IFPRI Discussion Paper 01444

May 2015

The Bali Agreement

An Assessment from the Perspective of Developing Countries

Eugenio Díaz-Bonilla

David Laborde

Markets, Trade and Institutions Division

INTERNATIONAL FOOD POLICY RESEARCH INSTITUTE

The International Food Policy Research Institute (IFPRI), established in 1975, provides evidence-based policy solutions to sustainably end hunger and malnutrition and reduce poverty. The Institute conducts research, communicates results, optimizes partnerships, and builds capacity to ensure sustainable food production, promote healthy food systems, improve markets and trade, transform agriculture, build resilience, and strengthen institutions and governance. Gender is considered in all of the Institute's work. IFPRI collaborates with partners around the world, including development implementers, public institutions, the private sector, and farmers' organizations, to ensure that local, national, regional, and global food policies are based on evidence. IFPRI is a member of the CGIAR Consortium.

AUTHORS

Eugenio Díaz-Bonilla (E.Diaz-Bonilla@cgiar.org) is a visiting senior research fellow in the Markets, Trade and Institutions Division of the International Food Policy Research Institute (IFPRI), Washington, DC.

David Laborde is a senior research fellow in the Markets, Trade and Institutions Division of IFPRI, Washington, DC.

Contents

Tables

Figures

ABSTRACT

A proper operation of the international trading system is crucial for economic development, poverty alleviation, and food security. An important aspect of that global system is the set of multilateral trade rules defined first under the General Agreement on Trade and Tariffs (GATT) in 1948, and later expanded during the different agreements reached in the Uruguay Round, which included the creation of the World Trade Organization in 1995. Those agreement, however, left important unresolved issues regarding appropriate rules for world agriculture and other topics of importance for developing countries. WTO members have been trying since then to complete that unfinished agenda. The last attempt has been the WTO Ministerial Conference that took place in Bali, Indonesia, in December 2013. The substance of the Bali negotiations was only completed in November 2014 after solving a series of problems mainly related to concerns about food security provisions. This paper discusses the different agreements and decisions reached in the Bali Ministerial Conference and the potential implications for the post-Bali work program. The results of the Bali Ministerial Conference are analyzed taking the perspective of the developing countries (though recognizing that this is a heterogeneous group). Because agricultural topics—in particular, food security—have been key issues in the negotiations, they receive a more detailed treatment. It is recognized, however, that discussing agricultural issues in isolation will not provide an adequate picture of the Bali negotiations. Therefore, this paper provides some historical and conceptual background on each of the topics negotiated, while also including enough legal detail regarding the texts and specific trade discussions to serve as a basic reference. Besides the specific substance of the agreements and decisions, a general important consideration is that, given the fears that a failure in Bali would have led to further fragmentation of the global trading system and the marginalization of many developing countries due to increasing imbalances in negotiating power, the Bali agreements and the November 2014 decision reinforce the WTO as the multilateral anchor of the global trade system. Notwithstanding potential criticisms about the limitations of the Bali agreements, developing countries should consider the strengthening of the multilateral system as a positive development: to the extent that individually many of them remain small players in the global arena, they should have a strong interest in a transparent, rule-based multilateral trading system that limits old-style power politics in global trade.

Keywords: WTO, Doha Round, developing countries, Bali Agreement

ACKNOWLEDGMENTS

This work was undertaken as part of the CGIAR Research Program on Policies, Institutions, and Markets (PIM) led by the International Food Policy Research Institute (IFPRI). Funding support for this study was provided by the European Union's Seventh Framework Programme FP7/2007-2011 under grant agreement number 290693, FOODSECURE, and PIM. This paper has not gone through IFPRI's standard peer-review procedure. The opinions expressed here belong to the authors, and do not necessarily reflect those of any organization of the European Union or European Commission, PIM, IFPRI, or CGIAR.

1. INTRODUCTION

On December 7, 2013, after several days of work and the usual posturing and drama, members of the World Trade Organization (WTO) closed the Ninth Ministerial Conference with an agreement on the organization's first comprehensive multilateral trade package. Until that point, the trade agreements completed since the WTO's creation in 1995 had been mainly regional and plurilateral, including some but not all WTO members. In many cases, these agreements were negotiated outside of the WTO altogether.

The implementation of the Bali agreement should have taken place during 2014 but reached an impasse by the end of June of that year. The reasons will be discussed in detail below, but it was basically due to differences in opinion about the WTO's treatment of public food stocks in developing countries.[1] Only on November 27, 2014, almost a year after the original Bali Ministerial, did WTO members manage to patch up their differences.[2] This recent agreement allows the implementation of the assorted policy decisions that were supposed to have been settled at Bali but were held up by the dispute on public food stocks to finally proceed; it also puts back on track the post-Bali work program that should be defined by mid-2015.

This paper discusses the results of the Bali Ministerial Conference of December 2013 (sometimes called the Bali Package); the problems encountered during 2014 and how they were solved in November 2014; and the potential implications for the post-Bali work program, which remains critical to unlocking the Doha Round.

The perspective presented here is that of developing countries (though recognizing that this is a heterogeneous group). The discussion is mainly aimed at policymakers, development practitioners, and the general public in developing countries who are interested in trade issues but who do not necessarily follow these negotiations closely. This paper provides some historical and conceptual background on the topics covered, while also including enough legal detail regarding the texts and specific trade discussions to serve as a basic reference. Because agricultural topics—in particular, food security—have been key issues in the negotiations, they receive a more detailed treatment here. This paper recognizes, however, that discussing agricultural issues in isolation will not provide an adequate picture of the Bali negotiations, during which countries tried to obtain a balance of rights and obligations (sometimes called "offensive" and "defensive" objectives).

The rest of the paper is organized as follows. It begins with a short, historical narrative of the negotiations leading to the Bali Ministerial in December 2013 and of the issues that delayed the implementation process until the agreements reached in November 2014. It then attempts to place the negotiations and activities of the Bali Ministerial in the context of the different categories of work conducted in the WTO. A third section describes the legal aspects and implications of the ministerial decisions approved in Bali and the modifications of November 2014. A fourth section summarizes the relevance of the Bali Package, particularly for developing countries. The final section concludes with reflections about the thorny issues that may affect the future WTO program.

[1] According to WTO Director-General Roberto Azevêdo, "We are very close to overcoming impasse on Bali implementation" (http://www.wto.org/english/news_e/news14_e/dgra_26nov14_e.htm).

[2] According to General Azevêdo, "The WTO has truly delivered" (http://www.wto.org/english/news_e/spra_e/spra16_e.htm).

2. A SHORT HISTORICAL NARRATIVE OF THE BALI PACKAGE AND THE NOVEMBER 2014 AGREEMENTS

The Bali agreement was a continuation of the process initiated by the Doha Round, which was launched in 2001 during the Fourth WTO Ministerial Conference[3] in an attempt to negotiate a multilateral deal that was built on the unfinished work of the previous Uruguay Round. From the viewpoint of many developing countries, the Doha negotiations were needed to better balance what the countries considered the excessive concessions that industrialized countries received in the Uruguay Round. These concessions related not only to new topics, such as intellectual property rights and services, but also to the legal room given to protect and subsidize industrialized countries' agriculture and to the use of export subsidies for agricultural products. (Such subsidies are prohibited for industrial products under the General Agreement on Tariffs and Trades [GATT] and WTO frameworks.) The negotiating package discussed in Doha was even called the Doha Development Agenda in recognition of the complaints voiced by many developing countries.[4] The Doha Ministerial Declaration (WTO 2001) laid out an ambitious negotiating program with specific instructions for different topics, including agriculture; services, electronic commerce, and market access for nonagricultural products; intellectual property, investment, and competition policy; and government procurement, trade facilitation, WTO rules for regional trade agreements, the Dispute Settlement Understanding, and environmental issues.

Until Bali, however, the Doha negotiations had been languishing since the last sustained push to complete them had collapsed in 2008.[5] That collapse happened, in large part, because of disagreements between developed and developing countries regarding an adequate balance between the agricultural and nonagricultural commitments being negotiated, market access requests by developed countries, and differing opinions about special and differential treatment (SDT)[6] for developing countries.

Two key factors in particular derailed the 2008 negotiations.[7] One was related to developing countries' food security concerns, which at the time were focused on the operation of a special safeguard mechanism to increase protection for selected staple products under specific conditions. The other factor was the cotton controversy between the United States and several cotton-producing African countries (see more details in the section related to cotton issues).

[3] The WTO Ministerial started after the formal creation of the WTO in 1995. The list from the latest to the earliest WTO Ministerial Conferences is as follows: Bali, December 3–6, 2013 (Ninth); Geneva, December 15–17, 2011 (Eighth); Geneva, November 30–December 2, 2009 (Seventh); Hong Kong, December 13–18, 2005 (Sixth); Cancún, September 10–14, 2003 (Fifth); Doha, November 9–13, 2001 (Fourth); Seattle, November 30–December 3, 1999 (Third); Geneva, May 18–20, 1998 (Second); and Singapore, December 9–13, 1996 (First). As explained in more detail in the text, the Ministerial Conference is the supreme authority of the WTO.

[4] The Doha Ministerial also addressed some of the problems created by the original agreement on trade-related intellectual property rights (TRIPs) in a ministerial declaration (Declaration on the TRIPs Agreement and Public Health, WT/MIN(01)/DEC/2, November 20, 2001). That declaration, recognizing "the gravity of the public health problems afflicting many developing and least-developed countries, especially those resulting from HIV/AIDS, tuberculosis, malaria, and other epidemics," made some of the requirements in the original text more flexible for developing countries.

[5] When the negotiations collapsed, very sophisticated draft modality texts were achieved but were not agreed upon. Many negotiators and observers still use these texts (called "Rev.4 Draft Modalities" in agriculture or "2008 Modalities" (TN/AG/W/4/Rev.4)) as a reference.

[6] SDT refers to the notion that developing countries may need special treatment under trade rules, differentiated from the legal obligations of developed countries (more on this later).

[7] Recently, Baghwati (2013) argued that the failure was due to pressure from US business lobbies on the Obama administration to get more concessions (mostly, but not limited to, market access) from large developing economies such as India for agriculture and Brazil for manufacturing. As is the case in the opposite narrative, in which the intransigence of large developing countries (particularly India for agriculture) was the main culprit, any verdict of guilt must recognize that in unsuccessful negotiations, it is usually the collective behavior of all actors that defines the results (although the WTO consensual process always has the possibility of single actors blocking advances).

Given the difficulties in pushing through negotiations on all of the Doha Round topics, WTO members decided to refocus their talks on a more limited number of issues—ones that seemed to have a better chance of leading to a general agreement. From those efforts emerged the components of the Bali Package that was finally approved on December 7, 2013.

The Bali Ministerial Declaration instructed WTO members to define a post-Bali work program during 2014. Crucially, a specific component of the Bali package—the Agreement on Trade Facilitation (ATF)—required a final review of the wording and the completion of some legal steps (explained below) to be sent to WTO members for final approval by their legislatures.[8] Those wording and legal issues were scheduled to be resolved during a meeting of the WTO General Council in July 2014. However, that meeting broke down in disarray when India basically made the implementation of those final legal steps contingent on clarifications regarding another key component of the Bali package—the Ministerial Decision on Public Stockholding for Food Security Purposes. The topic had already brought negotiations to the verge of a breakdown at the Bali Ministerial and had led to a one-day extension of discussions. Even after those discussions, the package still contained wording with alternative interpretations (see the discussion in Díaz-Bonilla 2014); therefore, India decided to hold up negotiations of the ATF until the text was clarified. July to November of that year saw a flurry of negotiations, attempting to work out a compromise. A final agreement on the wording was achieved in the WTO General Council meeting of November 27, 2014. The context and content of the Bali Package and of the November 2014 agreement are discussed in the next sections.

Context of the Bali Package

To provide some context, it is useful to keep in mind that the Ministerial Conference is the supreme authority of the WTO, comprised of the top domestic authorities on trade issues designated by each WTO member. The Ministerial usually meets every two years and can make decisions on any WTO subject. The Ministerial is a meeting of governments; the WTO Secretariat (that is, the WTO staff proper) do not serve as representatives of specific countries but rather as neutral support staff for the work done by the governmental delegations of diplomats accredited to the WTO.

Under the Ministerial Conference is the WTO General Council (GC), which manages day-to-day issues at the WTO headquarters in Geneva. Under the GC is a series of other councils and bodies that carry out the WTO's different functions and activities, which can be organized around three main areas of work. The first is the negotiation of new agreements. While outside attention typically focuses on this area (for example, trade negotiations), the two other areas of work are at least as important. The second group of activities is the work of the different WTO committees, where members monitor and maintain a continuous dialogue on current trade practices and operations in the context of WTO legal commitments. The third area is the dispute settlement mechanism (DSM), which members use when they believe other members have negatively affected their rights under specific WTO agreements. Although the three areas include separate functions, they are linked in important ways. For example, consultations under regular committees (the second area of work) may end up as cases in the DSM (the third area of work); both the activity of the committees and the DSM may lead to the identification of topics that may require further trade negotiations (the first area of work); and, obviously, the agreements negotiated under the first area of work provide the legal and operational issues that constitute the substance of both the work of the committees and the work of the DSM.

Not all of the WTO's work in any of the three areas necessarily reaches the level of decisionmaking by ministers in the Ministerial Conferences. Some trade agreements are not multilateral; although they may have links to the WTO legal framework, they may be administered by a separate institutional architecture. One such category of agreements includes plurilateral trade agreements (PTAs), which involve a subset of WTO members that agree on certain trade regulations for a specific sector and

[8] As discussed later, the Bali Package had been agreed upon by representatives of the executive branches of the WTO members; the ATF, being a new WTO agreement, required in many cases approval by the legislative branches.

that are governed by the provisions of those agreements (Article IX(5) of the agreement establishing the WTO).[9] There is also a long list of regional trade agreements (RTAs) involving two or more countries; as of July 2013, the WTO acknowledged 575 notifications of RTAs (counting goods and services), of which 379 were effective. Currently, several RTAs have been called "mega-regional trade agreements" and are receiving particular attention; these include the Trans-Pacific Partnership, which so far includes Australia, Brunei, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, the United States, and Vietnam, and the Transatlantic Trade and Investment Partnership, negotiated between the United States and the European Union.

The Bali Ministerial Conference must be placed within this broader context of WTO and non-WTO trade negotiations and trade issues taking place in parallel. In fact, an underlying theme in the Bali negotiations was the possibility that, if ministers failed to reach an agreement, the WTO's multilateral aspects would lose relevance given the advance of PTAs and RTAs. More generally, there are ongoing debates about whether PTAs and RTAs are helping or undermining global trade and the multilateral trade system built around the WTO; what the legal and institutional links among PTAs, RTAs, and the WTO framework should be; and the potential marginalization of developing countries that are not participating in those agreements, as well as the asymmetrical bargaining power of those that do participate (see Bouët and Laborde 2009), where they quantify the implication of trade agreements between industrialized countries that exclude developing countries).

The work done during the Bali Ministerial can be divided into three areas of concentration. The Bali Ministerial Declaration (WT/MIN(13)/DEC/W/1/Rev.1, December 7, 2013) is the basic document identifying all decisions made at the Ministerial Conference. Table 2.1 includes a list of all relevant topics and documents. The main group includes the agreements and decisions related to the subset of components of the Doha Round (sometimes called the Bali Package) that were ready for ministers to decide upon at the Bali Ministerial. This work is related to the trade-negotiating activities (Section 1 in Table 2.1). Then there are decisions about the WTO post-Bali work program, focusing on future trade-negotiating activities (Section II). Finally, there is another group of decisions in which the Ministerial Conference (1) took note of the GC's regular work (mostly related to the second and third areas of work mentioned previously), (2) issued further ministerial decisions, and (3) gave instructions for future regular work (Section III). The adoption of the Decision on the Accession of the Republic of Yemen (WT/MIN(13)/24-WT/L/905), a least-developed country (LDC),[10] by which Yemen became the 160th member of the WTO, also belongs in this third group.

[9] The existing plurilateral trade agreements (PTAs) under the WTO umbrella are Trade in Civil Aircraft and Government Procurement. Currently there is an ongoing negotiation on services, which, given that not all WTO members are involved, would end up being a PTA if agreed upon.

[10] The category of LDCs is a specific denomination by the United Nations that is based on development indicators. There are currently 48 LDCs determined by the United Nations, 35 of which have become WTO members, including the accession of Yemen during the Bali Ministerial (see next footnote). The LDC members are Angola, Bangladesh, Benin, Burkina Faso, Burundi, Cambodia, Central African Republic, Chad, Democratic Republic of the Congo, Djibouti, Gambia, Guinea, Guinea-Bissau, Haiti, Lao People's Democratic Republic, Lesotho, Madagascar, Malawi, Mali, Mauritania, Mozambique, Myanmar, Nepal, Niger, Rwanda, Samoa, Senegal, Sierra Leone, Solomon Islands, Tanzania, Togo, Uganda, Vanuatu, Yemen, and Zambia. Eight other LDCs are WTO observers (Afghanistan, Bhutan, Comoros, Equatorial Guinea, Ethiopia, Liberia, Sao Tomé and Principe, and Sudan), and another six are neither a member nor an observer (Eritrea, Kiribati, Somalia, South Sudan, Timor-Leste, and Tuvalu).

Table 2.1 Decisions and declarations of the Bali Ministerial

I. Doha Development Agenda

Trade Facilitation
Agreement on Trade Facilitation (WT/MIN(13)/W/8)

Agriculture and Cotton
- General Services (WT/MIN(13)/W/9)
- Public Stockholding for Food Security Purposes (WT/MIN(13)/W/10)
- Understanding on Tariff Rate Quota Administration Provisions of Agricultural Products (WT/MIN(13)/W/11)
- Export Competition (WT/MIN(13)/W/12)
- Cotton (WT/MIN(13)/W/13)

Development and LDC Issues
- Preferential Rules of Origin for Least-Developed Countries (WT/MIN(13)/W/14)
- Operationalization of the Waiver Concerning Preferential Treatment to Services and Service Suppliers of Least-Developed Countries (WT/MIN(13)/W/15)
- Duty-Free and Quota-Free (DFQF) Market Access for Least-Developed Countries (WT/MIN(13)/W/16)
- Monitoring Mechanism on Special and Differential Treatment (WT/MIN(13)/W/17)

II. Post-Bali Work
The relevant section of the Bali Ministerial Declaration (WT/MIN(13)/DEC/W/1/Rev.1)

III. Regular Work Under the General Council
- TRIPs Nonviolation and Situation Complaints (WT/MIN(13)/W/2)
- Work Program on Electronic Commerce (WT/MIN(13)/W/3)
- Work Program on Small Economies (WT/MIN(13)/W/4)
- Aid for Trade (WT/MIN(13)/W/5)
- Trade and Transfer of Technology (WT/MIN(13)/W/6)
- Decision on the Accession of the Republic of Yemen (WT/MIN(13)/24- WT/L/905)

Source: WTO (2013).

In its meeting on November 27, 2014, the WTO General Council approved the Decision on Public Stockholding for Food Security Purposes (WT/L/939), the Protocol of Amendment to insert the Trade Facilitation Agreement into Annex 1A of the WTO Agreement (WT/L/940) and to open the protocol for acceptance, and the Decision on Post-Bali Work (WT/L/941). As the GC chair noted, "In adopting the three Decisions on Public Stockholding for Food Security Purposes, on the Protocol of Amendment for Trade Facilitation, and on Post-Bali work simultaneously, we are reaffirming the entirety of the Bali Ministerial mandates, including the priorities that Ministers identified at Bali" (WTO 2014b).

The next section focuses on topics in Sections I and II of Table 2.1 (that is, what was negotiated in the Bali Package as part of the Doha Development Agenda and the related future work on trade negotiation issues) and the decisions of the November 2014 General Council. Anyone interested in the regular work under the General Council (Section III) can consult the main topics and related documents in the Bali Ministerial Declaration listed in Table 2.1.[11]

[11] The Ministerial Conference also took note of two decisions of the General Council taken in Geneva in response to the relevant mandates from the Eighth Ministerial: (1) the decision adopted by the TRIPs Council concerning the extension of the transition period under Article 66.1 for LDC members in document IP/C/64, and (2) the decision adopted by the General Council in July 2012 on the accession of LDCs in document WT/L/508/Add.1.

