

TWN Info Service on WTO and Trade Issues (Jan24/14)

30 January 2024

Third World Network

WTO: Chair issues draft agriculture text replete with asymmetries

Published in SUNS #9935 dated 30 January 2024

Geneva, 29 Jan (D. Ravi Kanth) — The chair of the Doha agriculture negotiations on 27 January issued a draft text under his own responsibility to set the stage for finalizing an outcome at the World Trade Organization's 13th ministerial conference (MC13), which begins in Abu Dhabi on 26 February, but "prime facie" the draft text seems to lack "appropriate balance" and remains somewhat "asymmetrical" in placing the non-mandated issues on a higher pedestal as compared to the mandated issues, said people familiar with the development.

The five-page draft text on agriculture, seen by the SUNS, seems to accord high priority to the demands of the Cairns Group of farm-exporting countries on domestic support and the issue of market access raised by the United States.

The draft text, issued as a room document implying that it is not an official WTO document, took on board the concerns expressed by the Cairns Group against the permanent solution for public stockholding (PSH) programs for food security, which was raised by India, China, Indonesia on behalf of the G33 group, the African Group and the ACP (African, Caribbean, and Pacific) group, said people familiar with the text.

The chair's ordering of the issues in the draft text seemed to indicate that the non-mandated issues concerning domestic support and market access take precedence over mandated issues like PSH, raising questions of "integrity" and "credibility" of the WTO ministerial decisions, said people familiar with the development.

Further, the concerns expressed by several members against domestic support and market access are seemingly ignored in the draft text, said people familiar with the text.

The draft text, after the chapeau and the proposed decisions that ministers must decide at MC13, starts with domestic support raised by the Cairns Group, market access, which the US raised at the small-group meetings last week, and the special safeguard mechanism (SSM), which the Cairns Group and the US linked with market access for farm products and so on.

Significantly, these issues are kept open, giving a false impression that there is consensus on the proposed language on domestic support and market access among others.

The important mandated issue of PSH is pushed to the penultimate paragraph 29 of the draft text.

The chair provided two options on the permanent solution for PSH in square brackets in a binary framework implying that either ministers conclude the permanent solution for PSH programs at MC13 or defer it to MC14, said a Cairns Group source, preferring not to be quoted.

The proposed language in square brackets on PSH is as follows:

29. [Pursuant to the Nairobi Ministerial Decision (WT/MIN(15)/44-WT/L/979), Members adopt a permanent solution as set out in Annex ... to this Decision].

OR

29. [Pursuant to the Nairobi Ministerial Decision (WT/MIN(15)/44-WT/L/979), Members undertake to pursue and intensify negotiations on PSH in dedicated sessions of the CoA-SS and make all concerted efforts to agree and adopt a permanent solution on the issue of public stockholding for food security purposes by MC14. The permanent solution shall be available to all developing country Members.]

The chair's "all-or-nothing" approach on PSH could create a dangerous precedent at MC13 in which either trade ministers agree on PSH or the whole agriculture package falls flat, the source close to the Cairns Group said.

Though the text seems positive on issues of domestic support and market access, it lacks “appropriate balance” and is somewhat “asymmetrical”, the source maintained.

URGENT EMAIL

In his urgent email sent separately from the draft text on 27 January, the chair, Ambassador Alparslan Acarsoy of Türkiye, said “The draft text I am circulating to you today is intended to serve as a vehicle for negotiating among yourselves in the coming days.”

He said, “it is just a starting point; it attempts to reflect as accurately as possible the state of play in the negotiations, taking into account the convergences and the divergences in Members’ positions, including in areas where a lot of work is still required to narrow the gaps.”

The chair informed members that he would “introduce the text on Tuesday (30 January) and will then provide Members with a first opportunity to comment on it both generally and section by section.”

However, trade envoys who attended the chair’s small-group meetings held last week seemingly avoided the cautions issued by key members on the confidential text that he had shared with more than a dozen countries, said people familiar with the meetings.

It appears that Japan opposed any language on market access, while China had insisted that domestic support must not include green box and blue box commitments, said people, who attended the meeting.

