a last-minute addition to the Legal Texts agreed in Marrakesh, in March 1994. Apparently aware of the limits to an automatic spread of the trade liberalisation benefits to all and sundry, the AoA negotiators anticipating 'possible negative effects of the reform programme' also adopted the Marrakesh NFIDC Decision, which foresees basically four possibilities for mitigating such effects: (i) food aid in grant form; (ii) technical and financial assistance; (iii) special conditions applying to agricultural export credit disciplines; and (iv) new international financing facilities.[23] To cut a long story short, the Marrakesh Decision was never used.[24] It can hardly be said that no one claimed negative effects from trade liberalisation.[25] Rather, there was no consensus on such a correlation. Hence, when the world leaders and international financial institutions called for immediate solutions to the food crisis of 2007–09, this so-called NFIDC Decision was not even mentioned by the WTO Director-General.[26]
2. The second text is the so-called 'Developing Country Green Box' in AoA Article 6.2. It provides that for certain government assistance programmes encouraging agricultural and rural development in developing countries, or diversification from growing illicit narcotic crops, the support provided under these programmes does not count in their CTAMS. The exact size of the window allowing investment subsidies (for all farmers) or agricultural input subsidies (for low-income or resource-poor producers) is quite difficult to assess. Perhaps for this reason it was a long time before such programmes started to be notified (Box 2 summarises actual use).[27]

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[21] WTO, Information on the Utilization of Special and Differential Treatment Provisions. The last document in this series is WT/COMTD/W/77/Rev.1/Add.4 dated 7 February 2002.

[22] For a proposal to stabilise preferential tariffs in order to increase its efficiency, see Bartels and Häberli (2010).

[23] Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries. Document G/AG/5/Rev.10 dated 23 March 2012 lists 32 developing countries, and all LDC, as possible beneficiaries of the Marrakesh Decision.

[24] Document WT/COMTD/W/77/Rev.1 dated 21 September 2001 has 57 pages of SDT measures. On the implementation of the NFIDC Decision it notes that the World Bank considered that "the impact of the Uruguay Round on food prices was small and that it did not consider it necessary to establish a special UR adjustment facility."

[25] Howse and Teitel (2009), at p. 48.

[26] Häberli (2013).

[27] It may also be noted that the Committee on Agriculture, until a few years ago, had received very few "counter-notifications" under AoA Article 18.6.

Box 2: "Developing Country Green Box" (AoA Article 6.2)

More than 50 Members have notified Article 6.2 programmes. For instance, Bahrain has a subsidy specific to poultry. Brazil has a debt rescheduling and various other credit programmes. Chile offers different investment incentives. Honduras introduced a productive solidarity voucher and a technology voucher. India supports with few further specifications or delimitations its low-income and resource-poor farmers and provides other input subsidies. Namibia has a livestock marketing scheme. Nigeria has a domestic fertiliser programme. Oman has a national project for date palm development. Thailand provides soft loans for agricultural investment and farming input assistance. Uruguay has a project simply called 'Rural Uruguay'. Vietnam offers freight subsidies for the transport of commodities and production inputs to mountainous and remote regions.[28]

All of these programmes were critically examined by other WTO Members in the Committee on Agriculture. But until today their compatibility with the intricate conditions in Article 6.2 has never been formally challenged in dispute settlement.

The question relevant for this paper is whether the financial sums spent under these new farm support practices – apparently none by an LDC – can 'more than minimally' impact on production and trade by other (developing) countries, over and above the Aggregate Measurement of Support (AMS) entitlements of the countries involved. Looking at the countries that have notified such programmes it also becomes clear that the poorest developing countries have yet to support their farmers in any comparable way or extent. At this point we would note that the increasing recourse to Article 6.2, especially by large countries, is unlikely to reduce trade distortions.

5. Conclusions: fix it while it ain't broke

This overview of evolving agricultural trade rules, present (non-)negotiations and unfulfilled development promises is but a summary of the development challenge narrative aptly outlined by Melaku Desta. This paper presents the development fault lines in the Uruguay Round texts with the help of the NFIDC Decision and of the growing farm support (i) by developed countries (including measures notified under the Green Box) and (ii) by emerging economies (e.g. measures notified under AoA Article 6.2). A scenario emerges of a new and also rapidly growing inequality not only between developed and emerging economies but – and here lies the 'development crux' – also in respect of the poorest WTO Members, although many of them are increasing their agricultural production and trade. The Doha Development Agenda with its export-biased and unilinear duty and subsidy reduction approach fails to provide these countries and their farmers with the tools they need when facing their better-supported competitors both at home and on regional and world markets. Still less can the classic SDT measures – nor, for that matter, the ever eroding tariff preferences – address this issue.

In conclusion, a way forward can only be suggested here by way of a to-do list for a more equitable development outcome. A Doha Final Act, if carefully drafted on the basis of new proposals by the potential losers of the ensuing competition for market shares, might be the place for providing for some sort of compensation, in a way not dissimilar to some of the

[28] Cf. WTO Agriculture Information Management System and the 'Transparency Toolkit', http://agims.wto.org/ (last accessed on 15 July 2015).

‘cohesion measures’ offered at each EU enlargement, or in most North–South Regional Trade Agreements. Such a package of coordinated measures should comprise some of the following elements, irrespective of their implementation at the multilateral and regional or sectoral levels:

1. Poor developing countries without the capacity to substantially distort trade must retain ample policy space for at least the temporary protection of fragile agricultural producers. It should be remembered that tariffs are just about the only policy tool available to many poor countries which can hardly afford to subsidise their farmers. This calls for effective and easy-to-activate safeguards (rather than tariffs which will disappear one way or the other).
2. An increase in domestic support flexibility for developing countries may be necessary given the context in which the present rules and spending ceilings were negotiated. However, new ‘races of finance ministers’ cannot be allowed. AoA Article 6.2 needs to be revisited; both for stricter disciplines to ensure that such measures have no detrimental effect on other (developing) countries and to strictly limit all input subsidies to poor countries unable to provide other forms of support to their resource-poor farmers.
3. As became clear at the Bali Ministerial Conference, it is imperative to prevent ‘Basmati Wars’. Risk management tools such as national and regional (and ‘virtual’) food reserves and new production risk insurance schemes may require a special provision in the Green Box, and under the relevant export competition disciplines.
4. The absence of new disciplines in export restrictions and export competition, especially by way of food aid, are the most blatant threats to food security. These problems have yet to be addressed. As a minimum, the November 2011 G20 decision to exempt food aid supplies from export restrictions should be made mandatory. Here too, however, additional food aid disciplines are needed which not only prevent ‘commercial displacement’ but also protect local producers, so as to ensure that such food aid only reaches beneficiaries unable to pay for their minimum daily intake.
5. The foreseeable agricultural negotiation results are likely to benefit mainly those producers and exporters who are already competitive today. Three additional food security-enhancing commitments should thus be undertaken which would benefit less resilient developing countries and producers.
   a. Mandatory and quantified Aid for Trade, a specific part of which should then be earmarked for food crop production in NFIDC.
   b. A formal commitment not to decrease food aid when food prices on the world market increase.
   c. Securing non-reciprocal trade preferences for countries whose food security depends on their exports.

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