3. THE BALI PACKAGE AND FUTURE WORK

As shown in Table 2.1, the Bali Package can be divided into three topics: (1) trade facilitation, (2) agriculture and cotton, and (3) specific issues related to the special treatment of developing countries and LDCs under WTO rules. The modifications that emerged from the November 2014 agreements (the Decision on Public Stockholding for Food Security Purposes, WT/L/939, and the Protocol for the Trade Facilitation Agreement, WT/L/940) will also be highlighted where they apply. The Bali Ministerial Declaration briefly defines the parameters and procedures for post-Bali work; however, as previously mentioned, this work program was derailed by the controversy over public food stocks. It was therefore updated by the Decision on Post-Bali Work (WT/L/941), a discussion of which closes this section.

Trade Facilitation

Background

As previously mentioned, trade facilitation was part of the negotiating program defined at the Doha Ministerial Declaration (WTO 2001), focusing on customs procedures and related institutional and organizational issues. It was originally part of the four so-called Singapore issues that were discussed at the WTO's First Ministerial Conference in 1996. The other three issues were trade and competition, trade and investment, and transparency in government procurement. All of these issues were included in the Doha negotiating agenda, but in 2003, several LDCs and developing countries asked for the exclusion of the three topics other than trade facilitation. Trade facilitation was formally accepted in 2004 by a core group of developing countries as part of the negotiating program in an effort to restart the Doha talks after the failure of the WTO Ministerial in Cancún in 2003 (ICTSD 2013).

The negotiating mandate on trade facilitation was included in Annex D of the so-called July Package (WT/L/579, August 2, 2004). Paragraph 1 stated that the objective was "to clarify and improve relevant aspects" of three articles of the WTO's General Agreement on Tariffs and Trade (GATT) 1994: Article V (Freedom of Transit), Article VIII (Fees and Formalities Connected with Importation and Exportation), and Article X (Publication and Administration of Trade Regulations). The final objective was "to further expediting the movement, release, and clearance of goods, including goods in transit." The same paragraph indicated that "negotiations shall also aim at enhancing technical assistance and support for capacity building in this area" and provide for "effective cooperation between customs or any other appropriate authorities on trade facilitation and customs compliance issues."

Paragraph 2 introduced a new concept by accepting that special and differential treatment (SDT) "should extend beyond the granting of traditional transition periods for implementing commitments" and that "the extent and the timing of entering into commitments shall be related to the implementation capacities of developing and least-developed Members." To reinforce this point, the text noted, "It is further agreed that those Members would not be obliged to undertake investments in infrastructure projects beyond their means." This was a relevant departure from previous approaches to SDT, suggesting that commitments be related to members' implementation capacity and the provision of effective technical support and foreign aid. It also directly addressed developing countries' complaints that the Uruguay Round committed them to WTO obligations without considering the costs involved. The novel idea that the commitments be related to the implementation capacity and the provision of effective technical support and foreign aid was incorporated in the Agreement on Trade Facilitation approved at Bali.

Negotiations about the legal text of the July Package were complex. Some developing countries believed that the agreement would lead to import surges and create balance-of-payment problems. This contradicted the idea that several developing countries had about trade facilitation as a means to help them export more rather than to become faster or more efficient importers. Developed countries, on the other hand, were concerned that linking commitments to the provision of foreign aid would significantly water down the WTO obligations envisaged in the ATF.

Confidentiality issues also led to other technical issues, such as the treatment of pipelines as "trade in transit," and complications arising from customs cooperation. As late as November 26, 2013, less than a week before the start of the Bali Ministerial, the text still had a significant number of brackets indicating areas in which the language had not been agreed upon (ICTSD 2013). However, by the time the Bali Ministerial began the following week, all the issues had either been resolved or dropped from the agreements (as in the case of the section on pipelines).

Legal Aspects

The ATF (WT/MIN(13)/W/8) is the only new agreement negotiated in Bali. In order for this agreement to enter into effect (that is, to become a binding commitment for the participating countries), it has to be ratified by two-thirds of the WTO members. As noted before, the heads of government and the ministers who approved the decisions in Bali represent their countries' executive branches; in many countries, the concurrence of legislative bodies is also required by their respective constitutions to ratify international treaties. Before sending the final text for ratification, however, some steps need to come first, including a "cleaning up" of the text adopted in Bali. This cleanup checks for wording and legal problems without changing the substance of what was agreed upon. That final text was to be reviewed and approved by the WTO General Council by July 31, 2014. After that, the ratification process in the different WTO member governments could start. The original agreement indicated that countries had until July 31, 2015, to ratify the ATF. However, as noted earlier, the General Council of July 2014 was unable to reach an agreement because India conditioned its support to clarifications in the Bali Ministerial Decision on Public Food Stocks. Negotiations continued until the dispute was resolved at the November 2014 meeting, as discussed below.

Regarding trade facilitation, the wording of the original agreement (WT/MIN(13)/W/8) was cleaned up and included in the document approved in November 2014 (WT/L/940). This November 2014 document opens with the GC's decision to approve the protocol determining that the ATF will be included among the WTO trade agreements as Annex 1A of the Marrakesh Agreement (which established the WTO). It is followed by the actual text of the protocol, establishing that the protocol is open for acceptance by WTO member countries, that it must be accepted in its entirety (without reservations by any country, unless all other WTO members agree otherwise), and that the ATF will enter into force and be placed in Annex 1A to the WTO Agreement after the Agreement on Safeguards after two-thirds of the WTO members have ratified it (paragraph 3 of Article X of the WTO Agreement).

An annex to the protocol includes the final revised text of the ATF. The main changes in the final text were to correct some mistakes in the numbering of paragraphs and to improve the grammar of some sections. The structure of the ATF was also changed. The original document (WT/MIN(13)/W/8) had institutional and implementation aspects in between specific commitments, disciplines, and SDT issues; the new configuration in WT/L/940 includes three sections: Section I presents the specific commitments and disciplines; Section II covers SDT issues; and Section III includes institutional and implementation aspects and final provisions. There is also an annex with a template for the notification of technical assistance needs under the SDT provisions.

Section I includes 12 articles on the general obligations under the ATF regarding the following subjects:

- Article 1: transparency and provision of information;
- Article 2: consultations before measures enter into force;
- Article 3: the possibility of advance rulings;
- Article 4: the appeal and review procedures when trade operators believe that custom operations are unfairly hindering their activities;
- Article 5: other measures to enhance impartiality, nondiscrimination, and transparency;
- Article 6: disciplines on fees and charges);
- Article 7: procedures for releasing and clearing goods;
- Article 8: cooperation between border agencies;

Article 9: other aspects related to movement of goods intended for import under customs control;
Article 10: procedures to simplify the movement of goods for export, import, and in transit;
Article 11: specific disciplines to facilitate goods in transit;
Article 12: and disciplines related to customs cooperation, including issues such as reciprocity and confidentiality.

Section II of the ATF includes the special and differential treatment for developing countries and LDCs. The original articles in this section (as presented in WT/MIN(13)/W/8) were numbered differently from those in Section I; however, as part of the text cleanup, the final document (WT/L/940) has the articles in Section II numbered 13 to 22 to sequentially follow the articles in Section I. In line with Annex D of the 2004 July Package, Section II includes the novel SDT provision already mentioned—that is, the possibility that at least part of the potential commitments will become legal obligations only if the country has received the technical or financial support it claims it needs to implement those commitments.

For developed countries, all obligations become binding when the ATF enters into force (that is, after it is properly ratified by WTO members). However, the text allows developing countries and LDCs to divide the commitments under this agreement into three categories (A, B, and C) and to phase them in under different schedules and conditions (Article 14, paragraph 1 [14.1]). The designation of the obligations into different categories is made directly by each developing country (Article 14.2).

There are three categories of provisions (Article 14.1). Category A includes those obligations of Section I that a non-LDC developing-country member or an LDC member has designated for early implementation. In the case of non-LDC developing countries, this is immediately upon entry into force of the ATF; for LDC members, it is within one year of the entry into force (Article 15). Category B contains provisions that can be implemented "on a date after a transitional period of time following the entry into force of this Agreement." Developing countries must notify the Committee of Special and Differential Treatment of definitive dates for implementation of obligations under Category B no later than one year after the agreement's entry into force (Article 16.1b); LDCs must do the same by no later than two years (Article 16.2b). Either group may ask for an extension of the period if necessary (Article 17).

Category C includes those obligations of Section I that, according to the judgment of the member in question, will require time and "the acquisition of implementation capacity through the provision of assistance and support for capacity building" in order to comply (Article 14.1c). In a footnote, it is clarified that such "assistance and support for capacity building" may "take the form of technical, financial, or any other mutually agreed form of assistance provided." Developing countries must notify the committee of their Category C obligations and the "assistance and support for capacity building" upon entry into force of the ATF (Article 14.1c). Within one year, they must inform the committee of the "arrangements maintained or entered into that are necessary to provide assistance and support for capacity building to enable implementation of Category C" (Article 14.1d); within 18 months, they "shall inform the Committee on progress in the provision of assistance and support" and at the same time "notify its list of definitive dates for implementation" (Article 14.1e). In the case of LDCs, the period to inform the committee about needed capacity assistance is two years after entry into force of the ATF (14.2d); after four years, LDCs must notify the committee about their arrangements for capacity building and indicative dates for implementation (Article 14.2e). Finally, after a total of five and a half years since ATF ratification, LDCs will notify the committee of their definitive dates.

Both non-LDC developing countries and LDCs have the option of requesting extensions to the deadlines mentioned for Categories A and B (Articles 14.1b and 14.2b); for Category C, they can invoke "the lack of donor support or lack of progress in the provision of assistance and support." If the extension does not exceed 18 months (for a developing country) or 3 years (for an LDC), "the requesting Member is entitled to such additional time without any further action" (Article 17.2). Article 17 also sets out the procedures for requesting additional time. Article 19 allows some shifting of obligations between Categories B and C.

If a developing country or an LDC believes that, after all other options have been exhausted, it still cannot implement a Category C commitment, it must notify the Trade Facilitation Committee (Article 18.1), which will establish an expert group within 60 days. Those experts must issue a recommendation to the committee within 120 days of the group's creation (Article 18.2). During the process of study (up to 24 months), there cannot be cases under the dispute settlement mechanism (Article 18.5).

In summary, the periods given for notification and implementation for developing countries and LDCs may last several years and will depend on the provision of funds for technical assistance and capacity building. The possibility of consultations (under Article XXII of GATT), claims of nullification, or impairment of concessions (under Article XXIII of GATT) is postponed for two years for developing countries (Article 20.1) and six years for LDCs (Article 20.2) after the entry into force of the ATF for Category A commitments. The Ministerial Decision omits the case of developing countries' Category B and Category C obligations and jumps to the case of those commitments by LDCs, which have protection from cases for eight years after the implementation of the provision—rather than entry into force of the agreement (a noteworthy difference)—under Articles XXII and XXIII of GATT 1994 (Article 20.3). In addition, claimants against an LDC must give particular consideration to their situation and exercise due restraint (Article 20.4).

Article 21 opens with donor members (mostly developed countries) agreeing "to facilitate the provision of assistance and support for capacity building to developing country and LDC members, on mutually agreed terms and either bilaterally or through the appropriate international organizations." Articles 21 and 22 and Annex 1 to the ATF then describe the information needed and the procedures for identifying and requesting such support. The wording of the obligations for donor member countries implies less than a full obligation to provide technical assistance or funding. In return, non-LDC developing countries and LDCs may condition adherence to the notified implementation periods on receiving the expected support.

Finally, Section III, Article 23 defines the institutional arrangements in place to administer the ATF within the WTO (creating a Committee on Trade Facilitation and defining the committee's functions and operations) and within the member countries (imposing on each the obligation to establish a National Committee on Trade Facilitation or to "designate an existing mechanism to facilitate both domestic coordination and implementation of provisions of this Agreement"). The ATF closes with Article 23 on final provisions, which indicates that all the provisions of the agreement are binding on all WTO members and that no reservations can be entered to those provisions without the consent of all members. The final provision also indicates the starting date for implementation; the possibility that members of a customs union or a regional economic arrangement could use regional approaches to assist in the implementation of their obligations; and the ATF's links to other rights and obligations under GATT 1994, the Agreement on Technical Barriers to Trade, the Agreement on the Application of Sanitary and Phytosanitary Measures, and other topics, including the dispute settlement mechanism. The final provision indicates that the commitments of developing countries and LDCs under Categories A, B, and C will be annexed to the ATF as an integral part of the agreement.

Significance of the ATF

Although this agreement was mostly sought by developed countries (they were the "demandeurs," in trade diplomacy jargon), it can be argued that there are potential benefits for all categories of developing countries in the reduction of red tape and trade costs. The ATF may also limit the possibility of corruption and arbitrariness in customs operations and could, over time, improve the collection of customs revenues otherwise lost due to inefficiency and corruption. The ATF may also help small and medium-sized enterprises (SMEs) that currently find customs procedures incomprehensible or too costly. In a world of complex value chains, transparent, stable, and simplified customs procedures may allow developing countries and SMEs to become part of extended production arrangements. The simplified provisions for in-transit customs procedures would also help landlocked economies that trade through neighbors

(Articles 10 and 11). For agricultural products, which are usually more perishable than nonagricultural goods, the reduction of time spent in customs processing may also improve trading conditions (Article 7.9).

Overall, if customs costs are calculated as an import tariff equivalent, some estimates have suggested that the agreement, by reducing such tariffs, may lead to global economic benefits of up to US$1 trillion (Hufbauer and al. 2013), although these figures should be considered as an upper, extremely optimistic bound.[12] Using a more robust methodology in general equilibrium, but still without considering cost of ATF implementation, Decreux and Fontagne (2015) calculated a global gain of $72 billion. The Organisation for Economic Co-operation and Development (OECD; Moïsé and Sorescu 2013) calculates that improvements in trade-related information, the simplification and harmonization of documents, the streamlining of procedures, and the use of automated processes can lead to a reduction in trade costs of almost 14.5 percent for low-income countries, 15.5 percent for lower middle-income countries, and 13.2 percent for upper middle-income countries. Because the trade protection generated by ad hoc customs procedures may differ significantly across products, economic agents, and even transactions, more transparent and uniform approaches to customs administration may reduce variability in trade protection, even if the level of implicit trade protection does not change. Such a reduction is typically believed to increase welfare, though its benefits are more difficult to quantify.

The problem for developing countries and LDCs is that building customs machinery takes money and effort, and these countries often face more pressing needs. Whatever the benefits of a better customs operation, the opportunity cost for the funds used must be considered as well. Although the agreement provides for external support in terms of money and technical assistance to build modernized customs system, it remains to be seen how effective those provisions are. At least for Category C commitments, a lack of effective external support for capacity building can be invoked to evade the legal obligation under the agreement. As noted, this is a novel feature of the ATF. On the other hand, if the implementation of the ATF reduces corruption and leakages, it may lead to a net increase in government revenues, thus enabling countries to better fund other priorities, particularly in the cases of low-income countries that depend more on trade taxes as public revenue.

It must also be noted that developing countries, as explained previously, can self-define their commitments under the three categories, with different time frames for implementation and urgency of commitments. This fact may dilute the impact of trade facilitation, as well as make the "one trillion dollar" evaluation of the deal even less realistic.

Finally, developed countries will also face costs in implementing the ATF, since its impact will be less about removing pure inefficiencies and more about redistributing rents that are created by current laws and regulations in this area.

The "Cuba Clarification"

A final important point regarding trade facilitation is that the Bali Ministerial Declaration (WT/MIN(13)/DEC/W/1/Rev.1.) includes the following language under the paragraph referring to the ATF: "In this regard, we reaffirm that the nondiscrimination principle of Article V of GATT 1994 remains valid." This statement refers to a complaint by Cuba, supported by some other Latin American countries, that its trade operations are being hurt by the US trade embargo. As a result, those countries decided near the end of the negotiations to withhold their support for the Bali Package. Given the consensual WTO decisionmaking system, if that group of countries had maintained their reservations, the Bali Package would not have been approved. The language mentioned above was included to deal with those reservations; after this language was added, Cuba and its supporters accepted the entire agreement.[13]

[12] The estimates for large effects have not been peer reviewed. Note that all amounts given in this paper are in US dollars.

[13] It should be noted that the debate about the Cuba embargo is not specific to the Doha Round and the Bali process. Cuba is raising this issue frequently at the WTO General Council. Indeed, the US sanctions started in 1962 and were extended by the Cuban Liberty and Democratic Solidarity Act (the Helms-Burton Act) of 1996. This act applies restriction to third-party companies

Agriculture and Cotton

A significant part of the language agreed on at Bali was based on the document "Revised Draft Modalities for Agriculture" (TN/AG/W/4/Rev.4), which is referred to as the "2008 Modalities" in this paper. Agriculture was, of course, part of the Doha Development Agenda, and this 2008 document was the last attempt to reach an agreement on agriculture before the general Doha talks collapsed in 2008. The text of this document, therefore, was never agreed upon; in the language of trade negotiations, it cannot be considered "stabilized." In the negotiations leading up to the Ninth Ministerial Conference and in the Bali Package, however, the link to the 2008 Modalities is clear (though with the differences discussed below).

Background: General Services[14]

To better understand the implications of the 2008 Modalities, it is useful to keep in mind that Annex 2 of the Agreement on Agriculture (AoA)—the so-called Green Box, though that name does not appear in any legal texts—covers agricultural support programs that meet "the fundamental requirement that they have no, or at most minimal, trade-distorting effects or effects on production" and that "conform to the following basic criteria: (a) the support in question shall be provided through a publicly funded government program (including government revenue foregone) not involving transfers from consumers; and (b) the support in question shall not have the effect of providing price support" (Annex 2, paragraph 1). These Green Box measures do not have to be counted as distortionary domestic support (that is, they are "exempted measures").

Annex 2 also includes an enumeration of Green Box domestic support measures, starting with a list in paragraph 2 of general services (GS) such as agricultural research and development (R&D), extension services, marketing information, and so on. These GS must "involve expenditures (or revenue foregone) in relation to programs which provide services or benefits to agriculture or the rural community. They shall not involve direct payments to producers or processors. Such programs, *which include but are not restricted to the following list* [emphasis added], shall meet the general criteria in paragraph 1," as well as other conditions that appear later in the second paragraph.

Several developing countries claimed that such a list was biased toward GS that exist in rich countries and therefore may restrict other GS common in developing countries. These countries requested that the list be expanded to include programs such as land rehabilitation, soil conservation and resource management, drought management and flood control, rural employment programs, the issuing of land ownership titles, and settlement programs. The 2008 Modalities reflected that request; the list in Annex 2, paragraph 2, which originally included seven GS, was expanded in the proposed text of the 2008 Modalities to include a list of additional GS for developing countries. These additional GS were supposed to "promote rural development and poverty alleviation."

A group of developing countries asked that the GS language of the 2008 Modalities be approved at Bali. However, the final language in the Ministerial Decision on General Services (WT/MIN(13)/W/9) clearly departed from the 2008 Modalities, as will be discussed in the next section.

Legal Aspects

The Ministerial Decision approved in Bali refers to Annex 2, paragraph 2 of the AoA: "Members recognize the contribution that General Services programs can make to rural development, food security, and poverty alleviation, particularly in developing countries," including those issues related to "land reform and rural livelihood security that a number of developing countries have highlighted as particularly important in advancing these objectives."

---

operating in Cuba. Interestingly, for this last reason, the European Union brought this issue to the dispute settlement process of the 1996 WTO; however, the panel's authority lapsed in 1998 after the EU suspended its request in 1997 (see Spanogle (1997) for a discussion).

[14] The official Bali document is WT/MIN(13)/W/9.

The Bali Ministerial Decision continues: "Members note that, subject to Annex 2 of the Agreement on Agriculture, the types of programs listed below could be considered as falling within the scope of the non-exhaustive list of general services programs in Annex 2, paragraph 2 of the AoA." These would be "General Services programs related to land reform and rural livelihood security, such as: i. land rehabilitation; ii. soil conservation and resource management; iii. drought management and flood control; iv. rural employment programs; v. issuance of property titles; and vi. farmer settlement program, in order to promote rural development and poverty alleviation."

This section highlights two points in the wording agreed upon at Bali. First, members "note" that the programs listed "could" be part of the "nonexhaustive list" of Annex 2, paragraph 2, always "subject to Annex 2 of the Agreement on Agriculture." Therefore, the list in Annex 2, paragraph 2 has not been modified, as it was in the 2008 Modalities; only a notional list of potential programs "could" be considered as part of General Services *if* they comply with Annex 2 of the AoA. In the 2008 Modalities, the language was more direct, inserting a final item (h) in the enumeration of Annex 2, paragraph 2. The language from the Bali Ministerial Decision on this topic also reiterates that the list in Annex 2, paragraph 2 of AoA is not limiting ("nonexhaustive").