Besides, the chair seems to have done something different from what was agreed at the small-group meeting on 25 January, by issuing a draft text that lacks “appropriate balance”, the source said.

“He seemed reluctant to move forward but now issued an asymmetrical all-or-nothing draft text,” the source complained.

DRAFT TEXT

Following the Chapeau, which recognizes “the lack of substantive progress on most agriculture negotiating issues to date” during the last two ministerial meetings, the draft text asks ministers to decide on the following aspects:

1. Members reaffirm their commitment to continue the agriculture negotiations in accordance with Article 20 of the Agreement on Agriculture (AoA) and relevant Ministerial and other Decisions adopted by Members. Members shall accordingly make all concerted efforts towards achieving tangible progress and balanced outcomes across topics in the negotiations by the Fourteenth Session (MC14) [, including an agreement on a permanent solution to the issue of public stockholding for food security].
2. Members take note of the report prepared by the Chair of the Special Session of the Committee on Agriculture (CoA-SS) under his own responsibility, which summarizes the state of play in the negotiations and points out the areas of convergence and areas where there are wide divergences in Members’ positions. Members also acknowledge the submissions on the various negotiating topics, including those contained in the non-exhaustive list annexed to the report.
3. Members welcome the progress made thus far by the CoA-SS and its dedicated sessions on public stockholding for food security purposes (PSH) and the special safeguard mechanism for developing countries (SSM) as reflected in the Chair’s Report and commit to revitalize and intensify the negotiations after MC13. The negotiations shall build on the work undertaken thus far and be based on discussions among Members and existing and future submissions by them, as well as their relevant notifications.
4. Members reiterate that trade, along with domestic production, plays a vital role in improving global food security in all its dimensions and enhancing nutrition, and emphasize that progress on the topics under negotiation listed below should contribute to enhancing global food security.
5. Members also acknowledge the need to make efforts to facilitate agricultural trade, including by working towards reducing the time and procedural costs related to the importation and exportation of food and agricultural inputs and for non-commercial international food aid transactions [including within the framework of the WTO Agreement on Trade Facilitation].
6. Recognizing the acute challenges faced by the most vulnerable Members while reaffirming exporting Members’ right to apply such measures pursuant to existing WTO disciplines, and

without prejudice to outcomes of any other negotiations in the future on export restrictions, Members agree that net food-exporting Members of a specific foodstuff shall [, to the extent possible,] refrain from imposing export prohibitions or restrictions on such foodstuff imported by LDCs and Net Food-Importing Developing Countries (NFIDCs) for their domestic consumption to ensure their current food security needs, taking due account of past levels of imports.

7. Members recognize the importance of the implementation of existing notification and transparency obligations under Article 18 of the AoA and shall make best possible efforts to provide outstanding notifications in a complete and comprehensive manner. Members shall endeavour to provide the value of production data, including for specific products, in their DS:1 notifications to substantiate de minimis claims. Members facing capacity constraints in fulfilling their notification and transparency requirements are encouraged to request technical assistance from the WTO Secretariat.

8. Special and differential treatment for developing countries shall be an integral part of the negotiations. LDCs will be exempted from undertaking reduction commitments. The non-trade concerns of Members shall be taken into account in the negotiations.

The chair's draft text seems to be replete with contradictions, as paragraph 3 of the decision above calls for intensifying work on PSH and SSM after MC13, while including the option to conclude the permanent solution on PSH at MC13 in square brackets, said people who asked not to be quoted.

The chair's draft text from paragraphs 9-33 is as follows:

DOMESTIC SUPPORT

9. Members commit to pursue and intensify negotiations on domestic support to reduce substantially and progressively [all forms of] trade-distorting domestic support in an equitable manner and also improve disciplines in accordance with the reform objective in the AoA within a reasonable timeframe to be agreed by Members. Modalities shall be agreed and adopted by MC14 and they should reflect different treatment depending on the effects of the support provided.

10. Members' contributions to the reduction effort should [be fair and equitable and] take into account, inter alia, their global market participation, their status as either importers or exporters, the needs of developing Members as well as the need to encourage a shift towards less trade distorting forms of domestic support.