The second point is that the list in the 2008 Modalities included infrastructural services and nutritional food security, which were not included in the text agreed on in Bali. The issue of nutritional food security had its own separate debate, to be discussed below. The notion of infrastructural services without any qualification potentially provided developing countries with an option in addition to the previous section (g), which refers specifically to infrastructural services limited "to the provision or construction of capital works only, and shall exclude the subsidized provision of on-farm facilities other than for the reticulation of generally available public utilities. It shall not include subsidies to inputs or operating costs, or preferential user charges."

Significance

The usefulness of developing countries' choice to act as demandeurs regarding this specific section of the 2008 Modalities is debatable. Although clarifications that could avoid future disputes are always useful, these countries may have used up a bargaining chip in asking for something that was already available under any reasonable interpretation of Annex 2. First, the pre-Bali language of Annex 2, paragraph 2 clearly indicated that the list in paragraph 2 is not limiting, as highlighted previously. The Bali Ministerial Decision on this topic further refers to the list as nonexhaustive. Second, several of the items in the new list can be interpreted as variations of the programs already enumerated in Annex 2, paragraph 3 or elsewhere. Third, even without the new enumeration in the Bali Ministerial Decision, there is basically zero likelihood of a member country bringing a case regarding the programs in the new list to the dispute settlement mechanism if they conform to the general principles of Annex 2. Finally, and most important, the language negotiated in Bali does not change the list itself; it only states that other things "could" be added to the nonexhaustive list, provided these other things comply with the criteria in Annex 2 of the AoA.

In our opinion, developing countries were asking for something they already had under any reasonable interpretation of the AoA; further, the new language does not change what was there already. Therefore, this ostensible expansion of the list of GS was readily accepted by members that were not demandeurs. In the peculiar logic of trade negotiations, it looks as if the latter group conceded something to the developing countries requesting the change, while in fact those developing countries, as demandeurs, may have used up a bargaining chip and gotten little of substance in return.

Public Stockholding for Food Security Purposes[15]

Background[16]

Public stockholding for the purpose of food security was a controversial issue in the negotiations before, during, and after the Bali Ministerial, leading to the breakdown of the talks at the WTO General Council in July 2014. The agreement reached at the WTO General Council in November of that year meant that the steps that needed to be completed before ratification of the ATF could commence were done. On the other hand, the compromise reached on public food stocks only clarified the period of operation of the "peace clause," as sought by India; the substance of the original controversy remains to be sorted out.

The legal debate revolves around two sections of Annex 2 of the AoA (or the Green Box): food security stocks (Annex 2, paragraph 3) and domestic food subsidies (Annex 2, paragraph 4). Initially, a group of developing countries known at the WTO as the G-33[17] presented a proposal based on the 2008 Modalities that included new language for paragraph 3 (Public Stockholding for Food Security Purposes) and paragraph 4 (Domestic Food Aid).

To understand the suggested modifications by the G-33, it is necessary to look first at the current language. The provision on food security stocks (Annex 2, paragraph 3) declares "expenditures (or revenue foregone) in relation to the accumulation and holding of stocks of products which form an integral part of a food security program identified in national legislation" to be Green Box measures. It also adds conditions such as that "the volume and accumulation of such stocks shall correspond to predetermined targets related solely to food security" and "the process of stock accumulation and disposal shall be financially transparent." However, a footnote simplifies the criteria for developing countries: food security stocks are considered in conformity with Annex 2, paragraph 3 if the operation "is transparent and conducted in accordance with officially published objective criteria or guidelines."

Annex 2, paragraph 3 also indicates that "food purchases by the government shall be made at current market prices and sales from food security stocks shall be made at no less than the current domestic market price for the product and quality in question." Note that purchases for food security stocks, and sales from them, must be made at market prices. This is again modified for developing countries on at least one account: footnotes 5 and 6 (a combined footnote so numbered) apply both to Public Stockholding for Food Security Purposes (Annex 2, paragraph 3) and Domestic Food Aid (another Green Box measure in Annex 2, paragraph 4) and allow the selling of products at subsidized prices "with the objective of meeting food requirements of urban and rural poor in developing countries on a regular basis." Although this stipulation allows developing countries to subsidize the selling price, footnote 5 to the food security stock provision does not permit other than market prices for purchases to be part of the Green Box. If purchases are at "administered prices," then the "difference between the acquisition price and the external reference price is accounted for in the AMS [aggregate measure of support]." The AMS is a residual category of domestic support after different types of domestic support, either presumably nondistorting (such as Annex 2 of the AoA) or distorting but exempted from being counted (such as Article 6.4 of the AoA [Blue Box], and Article 6.2, which applies only for developing countries). The remaining domestic support measures not included in these three categories are a residual category, usually called the Amber Box. These measures must be added in an AMS for each product (that is, a product-specific AMS) and for agricultural producers in general (non-product-specific AMS) (Brink 2011).

[15] The relevant document from Bali is WT/MIN(13)/W/10, and the one from the November General Council is WT/L/939.

[16] This section draws significantly from Díaz-Bonilla (2014), which provides a more detailed discussion of this topic. That work is here updated with the new language approved on November 27, 2014.

[17] As with many international groups, the G-33 has a different number of members (46) than the name suggests. The countries are Antigua and Barbuda, Barbados, Belize, Benin, Bolivia, Botswana, Côte d'Ivoire, China, Congo, Cuba, Dominica, Dominican Republic, El Salvador, Grenada, Guatemala, Guyana, Haiti, Honduras, India, Indonesia, Jamaica, Kenya, Korea, Madagascar, Mauritius, Mongolia, Mozambique, Nicaragua, Nigeria, Pakistan, Panama, Peru, Philippines, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Senegal, Sri Lanka, Suriname, Tanzania, Trinidad and Tobago, Turkey, Uganda, Venezuela, Zambia, and Zimbabwe.

Product-specific support includes an estimation of market price support (MPS), which "shall be calculated using the gap between a fixed external reference price and the applied administered price multiplied by the quantity of production eligible to receive the applied administered price" (Annex 3, paragraph 8). It is important to note the three crucial concepts in that statement—the fixed external reference price (FERP), the applied administered price (AP), and the idea of "production eligible"—because they feature prominently in the legal issues discussed below.

Product-specific AMS must also include other nonexempt production-related payments and support to producers. The sum of MPS and other nonexempt payments is then compared with the value of production. If the sum is more than a de minimis level (5 percent for developed countries and 10 percent for developing countries),[18] then the value is computed in its entirety (that is, not only the excess over the de minimis) in the current total aggregate measurement of support (CTAMS). The non-product-specific support (usually measured through budgetary data) also needs to be compared to the entire agricultural production; if it exceeds the de minimis value, it must be added to the CTAMS. Finally, the CTAMS is compared to, and cannot exceed, the ceiling commitment (sometimes called the final bound total AMS, or FBTAMS), which is negotiated during the Uruguay Round or defined later during the accession process for new WTO members (Brink 2011).

Most developing countries have not declared domestic support in the negotiations (that is, the amount considered in the FBTAMS), so the de minimis limits these countries' level of domestic support.[19] The small number of developing countries that *have* declared domestic support have the possibility of offering domestic support up to the FBTAMS; however, the value of that domestic support is small compared to the allowances negotiated by developed countries during the Uruguay Round.[20]

Some developing countries, particularly India, believed that if they had to account for the gap between administered prices and FERPs, then they would be bumping against, and probably exceeding, the product-specific limit of 10 percent de minimis of total production in some key products.[21] Furthermore, they argued, given the current high international prices, it did not make sense to compare buying prices to the external reference prices that were specifically defined under the AoA as those prevailing in 1986–1988. In fact, if purchases were done at administered prices that closely tracked current world prices (and therefore would not be distortionary in an economic sense), the AoA comparison with the 1986–1988 levels would still show (largely imaginary) levels of market price support, as can be inferred when comparing the lower nominal values for 1986–1988 with the higher current prices.

Based on those concerns, the language proposed by the G-33 exempted the difference between administered prices and the FERPs from the obligation of being included in the AMS when the governments of developing countries have bought products for food security stocks (paragraph 3) and domestic aid (paragraph 4) from a specific type of producer—that is, those that are low income or resource poor (LIRP). This category is already considered by the AoA for some special treatment in Article 6.2.[22]

This approach generated two basic objections. First, it appeared to go against the conditions established for the Green Box (Annex 2, paragraph 1)—in particular, the second basic criteria (point b in the paragraph), which indicates that "the support in question shall not have the effect of providing price

[18] Countries like China have accepted a different de minimis (in China's case, 8.5 percent) as part of the accession agreement.

[19] The relevant text in Article 7(b) reads: "Where no Total AMS commitment exists, the Member shall not provide support to agricultural producers in excess of the relevant de minimis level set out in paragraph 4 of Article 6."

[20] A total of 33 countries have FBTAMS, but the European Union, Japan, the United States, Canada, Switzerland, and Norway represent 87 percent of the total value (the European Union alone represents about 49 percent of the total).

[21] This limit does not affect other options, such as the rest of the Green Box measures, the Blue Box measures of support, and, for developing countries only, those considered in Article 6.2.

[22] Note that the relevant section of Article 6.2 of the AoA says to refer to "investment subsidies," which are "generally available" to LIRPs. An issue to be considered is whether "generally available" means only for LIRP producers. Also, the wording refers to "low-income *or* resource-poor producers" (emphasis added), which seems to expand the scope of the category when compared to "low-income *and* resource-poor producers" (Lars Brink, personal communication; emphasis added).

support" (Annex 2, paragraph 1). The G-33 proposal, on the other hand, clearly provided price support, at least to a certain type of producer; the concern was that once a loophole was created in the Green Box chapeau, then anything could happen with the rest of the programs listed there. Furthermore, other developing countries were concerned about the leeway granted under the current Annex 2 to provide income support that is, in theory but not clearly in fact, decoupled from prices. Offering price support to LIRP producers would significantly undermine the possibility of enforcing other WTO disciplines considered in the Green Box measures that are currently used mostly by industrialized countries[23] and that may create more than the minimal trade distortions required to be considered a Green Box measure (Annex 2, paragraph 1).

The second objection arose from concern that the stocks allegedly accumulated for food security reasons may end up being sold on world markets. WTO members using the new allowance to provide price support to LIRP producers could accumulate products in excess of some desired stock-to-consumption ratio and then decide to sell those surpluses in external markets to help finance the program's fiscal cost. In fact, during 2011/2012 and 2012/2013, about 20 percent of Indian exports of wheat where drawn from public stocks.[24] In general, any public stockholding programs involving administrated prices, or at least price management within some range, may require the use of variable trade policy instruments (such as, export subsidies or restrictions for exported commodities or import duties adjustments for imported commodities), as demonstrated in the previous version of the EU Common Agricultural Policy (CAP) . These operations may create large negative effects in trade partners if there are no strict rules limiting those operations.[25] Therefore, negotiators looked at other options, including the possibility of changing the FERPs of 1986–1988, adjusting the definition of the production eligible to receive administered prices, and imposing a temporary standstill to challenges under the DSM that may arise if a country breached its allowed levels of domestic support because of government procurement of products for food security stocks at administered prices.

However, changing the FERPs would have opened an entirely new set of difficult issues, such as the valuation of the commitments by countries, most of them developed countries, with declared domestic support in the base year. The notion of eligible production was also a key variable because, according to the AoA, the gap between the administered price and the FERP for 1986–1988 must be multiplied by the quantity of all production of a WTO member that is eligible to be bought at the administered prices. Some members have argued that this gap should be multiplied by the total quantity of a country's production, while others made the case that it should be the quantity actually bought by the government. The interpretation of the term was clarified by the decision in the dispute about Korean beef (WTO 2000); although the ruling left out other options to define eligible production (discussed below), this line of thinking was considered too complicated to be sorted out in time for the Bali Ministerial Declaration.

In the end, the approach followed in Bali was to implement the peace clause as an interim solution[26] (see the discussion of different options in Díaz-Bonilla [2014] and Matthews [2014a and 2014b]).

---

[23] Some developing countries, such as China, use that type of support.

[24] Based on data available at http://dfpd.nic.in/.

[25] India has enough trade policy space in this regard, considering that tariffs are bound at high levels and export taxes and restrictions are not disciplined (and the country has used them in the recent past). For instance, some countries, such as Pakistan, argued during the Bali negotiations that India was exporting rice from food stocks, thus affecting global rice markets and their own domestic markets and food security. India has become first or second in world rice exports in recent years. Other members have argued that the rice exported by India and the rice used in its food security stocks are of different qualities (basmati rice being the exported product and common rice the one for domestic consumption); therefore, the postulated impact on global markets of domestic food stocks would not exist. However, Dorosh and Rashid (2012) showed that rice prices in Bangladesh and subsidized prices for that product from India's public stocks appear highly correlated. This correlation was the result of the operation of private-sector importers that helped stabilize the operation of the rice market in Bangladesh to the benefit of poor consumers but with negative impact on producers.

[26] There is a nontrivial difference between "temporary" (which seems to imply a specific date as a deadline) and "interim" (which does not necessarily have a specific termination date). While some people referred to the Ministerial Decision as a "temporary" solution, some of the countries requesting the decision call it an "interim" one. The clarification sought by India focuses on this issue (see below).

Legal Aspects: The Bali Ministerial Decision (WT/MIN(13)/W/10)

India considered the language of the draft Ministerial Decision that negotiators took to Bali to be inadequate, leading to a series of iterations before a final text was accepted (although, as the dispute in the July General Council showed, India was still not completely in agreement). To understand these disagreements, it is useful to distinguish three different issues: (1) the substance and coverage of the peace clause, (2) the conditions for its application, and (3) the period and conditions under which the peace clause is operational.

The substance (point 1) and the conditions (point 2) for the peace clause did not change from the original language (more on this below). What did change was the definition of the period during which the peace clause was operational (point 3). In the original language, the clause lasted until the 10th Ministerial Conference (about two years after Bali), at which time WTO members "will decide on next steps." The new language indicates that "members agree to put in place an interim mechanism . . . and to negotiate on an agreement for a *permanent solution* . . . for adoption by the 11th Ministerial Conference" (paragraph 1), or about four years after Bali. The new language thus changed the period covered by the peace clause and the conditions to end this mechanism, as discussed later.

Opening with the substance and coverage of the peace clause (point 1), paragraph 2 of the Ministerial Decision goes on to state that WTO members cannot challenge developing-country members regarding compliance with the obligations of not exceeding their AMS (Article 6.3) or the de minimis (Article 7.2b) when the following conditions apply:

- It is "support provided for traditional staple food crops in pursuance of public stockholding programs for food security purposes."
- The programs protected from challenges are only those that exist as of the date of the decision.
- Those programs must be consistent with the rest of the criteria of Annex 2 for food security stocks (other than the issue of price support; see the earlier discussion).
- They must comply with other conditions established in the Ministerial Decision.[27]

One footnote to the Bali Ministerial Decision indicates that if and when a permanent solution is found, it will apply to all developing countries. Another footnote mentions that developing countries can initiate new programs that comply with Annex 2, paragraph 3—but, as noted, only existing programs as of the date of the decision are covered by the peace clause).[28]

As mentioned earlier, the Ministerial Decision establishes additional conditions (point 2) in paragraphs 3, 4, and 5 for those developing countries that currently operate food stock programs and want to be protected from legal challenges by the peace clause. Those conditions did not change from the original draft and are in addition to the relevant conditions in Annex 2, paragraph 3. They include the need for countries to do the following:

- Notify the Committee on Agriculture "that it is exceeding or is at risk of exceeding either or both of its Aggregate Measurement of Support (AMS) limits (the Member's Bound Total AMS or the de minimis level)."
- Be current on notifications of its domestic support.
- Provide timely information for each public stockholding program maintained for food security purposes, plus other related information according to a template included in the annex of the decision.

[27] The complete language is as follows: "2. In the interim, until a permanent solution is found, and provided that the conditions set out below are met, Members shall refrain from challenging through the WTO Dispute Settlement Mechanism, compliance of a developing Member with its obligations under Articles 6.3 and 7.2 (b) of the AoA in relation to support provided for traditional staple food crops in pursuance of public stockholding programs for food security purposes existing as of the date of this Decision, that are consistent with the criteria of paragraph 3, footnote 5, and footnote 5 and 6 of Annex 2 to the AoA when the developing Member complies with the terms of this Decision."

[28] Also there may be some discussion as to the product scope, depending on the interpretation of words such as "traditional staple food crops," and "primary agricultural products" (which may go beyond crops) (see Díaz-Bonilla 2014)

- Ensure that stocks procured under food security programs do not distort trade or adversely affect the food security of other members. (This reference was also an addition to the original language, which referred only to trade distortions.)
- Make sure that the potential increase in domestic support in excess of the allowed levels is only the amount notified to the Committee on Agriculture (see the first point mentioned above). Furthermore, any developing country benefiting from this decision must accept the requests for consultations by any other WTO member countries that may be interested in the operation of the notified public stockholding program or programs (paragraph 6).

The decision also instructs the Committee on Agriculture to monitor the information submitted under this decision (paragraph 7) and indicates that WTO members must agree to establish a work program in which the committee can make recommendations for a permanent solution no later than the 11th Ministerial Conference. Advances will be reported to the General Council during the 10th Ministerial Conference (paragraphs 8, 9, and 10).

The main point to be noticed is the change in the period considered and the conditions for ending that period. In the original formulation, the peace clause had a specific end—the 10th WTO Ministerial (about two years from Bali, considering the usual time between ministerial meetings); after that time, the clause would lapse, and WTO members would decide on next steps. With the new language, member countries commit to finding a permanent solution by the 11th Ministerial about four years from now, and the peace clause will remain in place "until a permanent solution is found." There remains, however, some ambiguity in the text: On the one hand, it ostensibly defines a deadline (the 11th Ministerial), but on the other, it refers to the peace clause as being in effect until a "permanent solution is found," without specifying when that may happen. By the first interpretation, the day of reckoning is extended from the two years in the original language to four years in the text finally agreed upon; after that, the protection of the peace clause lapses, and challenges in the dispute settlement mechanism may take place.[29] The latter interpretation, on the other hand, would strengthen the protection of the countries involved (such as India or any other country following the same approach) to the extent that the country will avoid challenges under the AoA until a solution is found. In addition, under the WTO's consensus approach, potential solutions may be blocked until there is one that those countries consider acceptable. This ambiguity is what was clarified in the November General Council.

Legal Aspects: The Decision at the November General Council (WT/L/939)

As noted, the breakdown in the WTO process at the July 2014 General Council was related to India's discomfort with the ambiguity regarding whether the peace clause was operational for a specified time limit (determined to be until the 11th Ministerial Conference, or about four years) or for an undefined period until a permanent solution is found. The latter was India's preferred interpretation, and this is what was approved in the Ministerial Decision on Public Stockholding for Food Security Purposes of November 27, 2014 (document WT/L/939).

The first paragraph of this document states:

> ***Until a permanent solution is agreed and adopted*** [emphasis added], *and provided that the conditions set out in paragraphs 3 to 6 of the Bali Decision are met, Members shall not challenge through the WTO Dispute Settlement Mechanism compliance of a developing Member with its obligations under Articles 6.3 and 7.2(b) of the Agreement on Agriculture (AoA) in relation to support provided for traditional staple food crops in pursuance of public stockholding programmes for food security purposes existing as of the date of the Bali Decision, that are consistent with the criteria of paragraph 3, footnote 5, and footnote 5 and 6 of Annex 2 to the AoA.*

[29] WTO members could still mount challenges under other legal texts, such as the Agreement on Subsidies and Countervailing Measures, if they consider themselves affected by the operation of governmental purchases under this scheme. Whatever the legal issues involved, there is always the public relation issue of challenging a developing country on a program that is allegedly aimed at helping the poor.

To make things even clearer, the second paragraph indicates that "if a permanent solution for the issue of public stockholding for food security purposes is not agreed and adopted by the 11th Ministerial Conference, the mechanism referred to in paragraph 1 of the Bali Decision, as set out in paragraph 1 of this Decision, shall continue to be in place until a permanent solution is agreed and adopted." With this language the "peace clause" is operational until a "permanent solution" is "agreed and adopted." Note that the permanent solution has to be not only "agreed" upon but "adopted" as well.

The decision also urges that "the negotiations on a permanent solution on the issue of public stockholding for food security purposes shall be pursued on priority" (paragraph 3). To ensure that this happens, it sets out a proposed deadline (December 31, 2015), defines the institutional framework for the negotiations (the Committee on Agriculture in Special Session, "in dedicated sessions and in an accelerated time-frame,"), and clarifies that it must take place as "distinct from the agriculture negotiations under the Doha Development Agenda." In paragraph 5 it establishes that the "General Council shall regularly review the progress of these dedicated sessions."

While the Bali Ministerial Decision instructed WTO members to establish a work program in the Committee on Agriculture (CoA) to make recommendations for a permanent solution no later than the 11th Ministerial Conference (paragraphs 8, 9, and 10), the November decision shortens the time frame by about two years (December 2015) and creates a distinct institutional track (the CoA in special, separated sessions) and conceptual negotiating framework (discrete from the Doha Negotiations on Agriculture).

Significance

The notification and transparency requirements are not mere formalities when one considers that many WTO members—including India and other developed and developing countries—are extremely behind schedule in their notifications under the current obligations of the AoA (see the discussion in Orden, Blandford, and Josling [2011] in general and Gopinath [2012] in the case of India). To invoke the peace clause, therefore, WTO members will have to complete notifications of domestic support and be open to consultations and questions regarding the actual operation of the food stock programs. Doing so would allow for more transparency and facilitate closer scrutiny and monitoring of the different programs of domestic support in countries using the peace clause option. In addition, only those food security programs existing at the time of the Ministerial Decision are covered. Matthews (2014a) identified 16 developing countries under the WTO definition.[30]

It is also clear that any developing country (and developed countries) can provide subsidized food to its own population under paragraph 4 of Annex 2 of the AoA. The claim of some nongovernmental organizations (NGOs) that it is unfair that the United States can have a food stamp program while denying India the right to have a similar program is mistaken. The question is not whether a country can give subsidized food to its poor, which is allowed under the AoA, but how governments procure that food. As discussed in greater detail in Díaz-Bonilla (2014), a proper clarification of the links between administered prices and market prices would be needed. More generally, the issue is whether a significant policy space to support food stocks in a country may affect its trading partners, which should receive guarantee that such programs will not lead to ad hoc adjustments in export and import policies that generate instability and other negative externalities for the rest of the world.

Now that the ambiguity of the Bali Decision has been eliminated, it is clear that the peace clause will be operational until a permanent solution is agreed upon and adopted. As noted before, it remains to be seen whether challenges under other legal texts, such as the Agreement on Subsidies and Countervailing Measures, could be mounted by countries believing that they are affected by the operation of governmental purchases under this scheme.

[30] The countries are Botswana, Brazil, China, Costa Rica, India, Indonesia, Israel, Kenya, Saudi Arabia, Republic of Korea, Namibia, Nepal, Pakistan, Philippines, South Africa, and Sri Lanka. Note the presence of Israel and Republic of Korea, which have defined themselves as developing countries, according to WTO rules.

Finally, finding a permanent solution is now under an accelerated time frame and separate institutional and conceptual frameworks. Therefore, the WTO work program during 2015 will be dedicated to finding a permanent solution. The latter may take different forms, including some of the options discussed in the pre-Bali negotiations that were discarded because of a lack of time to complete adequate negotiations. See a full discussion of options in Díaz-Bonilla (2014) and Matthews (2014a and2014b). In particular, as indicated before, we believe that it would be useful to clarify the link between administered and market prices, considering the peculiar conditions of agricultural production in developing countries and the issue of inflation (Díaz-Bonilla 2014).

Understanding on Tariff Rate Quota Administration Provisions of Agricultural Products, as Defined in Article 2 of the Agreement on Agriculture[31]

Background

Tariff-rate quotas (TRQs) were implemented during the Uruguay Round agreements to maintain or increase some minimal market access in countries with closed domestic markets for specific agricultural products, mainly those that were transforming quantitative restrictions into tariffs. TRQs have lower taxes on the quantities imported within the quota and higher taxes (usually high enough to inhibit trade) for quantities outside the quota. Another WTO negotiating group, the WTO G-20[32] (not to be confused with the economic and financial G-20), which includes several developing countries that are producers and exporters of agricultural products, raised concerns about TRQs remaining substantially underfilled. They argued that this was mainly because of manipulations in the way TRQs are administered by importing countries, and not because of valid market reasons. For instance, in 1996, the simple average of the filling rate of TRQ negotiated during the Uruguay Round was 66 percent; in 1999 this average had fallen to 50 percent (G/AG/NG/S/8, May 26, 2000). For 2002–2004, at the beginning of the Doha Round, only 44 percent of the TRQs where filled by 80 percent or more.[33] These figures show that the concerns of existing and potential exporters are relevant. The G-20 presented a proposal to address the underfilling also extracted from the 2008 Modalities, which formed the basis for the agreement at Bali.

Legal Aspects

The agreed-upon language works mainly as a modification/clarification of the Agreement on Import Licensing Procedures (AILP; paragraph 1). In this sense, it has more teeth than several of the other texts agreed upon at Bali.

The new text can be divided into three conceptually different groups of issues. The first one includes language that restricts some of the more common practices that an importing country may follow to limit the use of TRQs. The second group establishes procedures and parameters to define the reasons for the underfilling of TRQs. And the third group focuses on possible solutions when underfilling has been identified and when it does not result from market conditions. The Committee on Agriculture monitors the obligations and processes complaints (according to paragraph 11).
Within the first group can be found some of the following practices:

- **Opening a TRQ to imports with a very short notice:** Importing countries now have to inform within 90 days prior to the opening; paragraph 2 of the Understanding on TRQ Administration modifies paragraph 4(a) of Article 1 of AILP.
- **Asking applicants to apply to several bodies:** Now applicants must apply to one administrative body only; paragraph 3 modifies paragraph 6 of Article 1 of AILP.

[31] The relevant document is WT/MIN(13)/W/11.

[32] The WTO G-20 in fact has 23 members: Argentina, Bolivia, Brazil, Chile, China, Cuba, Ecuador, Egypt, Guatemala, India, Indonesia, Mexico, Nigeria, Pakistan, Paraguay, Peru, Philippines, South Africa, Tanzania, Thailand, Uruguay, Venezuela, and Zimbabwe.

[33] Based on the MAcMapHS6v1.1 database.

- **Taking a long time to process applications to TRQ licenses:** Paragraph 4 now says that the government must take no longer than 30 days for "as and when received" cases and no longer than 60 days for "simultaneous" consideration cases. Now "the issuance of licenses shall, therefore, take place no later than the effective opening date of the tariff quota concerned." A qualification that exists in the current paragraph 5(f) of Article 3 of AILP, which indicated that the obligation to follow such time frames were valid "except when that was impeded for reasons not depending on the Member country," was also removed by paragraph 4.
- **Granting licenses on time but in quantities that do not make economic sense:** Paragraph 5 now indicates that "scheduled tariff quotas shall be issued in economic quantities."
- **Discouraging applicants with burdensome administrative procedures:** Now "importing Members shall ensure that unfilled tariff quota access is not attributable to administrative procedures that are more constraining than an 'absolute necessity' test would demand" (paragraph 7, referring to Article 3.2 of AILP).
- **Issuing licenses to weak or phantom operators so that TRQs may not be fully used:** Paragraphs 8–10 now include several obligations for importing member countries issuing licenses, including the analysis of private-sector operators that exhibit a pattern of not fully using their licenses "for reasons other than those that would be expected to be followed by a normal commercial operator." If such is the case, members are obligated to ask those operators whether they would make the licenses available to other users and to consider this situation for the allocation of new licenses (related to Article 3.5j of AILP).
- **Not informing the rate of utilization of the TRQs:** Paragraph 6 now indicates that TRQ fill rates must be notified.
- **Not providing information on the holder of the TRQs so that exporters do not know whom to contact to export the product:** Now "members shall make available the contact details of those importers holding licenses for access to scheduled agricultural tariff quotas," subject to certain restrictions about confidentiality and consent of the holders of those licenses (paragraph 10).

Annex A of the Understanding on TRQ Administration explains the second and third groups of obligations, jointly known as the "underfill mechanism." They are, respectively, a time frame and a procedure to determine whether a TRQ's low rate of use is due to the manner in which the TRQ is administered, as opposed to valid market reasons, and to determine the remedy that a country will then have to apply to eliminate or reduce the underfill.

The second group of obligations (related to time frame and procedures) is explained in this Annex A, paragraphs 1–3. The process is divided into three years. If, in the first year, a member has not notified the TRQ fill rate or if that rate is less than 65 percent, other members can raise specific concerns, and there will be an exchange of information about procedures, market circumstances, and related considerations. At the end of that exchange, members can decide whether the matter has been resolved and the case is closed. If a member country believes that the matter has not been resolved, it must provide the CoA with a document explaining why the matter requires further discussion. If for two consecutive years, the importing member has not notified the TRQ fill rate or if that rate is less than 65 percent, then a concerned member may request from the CoA that the importing member change its TRQ administrative procedures; if, as a result of the changes, the TRQ fill goes above 65 percent (or if the complaining member informs the CoA that it is satisfied with the explanations or changes), then the case is closed. Finally, in the third year, the next phase of the underfill mechanism continues if several conditions apply: first, if the fill rate is less than 65 percent or if no notification has been submitted for three consecutive years; second, if the fill rate has not increased in each of the preceding three years by more than some prespecified annual increments (defined in the Annex); third, if interested members have not concluded

that the underfill is due to market circumstances; and fourth, if an interested member informs the CoA that it wishes to initiate the final stage of the underfill mechanism.

In other words, if after three years of information sharing and consultations, a TRQ continues to be underfilled, then the importing country will reach the third group of obligations and will have to follow some method for administering the TRQs (as defined in paragraph 4 of Annex A) that would remedy the underfill. The obligations are separated for developed and developing countries (the latter of which receive SDT on the operation of this agreement, as explained below).

If this third stage is reached by an importing member that is not a developing country, then that country must "provide unencumbered access via one of the following tariff quota administration methods: a first-come, first-served only basis (at the border); or an automatic, unconditional license on demand system within the tariff quota." The importing member will maintain the method selected for a minimum of two years; if "timely notifications for the two years have been submitted," then the case will be closed.

Developing-country members do not have to choose one of the two methods mentioned above; instead, they have the alternative of choosing other TRQ administration methods or even maintaining the current method in place. The method elected by the developing-country member must be notified to the Committee on Agriculture, and the importing member must maintain that method for a minimum of two years. If after that, the fill rate has increased by certain amounts prescribed in the Annex, the case is closed.

Once a case is closed, the process has to go through the three-year cycle described above to reopen it (Annex A, paragraph 2).

Significance

First, we must note the trade-off in the SDT provisions. Developed countries are obligated to follow one of two procedures, but they are not then asked to show results, provided they maintain the method for two years. The presumption is that if either of the methods ("first come, first served" on the border or granting licenses automatically and unconditionally on demand) does not increase fill rates, then it must be because of valid market reasons. Developing countries, on the other hand, may select other methods for TRQ administration, but they must then show increases in the TRQ fill (though the percentages considered may end up being less than the 65 percent that triggered the revisions in the first place).

These SDT provisions allegedly led to complaints by the United States against some large developing countries, such as China, regarding whether it was fair for the latter (some of which are competitive exporters for a range of agricultural and nonagricultural products) to avail themselves of the specific SDT provisions considered in Annex A (ICTSD 2013). This issue is also related to the presence of state trading enterprises (STEs) on the import side (see Díaz-Bonilla and Harris 2014) and apparently led to negotiations producing the confusing final paragraphs (14 and 15) of the main text of the Understanding (the WTO website, in a significant understatement, calls the results "intricate"). According to Paragraph 14, "The General Council recommendations in relation to paragraph 4 shall provide for special and differential treatment. Unless the 12th Ministerial Conference decides to extend paragraph 4 of Annex A in its current or a modified form, it shall, subject to paragraph 15, no longer apply." But then paragraph 15 indicates that "notwithstanding paragraph 14, Members shall continue to apply the provisions of paragraph 4 of Annex A in the absence of a decision to extend that paragraph, except for those Members who wish to reserve their rights not to continue the application of paragraph 4 of Annex A and who are listed in Annex B."

It is not clear whether paragraph 14 focuses on the SDT referenced at the start of that paragraph (which will lapse if the 12th Ministerial does not extend it) or on all obligations (for developed and developing countries) of paragraph 4. But then paragraph 15 says that even if there is not an agreement to extend paragraph 4, member countries must continue "to apply the provisions" in that paragraph. To confuse things even further, it grants the possibility of member countries opting out after the 12th Ministerial (about six years from now). In principle, a reasonable interpretation is that paragraph 14 refers

only to the possibility that the 12th Ministerial allows the SDT provision to lapse, whereas paragraph 15 would maintain the other obligations. But this is still vague.

This confusion may be why four developing countries (Barbados, El Salvador, Dominican Republic, and Guatemala) and one developed country (United States) simultaneously asked to be included in Annex B, which allows them to not comply with paragraph 4 in the absence of a decision by the 12th Ministerial. This understanding's potential for increasing market access under TRQs may be seriously affected if large developing countries aggressively use the SDT provision in paragraph 4, while at the same time the United States opts out of the obligations defined in that paragraph.

A larger issue in this debate is whether systemically important developing countries should or should not have the right to avail themselves of those SDT provisions that some would argue are oriented mainly to smaller developing countries. A related significant topic is how to address the issue of importing STEs within the WTO negotiations (Díaz-Bonilla and Harris 2014). Of course, the designation of "developing country" is an acquired right under the negotiations, and countries with that status are understandably reluctant to relinquish it, particularly if developed countries cling to the type of SDT they receive to protect their own agricultural policies. The conclusion to this paper will return to these issues.

Export Competition[34]

Background

Many analysts and negotiators have noted the peculiar situation in which export subsidies for industrial products are prohibited under the WTO (and previously GATT) agreements, while export subsidies for agricultural products (several of which, such as dairy and meat products, are in fact manufactured products) were allowed under GATT[35] and only partially disciplined under the AoA (see, for instance, Díaz-Bonilla and Tin [2006]). During the Uruguay Round, export subsidies in general were considered in greater detail in the Agreement on Subsidies and Countervailing Measures (ASCM), and their prohibition was reaffirmed. Export subsidies for agriculture, however, were allowed by the AoA for countries that were using them, though the subsidies had to be capped and then cut in both value and volume. In particular, while countries were allowed to apply countervailing duties to industrial goods, agricultural subsidies were given a different treatment, which somewhat limited the possibility of imposing those duties until 2003 if the exporting country operated within the quantity limits agreed in the Uruguay Round.[36]

Although several developing countries among the WTO members notified export subsidies (14 out of the 25 WTO members with such notifications) and can thereby use export subsidies for agricultural products, industrialized countries represent 84 percent of the values still allowed under the current AoA (only the European Union amounts to 62 percent of the total value of allowed agricultural export subsidies; FAO 2000). The use of most of the export subsidies by industrial countries, along with other advantages in domestic support and market access instruments, has been referred to with irony as special and differential treatment (SDT) for the agriculture of industrialized countries.

As part of the continuation of negotiations agreed on in Article 20 of the AoA and in paragraph 13 of the Doha Ministerial Declaration, the Hong Kong Ministerial Declaration of 2005 ("Doha Work Programme," WT/MIN(05)/DEC, December 22, 2005) further stipulated in paragraph 6 that ministers must "agree to ensure the parallel elimination of all forms of export subsidies and disciplines on all export measures with equivalent effect to be completed by the end of 2013." Added immediately, however, was

[34] The relevant document is WT/MIN(13)/W/12.

[35] From 1986 to 1997, European and US export subsidies amounted to about $135 billion, or the equivalent of almost 13 percent of the value of all agricultural exports by the developing countries of Africa, Latin American and the Caribbean, and Asia (minus China) combined during that period (Díaz-Bonilla and Reca 2000).

[36] The AoA also included Article 10 on anticircumvention measures, which expanded the consideration of export competition to food aid (with a definition and certain criteria that must be followed to avoid violating the anticircumvention provisions) and export credits, guarantees, and insurance programs (with WTO members committing to developing internationally agreed-upon disciplines on these topics and then operating in conformity with them).

the proviso that "this will be achieved in a progressive and parallel manner, to be specified in the modalities, so that a substantial part is realized by the end of the first half of the implementation period." Therefore, while the first part appeared to define a clear deadline for agricultural export subsidies, the second part appeared to link that end date to the completion of the Doha Round.

Based on the first part of the Hong Kong Ministerial Declaration, countries in the WTO G-20 asked for some specific commitments by developed countries on export subsidies—specifically, cutting in half the money spent on export subsidies by 2013 and placing a volume limit on quantities at the average of 2003–2005 subsidized exports. They also asked for commitments on export credits—basically, gradually reducing the repayment periods from 540 days to 180 days. At the same time, developed countries, using the second clause in the same Ministerial Declaration, indicated that they were not ready to make firm commitments in the absence of a more comprehensive reform of agricultural issues as envisaged in the Doha Declaration. Furthermore, freezing the levels of export subsidies at the 2003–2005 values would penalize those countries that were undertaking reforms vis-à-vis those that were not.

Legal Aspects

Recognizing that "export subsidies and all export measures with equivalent effect are a highly trade distorting and protectionist form of support" (paragraph 1), and that, regrettably, "it has not been possible to achieve this objective in 2013 as envisaged" (paragraph 2) as initially set out in the 2005 Hong Kong Ministerial Declaration, the Ministerial Declaration on Export Competition simply agreed to "exercise utmost restraint with regard to any recourse to all forms of export subsidies and all export measures with equivalent effect" (paragraph 8). To that effect, countries "undertake to ensure to the maximum extent possible that: the progress towards the parallel elimination of all forms of export subsidies and disciplines on all export measures with equivalent effect will be maintained; the level of export subsidies will remain significantly below the Members' export subsidy commitments; [and] a similar level of discipline will be maintained on the use of all export measures with equivalent effect" (paragraph 8). Further weakening the language, the Ministerial Decision reminds those who may have thought otherwise that "we also agree that the terms of this declaration do not affect the rights and obligations of Members under the covered agreements nor shall they be used to interpret those rights and obligations" (paragraph 13).

The Ministerial Decision also commits member countries "to enhance transparency and to improve monitoring in relation to all forms of export subsidies and all export measures with equivalent effect" (paragraph 10) and to "hold dedicated discussions on an annual basis in the Committee on Agriculture to examine developments in the field of export competition" (Paragraph 11). This commitment is based on "timely notifications under the relevant provisions of the Agreement on Agriculture and related decisions, complemented by information compiled by the WTO Secretariat . . . on the basis of Members' responses to a questionnaire" (paragraph 12), so as "to review the situation regarding export competition at the 10th Ministerial Conference" (paragraph 13).

Significance

It remains to be seen how effective the "utmost restraint" and the efforts to keep export subsidies low may be. The gap between what the G-20 was asking and what developed countries were willing to accept was large. In the end, this Ministerial Decision does not affect the negotiating objective of developed countries (and perhaps the small number of developing countries that have some scheduled commitments on export subsidies) to maintain the exceptional treatment of export subsidies.[37]

Overall, a more balanced approach would have been a temporary ban on export subsidies until the 11th (four years from now) or 12th (six years from now) Ministerial Conferences. This would not have prejudged the outcome of the negotiations but would have limited the use of export subsidies for a reasonable period and would have put some pressure on members to complete the negotiations on the

[37] It must be recalled, however, that those export subsidies, with the expiration of a related standstill agreement (the peace clause of Article 13 of the AoA), can be challenged under the Agreement on Subsidies and Countervailing Measures.

entire agricultural package. On the other hand, a useful result of the commitments to improve transparency in export competition has been that the CoA asked the Secretariat to send a questionnaire on all aspects of export competition and to tabulate answers for a June 2014 meeting. Although the data collected are not complete, the results of that exercise (WTO 2014a) show that the overall trend for export subsidies is declining; still, about $500 million of export subsidies were granted in 2011–2012, with the EU being the largest user at almost $190 million, followed by Canada and Switzerland-Liechtenstein at $85–90 million each. [38]

The reduced use of export subsidies for agricultural and agro-industrial products offers the possibility of finally unifying the treatment of export subsidies, thus eliminating the special treatment of the AoA. The 2008 Modalities offer a template for this task. Agricultural export subsidies should be banned and the system unified under the ASCM. The 2008 Modalities also provide an appropriate template for export credits, export guarantees, and insurance. The case of STEs is different, as they may need stricter disciplines than those envisaged in the 2008 Modalities, including the consideration of importing STEs. At the minimum, stricter requirements of transparency and timely communication will be necessary.