11. Members shall consider addressing [all forms of] trade-distorting domestic support, in particular those concentrated in specific products. The needs of low-income or resource-poor farmers in developing countries shall be taken into account in these negotiations.

12. [Recognizing the importance of the domestic support measures that meet the fundamental requirement that they have no, or at most minimal, trade-distorting effects or effects on production in the reform process and in assisting Members to address contemporary challenges, such as food security, rural livelihood security and environmental protection, Members may consider reviewing and adapting the relevant criteria of Annex 2 and related transparency requirements, as necessary, to ensure they remain fit for purpose and enable Members to effectively address these challenges.]

MARKET ACCESS

13. Members commit to pursue and intensify the negotiations on agricultural market access to improve substantially and progressively market access opportunities for all Members and strengthen disciplines in accordance with the reform objective in the AoA, within a reasonable timeframe to be agreed by Members. [Modalities shall be agreed and adopted by MC14/ Members agree to work towards achieving modalities by MC14.]

14. These negotiations may address tariff reductions and other elements such as tariff simplification, tariff escalation, high tariffs and tariff peaks, transparency in changes of applied tariffs, tariff rate quotas, and special agricultural safeguards, and take into account the interests of both importing and exporting Members. Technical discussions on relevant market access elements shall support these negotiations, as necessary, to facilitate effective participation by all Members and a common understanding on the elements to be addressed in negotiations.

SSM (Special Safeguard Mechanism)

15. Pursuant to the Nairobi Ministerial Decision (WT/MIN(15)/43-WT/L/978), Members shall pursue and intensify negotiations in dedicated sessions of the CoA-SS on a special safeguard mechanism for developing country Members, as envisaged under paragraph 7 of the Hong Kong Ministerial Declaration (WT/MIN(05)/DEC), and to which the developing country Members will have the right to have recourse under paragraph 1 of the Nairobi Ministerial Decision. [Modalities shall be agreed and adopted by MC14/Members agree to work towards achieving modalities by MC14.]

16. Members agree to engage in enhanced technical discussions on specific themes relevant to a special safeguard mechanism to address developing countries' vulnerabilities to import surges and price decreases, including, inter alia, evaluation of import surges and price decreases; triggers and cross-check; remedies; scope, including coverage and the treatment of preferential trade; seasonality and normal evolution of trade flows; possible countervailing mechanism; transparency; and effectiveness and operability of the mechanism. Technical elements of the existing Special Agricultural Safeguard instrument in Article 5 of the AoA and the experience gained in its implementation since 1995 may also be considered.

17. The General Council shall regularly review progress in these negotiations.

EXPORT PROHIBITIONS AND RESTRICTIONS

18. Members agree as part of the negotiations to continue the discussions on enhancing transparency and predictability of export prohibitions and restrictions [and to work towards achieving tangible outcomes by MC14].

19. To this end, Members agree to explore ways in the CoA to review and update the ER:1 notification format specified in G/AG/2 with a view to facilitating timely access to clear and relevant information by Members having a substantial interest as an importer, while minimizing administrative burdens on notifying Members. Members shall take due account of the capacity constraints of developing country Members.

20. Members also agree to explore ways to improve the implementation of Article 12 of the AoA. These discussions may include but are not limited to elements such as clarifying relevant terms in Article 12 of the AoA and Article XI:2(a) of the GATT 1994; considering the role of evidence and data in instituting an export prohibition or restriction; improving information- and experience-sharing at the CoA; and improving the implementation of disciplines on export prohibitions and restrictions.

EXPORT COMPETITION

21. Members reaffirm their commitment to ensure an effective implementation and monitoring of the Nairobi Ministerial Decision on Export Competition (WT/MIN(15)/45-WT/L/980) including by reviewing and exploring ways in the CoA to update the existing transparency requirements, taking due account of the capacity constraints of developing country Members.