Cotton[39]

Background

In 2003, Benin, Burkina Faso, Chad, and Mali (the Cotton-4) presented their concerns to the WTO regarding the negative impact that developed countries' domestic and export subsidies (particularly the United States) have had on their economies (see, for instance, Minot and Daniels 2002). Their proposal to the WTO described the damage that the four believe has been caused to them by cotton subsidies in richer countries; they called for the subsidies to be eliminated and for compensation to be paid while the subsidies remained in operation to cover economic losses. The same year, a panel was formed under the dispute settlement mechanism to consider the case brought by Brazil and other countries against domestic and export subsidies, export credits, and other assistance provided by the United States to cotton producers.[40]

Following the request of the four African countries, the 2005 Hong Kong Ministerial promised to "address cotton ambitiously, expeditiously, and specifically, within the agriculture negotiations in relation to all trade-distorting policies affecting the sector in all three pillars of market access, domestic support, and export competition" (paragraph 11). To that end, the relevant Ministerial Decision stated,

> *Without prejudice to Members' current WTO rights and obligations, including those flowing from actions taken by the Dispute Settlement Body, we reaffirm our commitment to ensure having an explicit decision on cotton within the agriculture negotiations and through the Sub-Committee on Cotton as follows:*

[38] WTO (2014a) also looked at other aspects of export competition, such as export credit and guarantees, and exporting state trading enterprises, but the information is more limited. However, it is clear that there is an increase in STEs in some developing countries, such as China (25 STEs), India (14), and Colombia (14). Some of the important agricultural exporting STEs that were operated by developed countries have been reformed or are in the process of being reformed (such as the Canadian Wheat Board). The exercise did not cover importing STEs (though some of the STEs surveyed have both export and import functions).

[39] The relevant document is WT/MIN(13)/W/13.

[40] The case went through several instances, with the panel and the appellate body largely ruling in favor of Brazil; it then went through several issues of implementation that led to further rounds of intervention by the DSM. Recently the United States and Brazil have announced that they had reached an agreement to settle their dispute over US cotton subsidies. Apparently this settlement includes a payment of $300 million by the United States to the Brazilian Cotton Institute, to be spent on aid for the cotton sector in Brazil, Africa south of the Sahara, and other countries (details are in document WT/DS267/46).

- All forms of export subsidies for cotton will be eliminated by developed countries in 2006.
- On market access, developed countries will give duty and quota free access for cotton exports from least-developed countries (LDCs) from the commencement of the implementation period.
- Members agree that the objective is that, as an outcome for the negotiations, trade distorting domestic subsidies for cotton production be reduced more ambitiously than under whatever general formula is agreed and that it should be implemented over a shorter period of time than generally applicable. (paragraph 11).

The 2005 Hong Kong Ministerial declaration also referred to the "development assistance aspects of cotton," welcoming a consultative framework process to implement the decisions to provide funding and technical assistance to cotton-producing developing countries (paragraph 12).

In October 2013, less than two months before the Bali Ministerial, the Cotton-4 presented a new proposal, trying to operationalize the Hong Kong Ministerial Declaration in relation to the three pillars of market access, domestic support, and export competition. It asked for (1) duty-free and quota-free access for LDCs to the markets of developed countries and of willing developing countries, starting in January 2015; (2) negotiations on domestic support for cotton to take place in 2014, aiming for substantial reductions by the end of that year; and (3) the elimination of existing export subsidies on cotton by developed countries at the time of the approval of the proposed decision at Bali.

As in the case of export subsidies, the relevant Bali Ministerial Decision (WT/MIN(13)/W/13) fell short of what the developing countries had requested. The short time available to consider and negotiate the substance of the request by the Cotton-4 did not help to advance the negotiations; the changing conditions in the cotton market may have also been a factor in the watered-down outcome (more on this below).

Legal Aspects

The ministers "stress the vital importance of cotton to a number of developing country economies and particularly the least-developed amongst them" (paragraph 1) and reaffirm the previous commitments (the General Council of August 2004, the 2005 Hong Kong Ministerial Declaration, and others) (paragraph 2). However, they also express "regret that we are yet to deliver on the trade-related components of the 2005 Hong Kong Ministerial Declaration," while they "agree on the importance of pursuing progress in this area" (paragraph 3).

The Ministerial Decision then follows with a series of generalities:

- It reaffirms the criteria set in the so-called 2008 Agriculture Modalities (TN/AG/W/4/Rev.4, December 6, 2008) (paragraph 4).
- It promises to do more work "to enhance transparency and monitoring in relation to the trade-related aspects of cotton," holding biannual meetings on cotton issues in Special Sessions of the Committee on Agriculture (paragraph 5).
- It indicates that these discussions must be based on "factual information and data compiled by the WTO Secretariat from Members' notifications, complemented" (paragraph 6) and that they will consider "all forms of export subsidies for cotton and all export measures with equivalent effect, domestic support for cotton and tariff measures and non-tariff measures applied to cotton exports from LDCs in markets of interest to them" (paragraph 7).
- It reaffirms "the importance of the development assistance aspects of cotton" (paragraph 8) and welcomes what is considered "the positive trend in growth and improved performance in the cotton sector, particularly in Africa" (paragraph 9).

- It underlines "the importance of effective assistance provided to LDCs by Members and multilateral agencies" (paragraph 10).
- It invites "the LDCs to continue identifying their needs linked to cotton or related sectors" (which the countries are clearly doing in any case) (paragraph 10).
- It urges "development partners to accord special focus to such needs within the existing aid-for-trade mechanisms/channels" (paragraph 10).
- It invites the director general "to continue to provide periodic reports on the development assistance aspects of cotton, and to report on the progress that has been made in implementing the trade-related components of the 2005 Hong Kong Ministerial Declaration, at each WTO Ministerial Conference," raising the possibility that those issues may take a long time to be solved (paragraph 11).

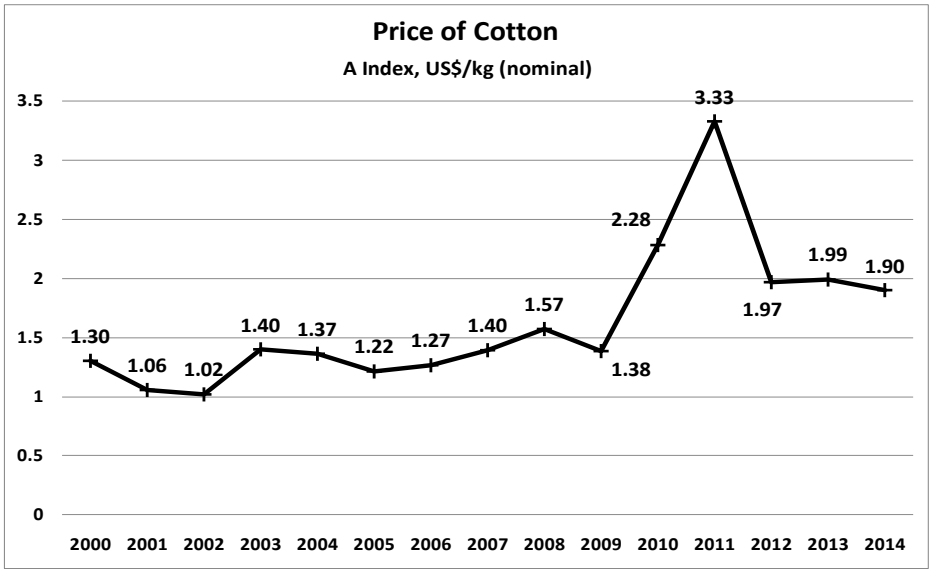
Significance

The result clearly seems to be less than what the African countries involved requested on the three pillars of the AoA: domestic support, export subsidies, and market access. However, the latter issue may be thought to be subsumed in the Duty-Free and Quota-Free (DFQF) Market Access for Least-Developed Countries declaration, discussed below.

A positive aspect of the Bali Decision has been the convening of several meetings in the Cotton Subcommittee of the Committee on Agriculture and the preparation of documentation by the Secretariat that has made more transparent the current situation in global cotton markets (see TN/AG/GEN/34/Rev.1 and TN/AG/SCC/GEN/13/Rev.1, November 3, 2014).

It is important to note that at the time of the Bali Ministerial, the Cotton-4 countries were facing a different global cotton market than when they presented their requests in the early 2000s. In those days, global cotton prices were about half of the current levels; the average for 2001–2002 was about $1.04 per kilogram (see Figure 3.1), while during the Bali negotiations in 2013 it was close to $2.00 per kilogram, after reaching $3.30 per kilogram in 2011. It declined further in 2014, and by October 2014, the price had gone down to about $1.55 per kilogram. Although this last was still about 50 percent higher than when the Cotton-4 presented their initial request, it led to new requests by the African producers to eliminate cotton subsidies.

Figure 3.1 Cotton price evolution



Source: World Bank's Global Economic Monitor database (2014).

Besides the changes in prices, there have been clear modifications in world trade as well. In the early 2000s, the United States represented about 36 percent of global exports; in 2013, that number had declined to almost 28 percent. The global exports of the Cotton-4 also declined from about 7 percent to about 5 percent during the same period; this decline was due not to a decline in their absolute level of exports (which in fact was similar to the early 2000s) but mainly to the large increase in production and exports from India. India surpassed the United States in the mid-2000s as the second-largest world producer after China and has become the second-largest exporter since 2010, surpassing Australia, Uzbekistan, and Brazil. Finally, while China is the largest producer, it is also the largest importer, reaching a historically unprecedented level of stock-to-use in 2013 of more than 160 percent. This means that if (or rather, when) China decides to normalize its stock-to-use ratio, the disruption of global markets may be significant.

This changed cotton market has made the scenario for the Cotton-4, as well as other low-income countries that are cotton producers in Africa, Latin America, and Asia, much more complicated than its original characterization of small, poor cotton producers pitted against US subsidized production. Now domestic and trade policies in some large developing countries may have to be considered, leading to a significantly modified political economy of the agricultural negotiations in general.

4. LEAST-DEVELOPED COUNTRIES AND RELATED ISSUES

There are four Ministerial Decisions in this group. Three refer directly to LDCs, with the objective of expanding trade from these countries; two focus on goods (specifically the expansion of duty-free quota-free and rules of origin); and one refers to trade in services. Finally, a fourth Ministerial Decision relates to special and differential treatment for developing countries in general, not only LDCs.

Duty-Free and Quota-Free Market Access for Least-Developed Countries[41]

Background

Considering that tariffs and quotas are the most common impediments to market access, the 2005 Hong Kong Ministerial Declaration on Measures in Favor of LDCs indicated that "developed-country Members, and developing-country Members declaring themselves in a position to do so, agree to implement duty-free and quota-free market access for products originating from LDCs as provided for in Annex F to this document" (paragraph 47). According to Annex F, paragraph 36,

> We agree that developed-country Members shall, and developing-country Members declaring themselves in a position to do so should: (a)(i) Provide duty-free and quota-free market access on a lasting basis, for all products originating from all LDCs by 2008 or no later than the start of the implementation period in a manner that ensures stability, security, and predictability. (ii) Members facing difficulties at this time to provide market access as set out above shall provide duty-free and quota-free market access for at least 97 percent of products originating from LDCs, defined at the tariff line level, by 2008 or no later than the start of the implementation period. In addition, these Members shall take steps to progressively achieve compliance with the obligations set out above, taking into account the impact on other developing countries at similar levels of development, and, as appropriate, by incrementally building on the initial list of covered products.

Most large developed countries are above the 97 percent benchmark; the main exception is the United States, which has granted access of around 80 percent of coverage. The argument, as in the case of agricultural export subsidies, is that the Hong Kong Ministerial Declaration was tied to the completion of the Doha Round, indicating that those preferences should be granted "by 2008 or not later than the start of the implementation period" (Annex F, paragraph 36 of the Hong Kong Ministerial Declaration).

The Bali Ministerial Decision tries to push for the expansion of duty-free quota-free (DFQF) access to the markets of developed countries and to the markets of those developing countries that want to extend similar treatment to LDCs.

Legal Aspects

The Ministerial Decision starts by congratulating member countries because, in their opinion, since the 2005 Hong Kong Ministerial Declaration, "nearly all developed Members provide either full or nearly full DFQF market access to LDC products, and that a number of developing-country Members also grant a significant degree of DFQF market access to LDC products" (preamble of the decision).

Since not all members have complied with that objective, however, the Ministerial Decision states that "developed-country Members that do not yet provide duty-free and quota-free market access for at least 97 percent of products originating from LDCs, defined at the tariff line level, shall seek to improve their existing duty-free and quota-free coverage for such products . . . prior to the next Ministerial Conference."[42] It also exhorts developing country members that consider that they can "seek to provide duty-free and quota-free market access for products originating from LDCs, or shall seek to

[41] The relevant document is WT/MIN(13)/W/16.

[42] The paragraphs of this Ministerial Decision (which is only one page long) are not numbered.

improve their existing duty-free and quota-free coverage for such products . . . prior to the next Ministerial Conference."

The Ministerial Decision then asks (1) members to notify DFQF schemes and relevant changes; (2) the Committee on Trade and Development to continue the annual reviews of the steps taken to provide DFQF access to the LDCs and report to the General Council; (3) the Secretariat, in coordination with members, to use the notifications of DFQF schemes and changes to prepare a report on DFQF market access for LDCs at the tariff line level; and (4) the General Council to report "on the implementation of this Decision to the next Ministerial Conference," including any of their recommendations.

Significance

The decision is a "best effort" decision—it does not say "shall increase DFQF over 97 percent" but rather "*shall seek* to increase," which is a less stringent requirement. The recommendations for developing countries to provide DFQF access to LDCs are even weaker.

Whether LDCs have benefited from DFQF is a debated issue,[43] considering that tariffs and quotas may not be the main obstacle and that other nontrade barriers (such as rules of origin or quality standards), domestic impediments (infrastructure, macroeconomic, and trade policies), or geography and regional problems (LDCs that are landlocked or isolated islands) may be far more binding. Also, given the concentration of LDC exports in very few products, simulations show that excluding a small percentage of items from product coverage (that is, anything that is not 100 percent) may reduce the benefits to LDCs to basically zero (Bouët et al. 2010). In fact, 3 percent of products represents 90 percent of LDC exports to high-income country markets and 95 percent to emerging economies.

Preferential Rules of Origin for Least-Developed Countries[44]

Background

Other potentially important impediments to market access are the rules of origin. A country granting DFQF access to an LDC wants to make sure that the product actually comes from the favored country; however, it is common for a product, even when exported from an LDC, to have a component of foreign inputs in its production. Therefore, the country granting access tries to determine whether there is really some relevant work done within the LDC so that this country can be granted market access without indirectly granting the same access to unintended third countries. There are a variety of potential definitions for what is "relevant" or "substantive" work done in an LDC, and the amount and detail of paperwork required to prove this definition differ across importing countries. Therefore, stringent definitions of domestic content and requirements of documentation may deny market access to an LDC even if, in principle, the country should have DFQF access.

Legal Aspects

This Ministerial Decision provides guidelines to simplify the criteria applied by importing countries regarding rules of origin. It clarifies that "these guidelines do not stipulate a single set of rules of origin criteria. Rather, they provide elements upon which Members may wish to draw for preferential rules of origin applicable to imports from LDCs under such arrangements" (paragraph 1.1). The decision has three short sections: the first offers some suggestions for the substance of the preferential rules of origin, the second focuses on documentation, and the third focuses on transparency issues.

Regarding the substance of the preferential rules of origin, paragraph 1.2 argues that the rules "should be as transparent, simple, and objective as possible" and enumerates the three main ways (see below) in which "substantial or sufficient transformation" that confers origin can be defined. It then discusses the criteria for each of those three ways.

[43] See, for instance, Bouët et al. (2010) and Ito (2013).
[44] The relevant document is WT/MIN(13)/W/14.

Ad valorem percentage criterion: According to paragraph 1.3, "given the limited productive capacity in the LDCs, it is desirable to keep the level of value addition threshold as low as possible." The paragraph also points out that LDCs have asked that foreign inputs be allowed to a maximum of 75 percent of value; this can be seen as an exhortation to allow these inputs, but it is certainly not a mandatory standard. Paragraph 1.4 asks that the methods for calculating value be as simple as possible, recognizing that different methodologies exist for calculating the ad valorem percentage of value addition and that "this percentage may be determined on the basis of the principles of simplicity and transparency." For instance, it suggests excluding costs related to freight and insurance and international transportation costs but including national or regional inland transportation costs for calculation of local or domestic content.

Change of tariff classification: Paragraph 1.5 indicates that "a substantial or sufficient transformation" should generally be one that moves an article to a heading or subheading that is different from the inputs utilized.

Specific manufacturing or processing operation: Paragraph 1.6 states that rules on specific manufacturing or processing operations for the purpose of determining origin should "as far as possible take into account the productive capacity in LDCs." It mentions chemical products and articles of apparel and clothing as examples for which process-based rules may help define origin in ways that help LDCs.

Paragraph 1.7 suggests the option of allowing "cumulation" (that is, the possibility that LDCs combine originating materials from other countries "without losing the originating status of the materials and to jointly share materials or production"). It refers to some nonreciprocal preferential trade arrangements that allow bilateral cumulation with the country granting preference, cumulation with other LDCs, and even cumulation with beneficiaries of the generalized system of preferences of a given preference-granting country "and/or among developing country Members forming part of a regional group as defined by the preference-granting country."

The second block of issues refers to documentary requirements. Paragraph 1.8, asking that these requirements be "simple and transparent," suggests avoiding proof of nonmanipulation when products shipped from LDCs must go across other member countries and proposes the use, "whenever possible," of self-certification, along with "mutual customs cooperation and monitoring," to complement compliance and risk-management measures.

The third and final block of issues covers transparency requirements. Paragraph 1.9 indicates that preferential rules of origin for LDCs must be notified through the transparency mechanism for preferential trade arrangements (PTAs) and notes the obligation under the Agreement on Rules of Origin to do so. The objectives of such notification are "to enhance transparency, make the rules better understood, and promote an exchange of experiences as well as mainstreaming of best practices."

The Ministerial Decision closes (paragraph 1.10) by instructing the Committee on Rules of Origin to annually review "the developments in preferential rules of origin applicable to imports from LDCs, in accordance with these guidelines, and report to the General Council." It also asks the WTO Secretariat to provide annual reports on the outcome of these reviews to the subcommittee on LDCs.

Significance

Rules of origin can determine whether there is true preferential access, regardless of what happens to the DFQF aspects. However, this Ministerial Decision is not a commitment; as noted, it only provides guidelines to member countries. Also, as opposed to manufacturing products, agricultural products are usually (though not always) wholly produced in a single country; therefore, rules of origin may be less relevant than other trade regulations, such as sanitary and phytosanitary requirements and private-sector quality and certification standards (see, for example, Roberts, Orden, and Josling 2004; Orden and Roberts 2007; Orden, Beghin, and Henry 2012).

Operationalization of the Waiver Concerning Preferential Treatment to Services and Service Suppliers of Least-Developed Countries[45]

Background

Since GATT, and now with the WTO, one of the main principles of the multilateral system of trade rules is the most-favored nation (MFN) status, which grants all WTO members the best trade access offered to any one of them.[46] As such, the possibility of granting special preferences to poor developing countries (as well as the possibility of entering into regional agreements) implies, in principle, a violation of the MFN principle. Therefore, if WTO member countries want to increase LDC market access for the services these countries export, a waiver is needed so that countries willing to grant such preferential access to LDCs can do so without other member countries asking for the same treatment under the MFN principle.[47]

Such a waiver was approved during the Eighth Ministerial Conference in Geneva in 2011 ("Preferential Treatment to Services and Service Suppliers of Least-Developed Countries," WT/L/847, December 17, 2011). Since then, WTO members have been allowed to provide preferential treatment to services (and entities providing services) from LDCs without getting in trouble with the MFN principle. However, as the Bali Ministerial Decision notes, no member country has used the waiver decision to grant preferences to LDCs. Therefore, the Bali Ministerial Declaration focuses on the "operationalization" of the services waiver.

Legal Aspects

In paragraph 1.1, the Ministerial Decision instructs the Council for Trade in Services "to initiate a process aimed at promoting the expeditious and effective operationalization of the LDC services waiver," including periodic reviews of the advances and the presentation of recommendations that may lead to expanded use of the waiver. To do this, paragraph 1.2 instructs the Council for Trade in Services "to convene a high-level meeting six months after the submission of an LDC collective request identifying the sectors and modes of supply of particular export interest to them." It also indicates that "at that meeting, developed and developing Members, in a position to do so, shall indicate sectors and modes of supply where they intend to provide preferential treatment to LDC services and service suppliers." The interpretation of this commitment depends on whether the qualifier "in a position to do so" applies to both types of countries or only to developing ones. Many LDC preferences are phrased in WTO legal texts as a commitment to developed countries but only a "best endeavor" effort for developing countries (that is, the qualifier applies only to developing countries). If it is interpreted as applying to both groups, however, then the commitment has been transformed into a "best endeavor" commitment for both types of countries.

Paragraph 1.3 encourages members that want to go ahead and grant access before these meetings to do so and suggests options for such preferential access and corresponding procedures. Paragraph 1.4 emphasizes "the need for enhanced technical assistance and capacity building to help LDCs benefit from the operationalization of the waiver." It suggests the importance of making optimal use of existing aid-for-trade schemes, such as the enhanced integrated framework (EIF),[48] and of the capacity-building work of other international institutions. And it invites LDCs "to include their services related needs in their

[45] The relevant document is WT/MIN(13)/W/15.

[46] The other key principle is domestic treatment, which does not allow member countries to discriminate between domestic and foreign producers. Together these principles constitute a double commitment by WTO members to avoid discrimination between different foreign countries or producers, on the one hand, and between domestic and foreign entities engaged in trade, on the other.

[47] An equivalent waiver for goods, adopted during the Tokyo Round in 1979, allowed developed countries to grant trade preferences to developing countries, waiving the MFN requirements.

[48] The EIF is a multidonor program that has the direct objective of helping to increase the participation of LDCs in the global trading system, with the broader goals of promoting economic growth and reducing poverty (see http://www.wto.org/english/tratop_e/devel_e/teccop_e/if_e.htm).

respective national development strategies and in their dialogues with development partners" and urges "development partners to respond adequately to such needs."

Significance

Along with the DFQF and the preferential rules of origin, this Ministerial Decision confirms a package of measures aimed at increasing the participation of LDCs in trade in goods and services.[49] On the one hand, these measures indicate the interest of WTO member countries to try to help LDCs; on the other hand, they may mainly represent best-effort commitments whose cumulative impact remains to be seen. The next decision refers to all developing countries.

Monitoring Mechanism on Special and Differential Treatment[50]

Background

Since the adoption of GATT in 1947, there has been a constant debate about whether to give developing countries special treatment under trade rules, what those dispensations should be and under what circumstances they should be granted, and whether to differentiate among developing countries.[51] Some major events related to SDT before the Uruguay Round included the 1955 GATT revision of Articles XVIII and XXVIII (bis);[52] the 1966 adoption of Part IV on Trade and Development within the GATT (with new Articles XXXVI to XXXVIII[53]); and the "enabling clause," adopted during the Tokyo Round in 1979, which allowed developed countries to grant trade preferences to developing countries, thus waiving the MFN requirements.

Some debates focused on whether the SDT provisions were really appropriate to promote development and whether SDT provisions do increase developing countries' trade participation. Other discussions focused on whether the fact that developing countries were asking for such SDT provisions marginalized them from the main negotiations and made it easier for developed countries to maintain their own "SDT" in topics such as agriculture, textiles, and other products of interest for developing countries (see, for instance, Bhagwati 2013).

During the Uruguay Round, SDT began to move from the notion of increased policy space toward flexibilities in the form of longer transition periods and reduced levels of commitments, within a framework in which all countries had to comply with same broad trade framework (Kessie 2011). Still, the need for increased trading opportunities for developing countries was recognized, as was the importance of developed countries using due restraint when implementing defensive measures that could affect developing countries and the importance of strengthening technical assistance programs. By some accounts, about 155 SDT provisions in the legal texts were approved during the Uruguay Round. However, complaints by developing countries about the lack of implementation of these provisions led to paragraph 44 of the Doha Ministerial Declaration in 2001, which reaffirms "that provisions for special and differential treatment are an integral part of the WTO Agreements" and notes "the concerns expressed

[49] The phrase "increasing the participation of LDCs in trade in goods and services" is mentioned widely in WTO and related documents. However, it does not seem to carry the same meaning for everyone; some see the phrase as a commitment to increase exports from LDCs (and to reduce trade deficits in those countries), while for others it is the compromise to increase both exports and imports, without considering the trade balance.

[50] The relevant document is WT/MIN(13)/W/17.

[51] The brief summary in the main text follows Kessie (2011).

[52] The revision of Article XVIII in 1955 allowed developing countries measures, among others, to address balance-of-payment problems and to promote the establishment of some industries. Article XXVIII (bis), paragraph 3b recognized "the needs of less-developed countries for a more flexible use of tariff protection to assist their economic development and the special needs of these countries to maintain tariffs for revenue purposes."

[53] Article XXXVI recognized the principle of non reciprocity in trade negotiations (that is, that developed countries should not expect reciprocity for commitments made by them); Article XXXVII asked developed countries, "to the fullest extent possible," to give preferences in market access and special consideration before applying contingent protection measures; and Article XXXVIII allowed collective action by developing countries to stabilize commodity prices.

regarding their operation in addressing specific constraints faced by developing countries, particularly least-developed countries," which have led some "to propose a Framework Agreement on Special and Differential Treatment" (that is, a separate agreement on the topic). Therefore, the ministers "agree that all special and differential treatment provisions shall be reviewed with a view to strengthening them and making them more precise, effective, and operational."

This decision notwithstanding, the negotiations in preparation for the Fifth Ministerial at Cancún in 2003 displayed different interpretations from developed and developing countries as to what exactly had been agreed upon. A discussion centered on whether it was just a matter of implementation (as developing countries argued) or whether, in the process of "strengthening" the SDT provisions and "making them more precise, effective, and operational," the balance of rights and obligations across members was being changed in ways that required new negotiations (as developed countries insisted).

Another debate centered on whether it was necessary, as developed countries argued, to first consider the so-called cross-cutting issues—including the analysis of the principles and objectives of the SDT and the controversial issue of whether SDTs should be universal for developing countries or whether it was necessary to differentiate eligibility across countries—before discussing the long list of SDT provisions that developing countries wanted to implement. Since GATT, "developing country" has been a self-identified category (that is, the country defines its status), and, in general, those countries have opposed further differentiations imposed by outside bodies out of fear that such changes may modify the balance of rights and obligations within the WTO.

Finally, in terms of WTO operation, another issue was the importance of having a single monitoring mechanism specifically devoted to those issues (this was a proposal of the African Group in 2002), rather than having the SDT provisions scattered across different committees. Developing countries preferred that all SDT provisions be discussed in a single body or committee within the WTO, which would simplify the follow-up and would provide them with greater power over the proceedings and negotiations. Other WTO members, however, believed that individual SDT provisions are an inherent part of the specific topic to which they apply (say, agriculture or intellectual property rights) and therefore cannot be properly treated outside the committee tasked with that topic.

WTO negotiations in Geneva, within the special session of the Committee on Trade and Development (CTD) (where negotiations on SDTs take place), could not close the gaps between those different positions, and the Fifth Cancún Ministerial was also unable to reach an agreement.

These debates have continued until now as part of the internal WTO work on possible mechanisms to follow up on the implementation of the different SDT provisions. In particular, the 2011 Ministerial Conference in Geneva decided to accelerate analysis of the monitoring mechanism; since then, further work has been done within the special sessions of the CTD. The negotiations on this topic have led to the proposal submitted to the Bali Ministerial and the subsequent Ministerial Decision.

Legal Aspects

The Ministerial Decision creates a mechanism to monitor SDT provisions and defines its "scope, functions, terms of reference, and operation" (paragraph 1 of the Ministerial Decision).

In terms of scope, the mechanism will cover all SDT provisions "contained in multilateral WTO Agreements, Ministerial and General Council Decisions" (paragraph 2). Functions and terms of reference are defined in paragraphs 3–8. According to paragraph 3, the mechanism "shall act as a focal point within the WTO to analyze and review the implementation of S&D provisions," but it "will complement, not replace, other relevant review mechanisms and/or processes in other bodies of the WTO," with members able to use the mechanism or those other bodies (as indicated in footnote 1).

Paragraph 4 indicates that the mechanism "shall review all aspects of implementation" (including "how the provision is being applied and the overall effectiveness of its implementation," according to footnote 2). If problems in implementation are identified, the mechanism "may consider whether it results from implementation, or from the provision itself." However, paragraph 5 stipulates that, although the mechanism "is not precluded from making recommendations to the relevant WTO bodies for initiating

negotiations on the S&D provisions that have been reviewed," those recommendations "will not alter, or in any manner affect, Members' rights and obligations under WTO Agreements, Ministerial or General Council Decisions, or interpret their legal nature."

Paragraph 6 states again that the mechanism can make recommendations to the relevant WTO body for "the consideration of actions to improve the implementation of a special and differential provision" or "the initiation of negotiations aiming at improving the special and differential provision(s) that have been reviewed under the Mechanism." But it again places limits on the power of the mechanism (paragraph 7) by saying that "such recommendations will inform the work of the relevant body, but not define or limit its final determination."

Paragraph 8 states that "the relevant body should consider a recommendation from the Mechanism at the earliest opportunity" and that "the status of recommendations emerging from the Mechanism shall be included in the annual report of the Committee on Trade and Development to the General Council."

In terms of operations, the mechanism will function through dedicated sessions of the Committee on Trade and Development, meeting twice a year (with additional meetings convened as needed). The mechanism will follow "the same rules and procedures applied by the Committee on Trade and Development" (paragraph 9). The work of the mechanism will be based on "written inputs or submissions made by Members, as well as on the basis of reports received from other WTO Bodies to which submissions by Members could also be made" (paragraph 10). If the matter "falls within the purview of another WTO body," the mechanism must inform that body "so that the latter is in a position to provide input" (paragraph 11).

The Ministerial Decision closes with paragraph 12, which indicates that the mechanism "shall be reviewed three years after its first formal meeting, and thereafter when necessary, taking into account its functioning and evolving circumstances."

Significance

The text is a balancing act between the postures discussed previously: whether the approach to SDT provisions was merely a matter of strengthening and implementing them or whether the balance of rights and obligations may change (leading to new negotiations). The Ministerial Decision also tries to bridge the differences between the centralized, unified approach to dealing with SDT issues and the fragmented one, in which SDT provisions are treated across different committees according to the negotiating topics.

The mandated review after three years will clarify whether addressing SDT issues using the middle ground chartered by this Ministerial Decision is effective.

Post-Bali Work Plan

The post-Bali work program was defined in the final paragraphs of the Bali Ministerial Declaration (WT/MIN(13)/DEC/W/1/Rev.1, December 7, 2013). Given the doubts generated by the so-called mega-regional trade agreements negotiated outside the WTO, ministers felt compelled to "reaffirm our commitment to the WTO as the preeminent global forum for trade, including negotiating and implementing trade rules, settling disputes, and supporting development through the integration of developing countries into the global trading system" (paragraph 1.9).

Legal Aspects

In trying to assuage doubts about the continuation of the Doha Round, the ministers "reaffirm [their] commitment to the Doha Development Agenda, as well as to the regular work of the WTO" (paragraph 1.9); note that "the decisions [they] have taken on the Bali Package during this Ministerial Conference . . . are an important stepping stone towards the completion of the Doha Round;" and "reaffirm [their] commitment to the development objectives set out in the Doha Declaration" (paragraph 1.10).

The ministers further "instruct the Trade Negotiations Committee to prepare within the next 12 months a clearly defined work program on the remaining Doha Development Agenda issues," building "on the decisions taken at this Ministerial Conference, particularly on agriculture, development, and LDC issues, as well as all other issues under the Doha mandate that are central to concluding the Round" (paragraph 1.11). To do that, "work on issues in the package that have not been fully addressed at this Conference will resume in the relevant Committees or Negotiating Groups of the WTO" (paragraph 1.11).

Paragraph 1.12 includes an indication that whatever comes next may not be the single undertaking originally envisaged at Doha. The paragraph notes that the work program will be carried out "with the guidance . . . provided at the Eighth Ministerial Conference, including the need to look at ways that may allow Members to overcome the most critical and fundamental stumbling blocks."

Although the general themes of the Bali Decision remain, the delays in 2014 related the controversy on public food stocks, and the process of implementing the ATF generated the need for a new decision (WT/L/941, November 28, 2014) to define the time parameters of the post-Bali work program. That decision indicates that "work shall resume immediately and all Members shall engage constructively on the implementation of all the Bali Ministerial Decisions in the relevant WTO bodies, including on the preparation of a clearly defined work program on the remaining DDA [Doha Development Agenda] issues as mandated in paragraph 1.11 of the Bali Declaration." It also says that "Members agree that the issues of the Bali package where legally binding outcomes could not be achieved, including LDC issues, shall be pursued on priority" and establishes July 2015 as the "deadline for agreeing on the work program mandated in the Bali Declaration."

Significance

Two main points may be noted here. First, the reference in the Bali Ministerial Decision to the document of the 2011 Eighth Ministerial Conference in Geneva ("Elements for Political Guidance," WT/MIN(11)/W/2, December 1, 2011) is important because, in the section on the Doha Development Agenda (paragraphs 1–7), this document includes the recognition that "there are significantly different perspectives on the possible results that Members can achieve in certain areas of the single undertaking" and that "it is unlikely that all elements of the Doha Development Round could be concluded simultaneously in the near future." Therefore, "Ministers recognize that Members need to more fully explore different negotiating approaches" and "commit to advance negotiations, where progress can be achieved, including focusing on the elements of the Doha Declaration that allow Members to reach provisional or definitive agreements based on consensus earlier than the full conclusion of the single undertaking." Although at the end Members promise to "intensify their efforts . . . to overcome the most critical and fundamental stalemates in the areas where multilateral convergence has proven to be especially challenging," the previous sentences point to negotiating approaches different from a single undertaking. In fact, the Bali Package has been a manifestation of the guidance offered by the Eighth Ministerial Conference, simply reiterating the possibility that the future work program will focus on separate trade components and not on a single undertaking. All of this contrasts with the November 2014 decision, which refers again to the DDA as a whole.

Second, the November 2014 decision places the task to define a post-Bali work program on an accelerated time table. It remains to be seen whether by July 2015 there will be an agreed-upon work program and whether the DDA will be approached as a single undertaking or may be fragmented into different pieces.

5. IMPLICATIONS OF THE BALI AGREEMENT AND THE NOVEMBER 2014 DECISIONS

This section discusses the relevance and implications of the Bali and November 2014 agreements at three different levels: (1) the specific substance of those agreements, (2) the implications for the multilateral system in general, and (3) the potential work program and future negotiations of the DDA.

The Substance of the Bali Agreement and the November 2014 Decisions

The Bali Package and the November 2014 decisions include several positive aspects for developing countries and the global trading system, as discussed in the previous sections. First, trade facilitation may reduce transaction costs, reduce corruption and increase revenues in developing countries, help smaller countries and small and medium-sized enterprises to integrate into global value chains, and facilitate trade for landlocked countries. For perishable agricultural products, the reduction of time spent in customs processing may also improve marketing opportunities. Still, some of the most commonly cited quantitative estimates of the positive effects appear to be on the higher end of a realistic range, and the long transition times and voluntary commitments may further dilute those estimated benefits.

Second, LDCs may be helped by the decisions on duty-free and quota-free access, simpler rules of origin, and the process to try to increase their exports of services. In addition, as part of the regular work conducted at Bali, the Ministerial Conference took note of two decisions of the General Council related to the extension of the transition period of TRIPs (trade-related intellectual property rights) and to a streamlined accession process, both applying only to LDCs. Another positive development for this group of countries is that the Republic of Yemen, itself an LDC, became the 160th member of the WTO.

Third, for developing countries in general, the establishment of the monitoring mechanism on SDT provisions may provide a more focused discussion of implementation problems.

Developing countries do not seem to have obtained much in terms of the offensive and defensive objectives of the negotiations originally articulated in the Doha Development Agenda. On the offensive side, the Bali Package basically leaves untouched the arguably excessive concessions in agricultural policies that industrialized countries managed to obtain in the Uruguay Round. In particular, developed countries retained the legal right to use export subsidies on agricultural products—even when such subsidies are prohibited for industrial products. The Ministerial Decision on Export Competition is mostly a best-effort commitment that is still tied to completion of the Doha Round.[54]

Although it is true that export subsidies are a transfer from rich countries to food-importing countries (some of which are poor) and help pay for their food bill, it also true that those subsidies disrupt markets and deter investments in some LDCs. In addition, export subsidies are endogenous to prices: they are low today, because prices are relatively high; but those export subsidies have been high (and can be so again under the allowed levels of the AoA) when world prices are low. This pro-cyclical behavior of export subsidies does not help poor countries when they are most in need; it also accentuates price volatility in world markets, with LDCs arguably being the country's most vulnerable to such price volatility. Therefore, the Bali agreements were a lost opportunity to place export subsidies for agricultural products on the same footing as other products and ban them once and for all. Another lost opportunity was the Ministerial Decision on Cotton, which left most of the issues unresolved.

On the other hand, the Ministerial Decisions on Export Competition and Cotton put in motion some useful stock-taking and transparency exercises on both topics during 2014. The WTO Secretariat's work on export competition has shown that although export subsidies have declined, other forms of export competition, including the thorny issue of state trading enterprises, which seem to be expanding in developing countries, are still very much present. With regards to cotton markets, the studies discussed at the Committee on Agriculture show that the situation in global markets has become more complex since

[54] As noted before, industrialized countries represent 84 percent of the values declared after the reduction commitments and that are still allowed under the current AoA

the early 2000s, when the problem of some small African producers being hurt by US subsidies first appeared. Now the production and trade behavior of large developing countries, such as China and India, will loom large in world cotton markets, with potentially negative implications for the Cotton-4.

The decision on TRQ administration is more in line with the offensive objectives of some developing countries that are agricultural exporters to the extent that it addresses several of the more egregious ways in which importing countries may limit trade by abusing TRQ rules. It also establishes a mechanism to remedy the worst cases of TRQ underfill. However, the reservation of the United States, along with the possibility of large developing countries aggressively using the SDT provision in paragraph 4 of the Annex, may reduce the effective market access delivered.

From the viewpoint of developing countries, on the defensive side of the agricultural negotiations, it could be argued that changes were minimal as well. As noted, the General Services decision may not be needed to protect the programs listed in the Ministerial Decision under any reasonable interpretation of Annex 2, paragraph 2 of the AoA. Moreover, the new language only says that the suggested list "could be counted" as part of the Green Box, provided it complies with the current language of Annex 2 of the AoA negotiated during the Uruguay Round. In addition, the compromise on using administered prices to build public stocks for food security reasons is just an interim solution. However, with the November 2014 decision, the peace clause will be in place until a permanent solution is found and the search for a permanent solution is on a fast track, separated from other general negotiations.

Still, whatever the substance of the Bali Package and November 2014 decisions, it is also important that the package reaffirm the role of transparency and policy monitoring in the work of the WTO and in future global negotiations. All the Ministerial Decisions include relatively stronger language regarding members' obligations to provide information about different policies and the respective committees' obligations to monitor that information, usually reinforced by separate studies from the WTO Secretariat. An example is the counterpart to the food security peace clause, which requires up-to-date information on all domestic support. In any case, ensuring the effectiveness of a multilateral system in which different countries, rich and poor, large and small, can at least make their voices heard has a clear value in and of itself. This is discussed immediately.

Implications for the Multilateral System

The process leading up to the Ninth Ministerial Conference and the deliberations in Bali was marked by a general feeling that the fate of the multilateral system was at stake. Similar concerns resurfaced after the failure of the General Council of July 2014. Several member countries and the WTO director general have expressed their fear that failing to agree on the Bali Package would be a fatal blow for the institution that, until the Ninth Ministerial at Bali, had not managed to deliver a multilateral trade agreement (MTA) since its creation in 1995. The advance of some mega-regional trade agreements, such as the Trans-Pacific Partnership and the Transatlantic Trade and Investment Partnership, which added to the large expansion of RTAs that had already taken place, led many people to question the future of the multilateral trade system: would the WTO predominate in the future, with the participation and voice of all member countries, or would global trade become increasingly fragmented in the future, with a proliferation of RTAs and PTAs replacing MTAs?

In addition to the fragmentation of trade rules and institutions (which would create inefficiencies and increase transaction costs for all), developing countries also feared further marginalization in a global trade system with increasing imbalances in negotiating power. While some RTAs have been negotiated between developing countries, thus making the internal balance of power more symmetrical, many RTAs have been anchored by major industrialized countries that dominated the negotiations and insisted on commitments that would not have been possible in the more consensual and symmetrical system of the WTO. Therefore, a failure in Bali was seen with concern by a number of emerging and developing countries, which feared the potential imbalances in market access and in their influence in the international trade system if multilateralism declined in importance.