22. Members agree to continue negotiations to enhance disciplines on export credits, export credit guarantees or insurance programmes, agricultural exporting state trading enterprises and international food aid to ensure that no circumvention threaten export subsidy elimination commitments and to prevent non-commercial transactions from being used to circumvent such commitments. [Members agree to work towards making tangible progress in these negotiations by MC14, building on the evidence amassed during the review undertaken in the CoA.]

23. Special consideration shall be given to the needs and circumstances of least-developed and net food-importing developing countries, including by exploring ways to enhance the transparency of the implementation of the Nairobi Decision on Export Competition in relation to the specific provisions therein for LDCs and NFIDCs on export credits, export credit guarantees or insurance programmes and international food aid.

COTTON TRADE-RELATED COMPONENT

24. Members undertake to pursue and intensify negotiations on cotton trade-related measures in line with the mandate to address it ambitiously, expeditiously and specifically within the agriculture negotiations in particular with a view to reduce substantially trade-distorting domestic support for cotton in accordance with modalities that would be agreed and adopted by Members by MC14.

25. Members undertake to continue efforts aimed at enhancing transparency and monitoring of cotton-related trade measures affecting the global cotton market through the Dedicated Discussions on Cotton held on a bi-annual basis, as mandated by paragraphs 5, 6 and 7 of the

Bali Ministerial Decision on Cotton (WT/MIN(13)/41-WT/L/916) and confirmed in paragraph 14 of the Nairobi Ministerial Decision on Cotton (WT/MIN(15)/46-WT/L/981).

COTTON DEVELOPMENT ASSISTANCE COMPONENT

26. Members reaffirm that development-related aspects of cotton shall be addressed as provided for in paragraph 12 of the Hong Kong Ministerial Declaration (WT/MIN(05)/DEC) and paragraphs 10, 11, 12 and 13 of the Nairobi Ministerial Decision (WT/MIN(15)/46-WT/L/981).

27. Members reiterate their commitment to the rules-based multilateral trading system, which strengthens the possible synergies between trade in cotton, productive investment and development assistance for LDCs. They recognize the need for an inclusive partnership that makes cooperation and negotiations the preferred instruments for finding the most appropriate solutions to the considerable systemic and cyclical challenges faced by cotton-producing and -exporting LDCs, in particular the C-4 countries.

28. Members underscore the central role of the WTO Director-General's Consultative Mechanism on Cotton as an international forum of reference bringing together the various stakeholders of the global cotton community (public and private sectors, and multilateral agencies) and as an effective multilateral consultation platform for the development of cotton-producing and -exporting LDCs. As such, they agree to coordinate cotton development assistance interventions, follow up on completed and ongoing projects, and use this platform to attract and mobilize further investment with a view to promoting and supporting the production, processing and marketing of cotton and its by-products in LDCs.

PUBLIC STOCKHOLDING FOR FOOD SECURITY PURPOSES (PSH)

29. [Pursuant to the Nairobi Ministerial Decision (WT/MIN(15)/44-WT/L/979), Members adopt a permanent solution as set out in Annex ... to this Decision].

OR

29. [Pursuant to the Nairobi Ministerial Decision (WT/MIN(15)/44-WT/L/979), Members undertake to pursue and intensify negotiations on PSH in dedicated sessions of the CoA-SS and make all concerted efforts to agree and adopt a permanent solution on the issue of public stockholding for food security purposes by MC14. The permanent solution shall be available to all developing country Members.]

30. These negotiations shall consider all relevant issues, including domestic food security targets of the programmes; product coverage; safeguards and anti-circumvention, including with respect to exports; transparency; and legal certainty. They shall also consider the impact of inflation on calculations of the Aggregate Measurement of Support.

31. [Taking into account the acute food security challenges and vulnerabilities of LDCs, and pending the adoption of a permanent solution, Members agree to extend the Bali Interim Solution established by the Ministerial Decision of 7 December 2013 (WT/MIN(13)/38-WT/L/913) and the General Council Decision of 27 November 2014 (WT/L/939) to public stockholding programmes for food security purposes of LDCs enacted after 7 December 2013.]

32. [The General Council shall regularly review progress in these negotiations.]

TIMELINE FOR IMPLEMENTATION

33. [...] +