Yet the claim that the multilateral system would have collapsed if Bali had concluded without an agreement is an exaggeration, at least for the near future. As discussed earlier, the multilateral system centered on the WTO has three areas of work, only one of which is the negotiation of new agreements. The other two areas (the regular work in the WTO committees and the dispute settlement mechanism) are at least as important and would have continued to operate even if no agreement were reached at the ministerial meeting. However, over time, a failure in Bali would probably have reinforced the expansion of RTAs (and perhaps PTAs); conceivably, the institutions administering those treaties, which are generally not the WTO, could also have increasingly replaced the other two functions related to monitoring and dispute settlement in trade issues.

In summary, the Bali agreement and the November 2014 decisions reinforce the WTO as the multilateral anchor of the global trade system. That result should be considered a positive development from the viewpoint of developing countries, notwithstanding the criticisms of the WTO legal framework and of imbalances in the legal texts. Developing countries, many of them individual small players in the global arena, should be interested and active participants in the design and implementation of international rules that limit the ability of larger countries to resort to unilateral action. In addition, domestic legal and institutional frameworks in developing countries may be strengthened by implementing internationally negotiated rules that limit the scope for rent-seeking and arbitrary measures. Developing countries as a group have much to gain from continued progress toward a transparent, rule-based multilateral trading system. Without rule-based and open trade, the global system could go back to old-style power politics, to the detriment of developing countries (Diaz-Bonilla and Robinson 1999). The Bali and November decisions seem to have given new impetus to the overall negotiations envisaged in Doha.

Implications for the Continuation of the Doha Development Agenda: The Post-Bali Work Program

The continuation of the DDA negotiations have important implications for developing countries. For instance, Bouët and Laborde (2010) showed that, when measured as a percentage of their own economy, developing countries will have significant real income gains compared to developed economies in the case of a more fragmented world triggered by North-North trade agreements or in the case of DDA success; however, they will suffer larger losses if negotiations collapse, followed by rising protectionism at the global level. Therefore for developing countries, it is important that, following the November 2014 Decision on Post-Bali Work (WT/L/941), WTO members should come up with a robust work program by July 2015.

Regarding such a work program, this paper now comments briefly on several challenges and general issues that need to be considered in its design. First, although most declarations seem to point to a work program focused on a single undertaking as mandated by the DDA in 2001, there is always the possibility that it may be divided into a small number of negotiating packages that will be tackled separately, as was obliquely hinted at by the reference in the final Bali Ministerial Decision to the document of the Eighth Ministerial Conference on political guidance (WT/MIN(11)/W/2, December 1, 2011).

A second topic to consider is the meaning of "adequate pro-development trade policies" in what has been called the Doha *Development* Agenda (emphasis intentional) and the links to the nature of the WTO as an institution to manage trade disputes (see Díaz-Bonilla 2013a and Häberli 2013). Some analysts have argued that the WTO's main purpose is to develop a framework that prevents or limits trade disputes—that is, to make sure that the trade policies of country A do not hurt country B. In this view, the issue of designing and implementing trade policies for development purposes is somewhat different from the basic mandate of avoiding trade frictions that may affect specific countries. Of course, country A's trade policies may be affecting country B in ways that hinder country B's development, in which case disciplining country A's policies would contribute to B's development as well. A trade system that functions smoothly and without disruptions should also support world growth and development in

general. Thus, preempting or reducing trade frictions and pursuing developmental objectives can complement each other. However, this may not always be the case, and some would argue that it is a good idea to keep both aspects conceptually separate.

The Doha Round has been labeled a "development round," which has led to expectations and requests by developing countries for more "policy space" to further their development and, in the case of agriculture, to attain their food security objectives. On the other hand, industrial countries (as well as some emerging countries that are important agricultural exporters) have voiced concerns that enough policy space already exists and that further expansion, for food security concerns or any other reasons, may begin to affect their trade interests and possibly even their own food security. In turn, economists fret about the potentially negative impacts, in terms of efficiency and equity, of several policies allowed for developing countries under the AoA and further expanded in the modalities. These analysts sometimes seem to view the WTO as the enforcer of "good policies," which, as has been noted by many observers, are measured in terms of welfare metrics usually based on consumption. Trade negotiators see their job as expanding the policy space of their countries to make sure they will not have to answer to WTO panels for alleged violations, while at the same time trying to limit the policy space of others, in many cases with a mercantilist bent that takes the viewpoint of producers. Finally, groups of civil society add to the complexity with a variety of views about development, the environment, human rights, and the like, with an uneven foundation regarding sound economic, social, and political analysis. All these perspectives will frame the complex agenda that the WTO will have to address in its future work.

A third issue, briefly mentioned in the previous paragraphs, is related to food security and trade. The experience before, during, and after Bali shows that a comprehensive trade agenda can be derailed over the issue of food security. Both developed and developing countries are interested in food security as a key issue during the WTO negotiations and, more generally, as a global governance problem. The recent global food price spikes, though not as pronounced as those seen in the 1970s in real terms, have renewed the world's focus on this topic. Indeed food security is not a new trade concern (see a more detailed discussion in Diaz-Bonilla 2013a, 2014). During the Uruguay Round, the issue was reflected in the Marrakesh Declaration and the establishment of the category of Net Food Importing Developing Countries (NFIDCs).

Subsequently, during the Doha negotiations, several developing countries requested a Food Security Box, which included more options to maintain high levels of protection for some agricultural products. Those proposals eventually evolved into the special safeguard mechanism (SSM), which allowed developing countries to increase tariffs for a certain period when they are facing import surges or price declines. A version of the SSM was included in the 2008 Modalities (paragraphs 132–146); however, disagreements about product coverage and the duration of the remedy was a main reason for the breakdown of the negotiations in 2008.

During the Doha negotiations, several developed countries also included food security as part of the notion of multifunctionality, trying to justify their barriers to food imports and higher levels of domestic support. Some of them tried to use that concept to build alliances with developing countries; however, it was clear that no developed country fit the profile of food insecure according to objective indicators of food consumption, production, and exports (Díaz-Bonilla et al. 2000). Moreover, if developed countries expanded agriculture on account of multifunctionality using protection and domestic support, this would mean that, for an exogenous level of global demand, other countries, mostly developing ones, would see their agriculture, and therefore their multifunctionality, contract (Díaz-Bonilla and Tin 2006). In consequence, the use of food security and multifunctionality as the foundation for protection and agricultural subsidies did not gain much traction.

During the Bali process, food security was again a contentious issue that threatened to derail the negotiations. Considering the need for a more permanent solution to replace the peace clause, food security will remain at the center of future negotiations. The consideration of food security stocks and domestic food aid in Annex 2 of the AoA will require a full debate of the legal, economic, and even diplomatic issues involved.

Although food security is not a new trade concern, what has changed in recent years is that while food security concerns were previously postulated in the context of low food prices, now they have reappeared against a background of high food prices and food price volatility, in part affected by the expansion of biofuels (see Al-Riffai, Dimaranan, and Laborde 2010; Laborde and Msangi 2011; Schnepf 2013) and the impact of climate change variability (Hansen, Sato, and Ruedy 2012; IPCC 2014). Whether the scenario of high prices will be maintained remains to be seen,[55] but whatever the contextual novelty, some of the policies now being advocated to address food security seem similar to those suggested in the past. In many countries, alarm about high prices and food price volatility has again led to proposals for "self-sufficiency" using import barriers and distortionary domestic support, much as when food security concerns were postulated to help producers affected by low prices. In this line of thinking, trade is uncertain and would not suffice to insure against volatility and price spikes; what is needed, in this view, is the expansion of productive capacity reaching some level of self-sufficiency so that developing countries depend less on external sources (as discussed further below, this approach is also flawed).

It must be noted that while many policymakers and observers in civil society would suggest protection as their preferred policy option in all circumstances (that is, with both low and high prices), some economists always seem to recommend trade liberalization in all circumstances. A more nuanced approach is required, however, with proper consideration of the traditional policy dilemma: what contributes more to generating food security—high prices for producers or low prices for consumers?

Those who take the perspective of poor *producers* prefer high prices, arguing that agriculture's multiplier effect has important benefits for employment and poverty alleviation; these analysts tend to gravitate toward protection and price support. Those who take the perspective of poor *consumers* emphasize the importance of low prices, citing the impact on urban and rural poverty and malnutrition. They usually suggest lower levels of protection and the use of consumption subsidies.

Clearly, developing countries will be well advised to invest more in expanding and stabilizing their domestic agricultural production. However, the instinctive reaction of some policymakers and civil society advocates, both in the previous context of low world food prices and the new context of higher ones, has been to resort to protectionist measures. In addition, while some standardized economic analysis promotes trade liberalization in the context of both high and low food prices, analysts should consider that in many developing countries, slow or no mobility of labor, capital, and land means that any reallocation of factors and resources will take time and would imply transaction costs that may be substantial. In particular, small and vulnerable producers may not be able to adjust easily to the new policy environment, leading to a definitive negative impact on their livelihoods.

The most effective way out of this policy dilemma is through interventions that increase production efficiency and reduce costs (mostly agricultural R&D, infrastructure, and related investments allowed in the Green Box (see Fan 2008; Mogues et al. 2012). Such interventions increase profits for producers, while contributing to reduced prices for consumers. The additional challenges facing poor and vulnerable populations can be addressed through properly designed and funded safety nets and cash transfer programs (see, for instance, Hidrobo et al. 2012; Hoddinott et al. 2103). In addition, it must be remembered that trade is not the main factor affecting food security and that, in any case, trade policies are blunt instruments with which to address the problem, since poverty and hunger materialize at the household/individual level (Díaz-Bonilla 2013a). Therefore, special and differential treatment defined at the national, crop, or even farmer level may not solve the most important problems. Thus, it is also important to have well-targeted safety nets for the poor. But even with such programs, there is still a need for well-designed, temporary instruments to protect against import surges and unfair trade practices and to prevent drastic shocks that affect the survival strategies of the poor and the worsen the welfare of poor and vulnerable countries (Díaz-Bonilla 2013a, 2014).

The best policy approach would be a relatively neutral trade policy within a general policy framework for poverty alleviation and food security. This general framework would include, among other things, support for land and water ownership by small producers and landless workers; investments in

[55] For a less sanguine view about the continuation of high agricultural and food prices, see Díaz-Bonilla et al. (2013

human capital, infrastructure, climate change adaptation and mitigation, and agricultural R&D; appropriate management of natural resources; strengthened safety nets for the poor and vulnerable (conditional cash transfers, school lunches, women and infant nutrition programs, food-for-work, and so on); women's empowerment programs; community organization and participation; adequate functioning of product and factor markets; macroeconomic stability; and overall good governance. Adequate trade policies and WTO disciplines can contribute to food security, but they are just one component in what must be a multidimensional approach (Díaz-Bonilla 2013, 2014).

A fourth issue relates to the substance of the work program in relation to the agricultural component. Several negotiators still appear to consider past efforts, as embedded in the 2008 Modalities (TN/AG/W/4/Rev.4, December 6, 2008), to be a good foundation for future negotiations. Others, while not necessarily calling for a complete change in the structure of the negotiations, seem to envisage important departures from that document. This is a far larger topic that cannot be discussed in detail here. Several points may be noted though.

In the 2008 Modalities, market access provisions in agriculture combine high ambition in the baseline cuts in protection with a series of exemptions that substantially reduce the potential access, in a pattern that can be characterized as pushing the accelerator and the brake of a car at the same time to achieve a middle-level driving speed. As argued in Laborde (2014), the same results in market access, with less "friction" and more transparency, could be achieved through less ambitious cuts combined with far fewer exemptions.

A particular topic related to market access is the management of TRQs, which, as discussed, have been included in the Bali Package using the language of the 2008 Modalities. The respective Ministerial Decision addresses some of the most egregious ways in which administration of TRQs can limit trade; it also establishes a mechanism to remedy extreme cases of TRQ underfill (although this mechanism can be weakened if large developing countries aggressively use the SDT provisions in paragraph 4, with large industrialized countries simultaneously opting out of the obligations defined in that paragraph).

Regarding domestic support, the careful analysis by Brink (2014) of several key agricultural countries shows that many of them can currently operate within the limits of the 2008 Modalities, without many changes in current policies (some exceptions may be Norway and perhaps the United States under the new Farm Bill). Nevertheless, as emphasized by Bouët and Laborde (2009), the new commitments should be considered in their dynamic dimension. Due to the expansion of the agricultural production and the coupling of some policies, by 2025–2030 the constraint will become quite effective for some countries (such as the United States). In addition, those scenarios depend on whether prices continue at the current relatively higher levels, which may not be the case (see, for instance, Díaz-Bonilla et al. 2013). If prices decline, then the disciplines of the 2008 Modalities may become more constraining earlier, illustrating the important insurance role of the DDA. At the same time, the 2008 Modalities seem to give additional room to large developing countries, which also have the financial resources to use that policy space.

Moving to the third pillar of export competition, the 2008 Modalities appear to be an appropriate template for the long-overdue elimination of agricultural export subsidies, which should be banned, as they are for industrial export subsidies. The 2008 Modalities also provide an appropriate template for export credits, export guarantees and insurance, and food aid. However, the treatment of STEs requires stricter disciplines than those envisaged in the 2008 Modalities, including the consideration of importing STEs that are not currently discussed in the 2008 Modalities. At the minimum, stricter requirements of transparency and timely communication will be necessary (Díaz-Bonilla and Harris 2014).

The issue of export bans also needs to be addressed. This is important not only for importing countries that want to have assurances about the proper operation of global markets, but also for agricultural and food exporters, which do not want to reinforce the increasing interest in self-sufficiency due to fears of access to world supplies.

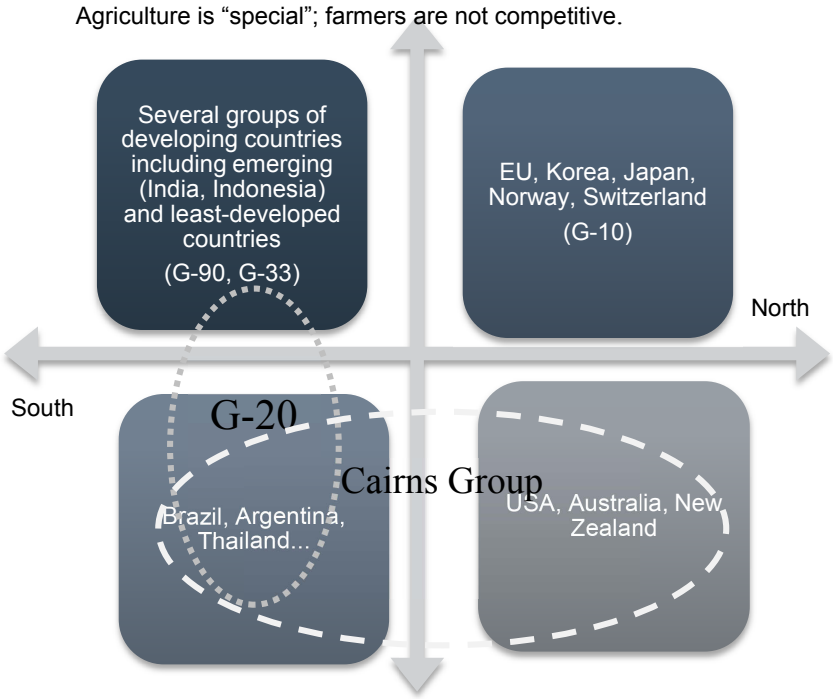
The Bali and November 2014 decisions also referred to other language in the 2008 Modalities in the case of general services and food security stocks. However, the language of the 2008 Modalities was significantly modified in the case of general services, and it was not accepted, unless up to now, as a basis for the treatment of public buying for food security stocks. In fact, other options that do not breach the

basic conditions of the Green Box appear more adequate to deal with the issue of public stocks for food security purposes, including a proper clarification of the links between administered and market prices (see Díaz-Bonilla 2014; Matthews 2014a).

The post-Bali work program will have to grapple with those topics, using the 2008 Modalities or suggesting alternative approaches (see more detailed discussions in Meléndez-Ortiz, Bellmann, and Hepburn 2014; Tangermann 2014; Matthews 2014b).

A fifth and final point relates to the political economy of the negotiations, which have become more complex over time. Bouët and Laborde (2010) show that the capacity of countries to form coalitions or negotiation groups (G-10, G-20, G-33) is pivotal in the negotiations. These groups can contribute to the stalemate because countries can join coalitions to block others proposals; it also makes it easier for heterogeneous countries (such as within the G-20) to build a coalition based on what they cannot accept by third parties (such as the United States), while it is much more difficult for them to support a positive approach (that is, to find an agreement on what they want or what they are ready to do). The country heterogeneity is multidimensional and can be well illustrated regarding agricultural market access. For instance, Díaz-Bonilla, Frandsen, and Robinson (2006) discussed the different positions for the negotiations up to the mid-2000s. As Figure 4.1 shows, they used two variables to classify the various groups: whether countries believe that agriculture requires "special" treatment within the WTO (probably because they consider that their farmers are not competitive in global markets or because they distrust world trade to provide for food security) and whether those countries are high-income economies or developing economies (a North/South axis). Negotiations before, during, and after Bali have shown elements of continuity from previous periods (as depicted in Figure 4.1), but there have also been significant changes. At least two broad observations can be made.

Figure 4.1 Country typology in agricultural negotiations



Source: Díaz-Bonilla, E., S. E. Frandsen, and S. Robinson, ed. (2006).

First, the clear advances of developing countries in the global economy are reshaping the scenario. These countries have increased their share in global agricultural production and trade (Díaz-Bonilla 2013b, 2014). During the 1990s, only one developing country (Argentina) was in the top five net agricultural exporters by value, and two (Brazil and Thailand) were in the top 10. By 2010/2011, however, there were three (Brazil, Argentina, and Thailand). In 2010/2011, 5 of the 10 top net agricultural exporters were developing countries (Díaz-Bonilla 2013b, 2014). A related point is the advance in agricultural support in several developing countries, measured as nominal rate of assistance (NRA) for the agricultural sector in several developing regions (Anderson and Nelgen 2013) producer support estimates (PSEs) calculated by OECD[56], as well as the WTO definitions of domestic support (see the careful calculations in Orden, Blandford, and Josling [2011] for 1995–2008/2009, which where updated in Brink [2014]). Orden, Blandford, and Josling (2011) also calculated the levels of total domestic support that different countries may be allowed under the 2008 Modalities, showing that the developing countries considered in that document would be able to use domestic support in amounts that, in the cases of China and India, are comparable to or above the levels permitted to developed countries without breaching the limits considered in those modalities. In this scenario, the largest providers of domestic support, if they go up to the limits permitted under the 2008 Modalities, would be, in order, China ($85.5 billion), the EU ($33.1 billion), India ($25.6 billion), and then Japan and the United States (each with about $14 billion). Those total values, however, need to consider the large differences in the number of farmers supported. Therefore, the political economy of the negotiations under such a scenario would change significantly, with other developing countries that are not in a fiscal position to grant those levels of support and developed countries that may have the money but are legally constrained under the WTO rules embedded in the 2008 Modalities aligning against those large developing countries that have the financial resources and the legal space under the SDT provisions of the 2008 Modalities (Brink 2011).

Second, there have been further differentiations within developing countries. At the Bali Ministerial Conference, the African group and the LDCs, apparently mostly satisfied with the different Ministerial Decisions addressing LDC issues, pushed for a conclusion of the negotiations. Other groups of non-LDCs and lower-income developing countries asked for dispensation of WTO rules and preferential and nonreciprocal market access but did not receive the extensive exemptions from WTO disciplines that apply to LDCs. In fact, the African group was divided over the issue of DFQF access; this division occurred mostly between those WTO members that are LDCs and the important percentage of African countries that are not.[57] The G-33 group within the WTO tends to represent the views of this group of developing countries,[58] which presented the proposal to change the language of the Green Box on food security stocks and domestic food aid that, as mentioned earlier, led to the peace clause decision until a more permanent decision can be reached on the subject.

In Bali, the unity of the G-33 was under stress due to the hard stance taken by India regarding food security stocks, which at one point during the ministerial threatened to close the meeting without an agreement. The problems during the failed General Council of July 2014 again showed the fault lines across the different WTO members. For instance, Pakistan had been complaining about the negative impact of rice exports from India's food stocks on Pakistan's domestic markets. Indonesia, the host of the ministerial, did not want to preside over a failed meeting. China, probably concerned about the advance of mega-regional agreements in which it did not participate and the potential weakening of a multilateral system that has helped the country become a major trading power, also supported a successful conclusion. LDCs, as noted, appeared relatively more satisfied with the package of Ministerial Decisions and parted

[56] See http://www.oecd.org/tad/agricultural-policies/producerandconsumersupportestimatesdatabase.htm#tables.

[57] According to the WTO negotiating groups, the African group has 42 members, of which 17 (40 percent) are not LDCs (Botswana, Côte d'Ivoire, Cabo Verde, Cameroon, Congo, Egypt, Gabon, Ghana, Kenya, Mauritius, Morocco, Namibia, Nigeria, South Africa, Swaziland, Tunisia, and Zimbabwe). These countries would be at a disadvantage with respect to their neighbors, which have preferential access to the domestic market of developed countries.

[58] As noted earlier, the G-33 includes a variety of small developing countries in Africa, Asia, and Latin America (but less than 11 percent of the members of this group are LDCs), as well as large countries such as China, India, Pakistan, Indonesia, and Philippines; some oil-producing countries (Venezuela and Nigeria); and a high-income country (Korea).

ways with India over its hardline position on food security. Some larger and medium-income developing countries, including several of those now called emerging economies (the lower left quadrant of Figure 4.1), have been putting more emphasis on offensive negotiating postures, trying to place additional limitations on the ample range of measures that industrialized countries use to protect and subsidize their agriculture.

The convergence of several G-33 countries and some developing countries from the Cairns Group into the WTO G-20 led to a delicate balance of negotiating postures, which was evident in the process leading up to Bali. While the G-33 presented mostly defensive proposals such as the language for food security stocks, the G-20 proposed the original language on TRQ administration and export competition.

The question of whether to play offense or defense in the negotiations has been a dilemma for many developing countries. These countries, concerned with their own competitiveness, appear ambivalent about accepting an approach suggested by some industrialized countries (and many NGOs) based on the notion that "I protect and subsidize so you can too" or, alternatively, trying to reduce the distortionary policies of the more advanced countries, even though that may mean accepting some limitations on their own policies.

India is a case in point. On the one hand, it has climbed the ranks of countries that are significant net agricultural exporters, and in recent years, it has become a main global exporter of important products such as rice, beef, and cotton (Díaz-Bonilla 2014). On the other hand, its agricultural sector includes a large number of very small farmers who suffer from serious poverty and vulnerability. During the negotiations, India emphasized the latter problem, but its trading partners take into account the country's increasing presence in global food and agricultural exports. In general, whatever the WTO classification, it seems clear that it has been a long time since "developing countries" acted together, if indeed they ever had in the past.

In summary, the more complex political economy requires that the mechanisms and institutions of global governance, decisionmaking, and modes of thinking, in both developed and developing countries, be adjusted to these new realities. WTO negotiations and, more generally, an adequate architecture of rights and responsibilities in global governance need a more realistic dialogue on those issues.

5. FINAL COMMENTS

This paper summarized the legal aspects of the agreements reached at the WTO's Ninth Ministerial Conference in Bali and at the General Council of November 27, 2014. It also analyzed the implications from the perspective of developing countries, while recognizing that this is a very heterogeneous group. Three pieces of the Bali package have stronger and more direct implications for the trading system: trade facilitation (which as a new agreement will take some time to be ratified by individual WTO members), the understanding on TRQs (which changes and adds new language to the existing Agreement on Import Licensing Procedures), and the peace clause on food security stocks. The rest of the decisions are mostly best-effort endeavors or mechanisms to monitor existing obligations rather than new commitments.

Some observers have criticized the limited ambition of the Bali Package. For instance, it can be argued that developed countries did not attain their negotiating objectives, considering that the original language of the Trade Facilitation Agreement was watered down and that topics such as the expansion of the Information Technology Agreement (ITA) and the Government Procurement Agreement did not make it into the final agreement. In turn, it can also be said that developing countries did not get much in terms of their offensive and defensive objectives; the Bali Package leaves agricultural policies in industrialized countries basically untouched, particularly the legal right to use export subsidies on agricultural products. Indeed, the Ministerial Decisions on Export Competition and Cotton are mostly best-effort commitments, whereas the general services decision does not seem to add to any reasonable interpretation of what is already in Annex 2, paragraph 2 of the AoA.

Nevertheless, the Bali Package has several positive aspects. The language on TRQs addresses some of the most egregious problems with that mechanism, and LDCs may benefit from a series of decisions on DFQF, simpler rules of origin, and a process to try to increase their export services. For developing countries in general, the establishment of the monitoring mechanism on SDT provisions may provide a more focused discussion of the problems of implementation. Finally, although developed countries were the main demandeurs of the Agreement on Trade Facilitation, this new agreement may reduce transaction costs, reduce corruption and increase revenues in developing countries, help smaller countries and small and medium-sized enterprises integrate into global value chains, facilitate trade for landlocked countries, and improve marketing conditions for perishable agricultural products. Still, the quantification of these potentially positive effects is uncertain, with the most commonly cited estimates appearing to be on the higher end of the realistic range. A novel feature of the ATF, which may be important for small and low-income developing countries, is the possibility of delaying the implementation of some commitments, or even not implementing them at all, if under certain conditions and subject to outside expert verification they do not receive the technical and financial assistance they require to do so.

Taking a more general view, and given the fears that a failure in Bali would have led to further fragmentation of the global trading system and the marginalization of many developing countries in a framework of increasing imbalances in negotiating power, the Bali agreement and the November 2014 decision reinforce the WTO as the multilateral anchor of the global trade system. This result should be considered a positive development from the viewpoint of developing countries, notwithstanding several accurate criticisms of imbalances in the legal texts. To the extent that, individually, many developing countries remain small players in the global arena, they have a strong interest in a transparent, rule-based multilateral trading system that limits old-style power politics in global trade. It is also significant to have a strong post-Bali work program focusing on the Doha Development Agenda; the latter, as shown in Bouët and Laborde (2010), has nontrivial benefits for developing countries, and the failure of achieving meaningful results in this regard has clear costs for those countries.

The experience at Bali also shows how increasingly complex the substance and the political economy of the negotiations have become. An analysis based solely on the dichotomy of developed and developing countries would not clarify much. Intricate divisions in interest are clear among WTO members—even among low-income developing countries. In particular, in several large developing

countries, the increase in economic size and the use of policy instruments to support agriculture foreshadow changing alliances across WTO members. If improvements in the governance of global trade are to be fair to all and are to respect the development needs of poorer countries, then the different positions will have to converge eventually to a more realistic appreciation by all of the new facts and responsibilities of the global agricultural system. This more realistic appreciation of the global landscape may also require a reconsideration of the trade categories of WTO members.

These and future WTO negotiations will benefit from more precise analysis of the quantitative impacts of the options considered. Member countries need to know which policies do and do not work in order to define food security policies that are equitable, efficient, and WTO compatible. Smaller and lower-income developing countries, including LDCs, would gain from quantitative analyses that help them navigate the incredibly complex space of the negotiations. Those analyses should be closely tied to the intensive WTO work program for 2015 and beyond, as envisaged in the Ministerial Decisions.

REFERENCES

Al Riffai, P., B. Dimaranan, and D. Laborde. 2010. "European Union and United States Biofuel Mandates: Impacts on World Markets." Technical Notes, IDB-TN-191.Washington, DC: Interamerican Development Bank.

Anderson, K., and S. Nelgen. 2013. *Updated National and Global Estimates of Distortions to Agricultural Incentives, 1955 to 2011*. Washington, DC: World Bank.

Bhagwati, J. 2013. "Dawn of a New System." Finance & Development 50: 4, December. http://www.imf.org/external/pubs/ft/fandd/2013/12/bhagwati.htm.

Bouët, A., and D. Laborde. 2010. *"Assessing the Potential Cost of a Failed Doha Round."* World Trade Review 9: 319–351. doi:10.1017/S1474745609990267.

Brink, L. 2011. "The WTO Disciplines on Domestic Support." In *WTO Disciplines on Agricultural Suppor*t, edited by D. Orden, D. Blanford, and T. Josling, 23–59. Cambridge, UK: Cambridge University Press.

———. 2014. *Commitments under the WTO Agreement on Agriculture and the Doha Draft Modalities: How Do they Compare to Current Policy?* Paris: Organisation for Economic Co-operation and Development. http://www.oecd.org/tad/events/AL-Brink.pdf.

Bouët, A., D. Laborde, E. Dienesch, and K. Elliot. 2010. *The Costs and Benefits of Duty-Free, Quota-Free Market Access for Poor Countries. Who and What Matters?* IFPRI Discussion Paper 00990. Washington, DC: International Food Policy Research Institute.

Decreux Y. and L. Fontagne. 2015. "What Next for Multilateral Trade Talks? Quantifying the Role of Negotiation Modalities." *World Trade Review* 14: 29–43. doi:10.1017/S1474745614000354.

Díaz-Bonilla, E. 2013a. "Agricultural Trade and Food Security: Some Thoughts about a Continuous Debate." In *Agriculture and Food Security Group Proposals and Analysis*. Bali: International Centre for Trade and Sustainable Development, World Economic Forum, and International Policy Council.

———. 2013b. "Lost in Translation: Why WTO Negotiations Seem to Go Nowhere." Food for Thought Blog, November 4. http://www.foodsecurityportal.org/lost-translation-why-wto-negotiations-seem-go-nowhere.

———. 2014. *On Food Security Stocks, Peace Clauses, and Permanent Solutions after Bali*. IFPRI Working Paper 1388. Washington, DC: International Food Policy Research Institute. http://ebrary.ifpri.org/cdm/ref/collection/p15738coll2/id/128493.

Díaz-Bonilla, E., S. E. Frandsen, and S. Robinson, ed. 2006. *WTO Negotiations and Agricultural Trade Liberalization: The Effect of Developed Countries' Policies on Developing Countries*. Cambridge, MA: CAB International.

Díaz-Bonilla, E., and J. Harris. 2014. "Export Subsidies and Export Credit." In *Tackling Agriculture in the Post-Bali Context,* edited by R. Meléndez-Ortiz, C. Bellmann, and J. Hepburn. Geneva: International Centre for Trade and Sustainable Development. http://www.ictsd.org/sites/default/files/research/Tackling%20Agriculture%20in%20the%20Post-Bali%20Context_0.pdf.

Diaz-Bonilla, E. and L. Reca. 2000. "Trade and Agroindustrialization in Developing Countries: Trends and Policy Impacts." *Agricultural Economics* 23 (3), September.

Diaz-Bonilla, E. and S. Robinson, ed. 1999. *Getting Ready for the Millennium Round Trade Negotiations.* 2020 Vision Focus Brief 1.Washington, DC: International Food Policy Research Institute. http://www.ifpri.org/publication/getting-ready-millennium-round-trade-negotiations.

Díaz-Bonilla, E., E. Saini, B. Creamer, G. Henry, and E. Trigo. 2013. *Better to Be Foresighted Than Myopic: A Foresight Framework for Agriculture, Food Security, and R&D in Latin America and the Caribbean*. Cali, Colombia: CIAT.

Díaz-Bonilla, E., M. Thomas, S. Robinson and A. Cattaneo. 2000. *Food Security and Trade Negotiations in the World Trade Organization: A Cluster Analysis of Country Groups.* Trade and Macroeconomics Working Paper 59. Washington, DC: International Food Policy Research Institute.

Díaz-Bonilla, E., and J. Tin. 2006. *That Was Then but This Is Now: Multifunctionality in Industry and Agriculture.* TMD Discussion Paper 94. Washington, DC: International Food Policy Research Institute.

Dorosh, P., and S. Rashid. 2012. *Bangladesh Rice Trade and Price Stabilization: Implications of the 2007/08 Experience for Public Stocks*. IFPRI Discussion Paper 01209. Washington, DC: International Food Policy Research Institute.

Fan, S., ed. 2008. *Public Expenditures, Growth, and Poverty: Lessons from Developing Countries*. Baltimore: The Johns Hopkins University Press.

FAO (Food and Agricultural Organization of the United Nations). 2000. *Multilateral Trade Negotiations on Agriculture: A Resource Manual*. Rome.

Gopinath, M. 2012. "WTO Disciplines on Agricultural Support Update: A Comparison of India's WTO Domestic Support Notifications with Shadow Measurements." In *WTO Disciplines on Agricultural Support,* edited by D. Orden, D. Blanford, and T. Josling. Cambridge, UK: Cambridge University Press.

Häberli, C. 2013. *Three 'Bali Deliverables' from the Food Security Tool Box*. NCCR Trade Working Paper 2013/44. Berne: National Centre of Competence in Research on Trade Regulation.

Hansen, J., M. Sato, and R. Ruedy. 2012. *Perceptions of Climate Change: The New Climate Dice*. New York: Columbia University.

Hidrobo, M., J. Hoddinott, A. Peterman, A. Margolies, and V. Moreira. 2012. *Cash, Food, or Vouchers? Evidence from a Randomized Experiment in Northern Ecuador*. IFPRI Discussion Paper 01234. Washington, DC: International Food Policy Research Institute.

Hoddinott, J., D. Gilligan, M. Hidrobo, A. Margolies, S. Roy, S. Sandström, B. Schwab, and J. Upton. 2013. *Enhancing WFP's Capacity and Experience to Design, Implement, Monitor, and Evaluate Vouchers and Cash Transfer Programmes: Study Summary.* Washington, DC: International Food Policy Research Institute.

Hufbauer, G., Jeffrey J. Schott, C. Cimino, and J. Muir. 2013. *Payoff from the World Trade Agenda.* Washington, DC: The Peterson Institute for International Economics and International Chamber of Commerce Research.

Ito, T.2013. *Did the Least Developed Countries Benefit from Duty-Free Quota-Free Access to the Japanese Market?* IDE-JETRO Discussion Paper 434. Chiba, Japan: Institute of Developing Economies-Japan External Trade Organization.

ICTSD (International Center for Trade and Sustainable Development). 2013. B*ridges Negotiation Briefing: A Brief Guide to Negotiations at the WTO's Ninth Ministerial Conference.* Volume 17, Number 40. November 28.

IPCC (Intergovernmental Panel on Climate Change). 2014. *Climate Change 2014: Impacts, Adaptation, and Vulnerability. IPCC WGII AR5 Summary for Policymakers*. IPCC Phase I Report. Geneva. Accessed http://ipcc-wg2.gov/AR5/images/uploads/IPCC_WG2AR5_SPM_Approved.pdf.

Kessie, E. 2011. "The Legal Status of Special and Differential Treatment Provisions under WTO Agreements." In *WTO Law and Developing Countries*, edited by G. A. Bermann and P. C. Mavroidis, 12–35. Cambridge, UK: Cambridge University Press.

Laborde, D. 2014. "Implications of the Draft Market Access Modalities on Bound and Applied Tariffs." In *Tackling Agriculture in the Post-Bali Context,* edited by R. Meléndez-Ortiz, C. Bellmann, and J. Hepburn, 87–1021. Geneva: International Centre for Trade and Sustainable Development. http://www.ictsd.org/sites/default/files/research/Tackling%20Agriculture%20in%20the%20Post-Bali%20Context_0.pdf.

Laborde, D., and S. Msangi. 2011. "Biofuels, Environment, and Food: The Story Gets More Complicated." In *2011 Global Food Policy Report, 49–54*. Washington, DC: International Food Policy Research Institute.

Matthews, A. 2014a. *Food Security and WTO Domestic Support Disciplines Post-Bali.* ICTSD Programme on Agricultural Trade and Sustainable Development Issue Paper 51. Geneva: International Centre for Trade and Sustainable Development.

———. 2014b. "The Doha Round Is Back on Track." Accessed May 20. http://capreform.eu/the-doha-round-is-back-on-track/.

Meléndez-Ortiz, R., C. Bellmann, and J. Hepburn, ed. 2014. *Tackling Agriculture in the Post-Bali Context.* Geneva: International Centre for Trade and Sustainable Development. http://www.ictsd.org/sites/default/files/research/Tackling%20Agriculture%20in%20the%20Post-Bali%20Context_0.pdf.

Minot N. and L. Daniels. 2002. *Impact of Global Cotton Markets on Rural Poverty in Benin*. MSSD Discussion Paper 48. Markets and Structural Studies Division. Washington, DC: International Food Policy Research Institute.

Mogues, T., B. Yu, S. Fan, and L. McBride. 2012. *The Impacts of Public Investment in and for Agriculture. Synthesis of the Existing Evidence*. IFPRI Discussion Paper 01217. Washington, DC: International Food Policy Research Institute.

Moïsé, E., and S. Sorescu. 2013. *Trade Facilitation Indicators: The Potential Impact of Trade Facilitation on Developing Countries' Trade*. OECD Trade Policy Paper 144. Paris: Organisation for Economic Co-operation and Development. http://dx.doi.org/10.1787/5k4bw6kg6ws2-en.

Orden, D., J. Beghin, and G. Henry. 2012. "Key Findings of the NTM-IMPACT Project." *The World Economy* 35 (8): 967–972.

Orden D., D. Blandford, and T. Josling, ed. 2011. *WTO Disciplines on Agricultural Support*. Cambridge, UK: Cambridge University Press.

Orden, D., and D. Roberts. 2007. "Food Regulation and Trade under the WTO: Ten Years in Perspective." *Agricultural Economics* 1 (37): 103–118.

Roberts, D., D. Orden, and T. Josling. 2004. "Sanitary and Phytosanitary Barriers to Agricultural Trade: Progress, Prospects, and Implications for Developing Countries." In *Agriculture and the New Trade Agenda: Creating a Global Trading Environment for Development*, edited by D. Roberts, D. Orden, and T. Josling, 329–358. Cambridge, UK: Cambridge University Press.

Schnepf, R. 2013. *Agriculture-Based Biofuels: Overview and Emerging Issues*. Washington, DC: Congressional Research Service.

Spanogle, Jr., J. A. 1997. "Can Helms-Burton Be Challenged Under WTO?" *Stetson Law Review* 27: 1313.

Tangermann, S. 2014. "Post-Bali Issues in Agricultural Trade: A Synthesis." Paper presented at the OECD Global Forum on Agriculture: Issues in Agricultural Trade Policy, Paris, December 2. http://www.oecd.org/tad/events/AL-Tangermann.pdf.

World Bank. 2014. Global Economic Monitor database. Accessed May 20. http://data.worldbank.org/data-catalog/global-economic-monitor.

WTO (World Trade Organization). 1999. *Notification Issues*. G/AG/W/45. Geneva: Committee on Agriculture.

———. 2000. *Inflation and Exchange Rate Movements in the Context of Domestic Support Commitments*. G/AG/NG/S/19, 23. Geneva.

———. 2001. *The Doha Ministerial Declaration*. WT/MIN(01)/DEC/1. Geneva.

———. 2008. *The WTO Agreements Series 3: Agriculture*. Geneva. http://www.wto.org/english/res_e/booksp_e/agrmntseries3_ag_2008_e.pdf.

———. 2013. *The Doha Ministerial Declaration*. WT/MIN(13)/DEC/W/1/Rev. Geneva. http://www.wto.org/english/thewto_e/minist_e/min01_e/mindecl_e.htm.

———. 2014a. *Background Document on Export Subsidies, Export Credits, Export Credit Guarantees or Insurance Programmes.* May 21. Geneva: International Food Aid and Agricultural Exporting State Trading Enterprises.

———. 2014b. "WTO Work Is 'Back on Track,' says Azevêdo." November 27. http://www.wto.org/english/news_e/news14_e/gc_rpt_27nov14_e.htm.

RECENT IFPRI DISCUSSION PAPERS

For earlier discussion papers, please go to www.ifpri.org/pubs/pubs.htm#dp.
All discussion papers can be downloaded free of charge.

1443. *Rural and agricultural mechanization: A history of the spread of small engines in selected Asian countries*. Stephen Biggs and Scott Justice, 2015.

1442. *Investigating public financial accounts and coding system in Malawi and measuring agricultural expenditures within the system*. Chance Mwabutwa, 2015.

1441. *The effects of political competition on rural land: Evidence from Pakistan.* Katrina Kosec, Hamza Haider, David J. Spielman, and Fatima Zaidi, 2015.

1440. *Heterogeneous preferences and the effects of incentives in promoting conservation agriculture in Malawi.* Patrick S. Ward, Andrew R. Bell, Gregory M. Parkhurst, Klaus Droppelmann, Lawrence Mapemba, 2015.

1439. *The cooling effect of pulse imports on price: The case of pigeon pea in India*. Akanksha Negi and Devesh Roy, 2015.

1438. *Financial constraints and international trade with endogenous mode of competition.* Antoine Bouët and Anne-Gaël Vaubourg, 2015.

1437. *Understanding men's and women's access to and control of assets and the implications for agricultural development projects: A case study in rice-farming households in Eastern Uttar Pradesh, India*. Thelma Paris, Valerien Pede, Joyce Luis, Raman Sharma, Abha Singh, Jeffrey Stipular, and Donald Villanueva, 2015.

1436. *Gender, assets, and agricultural development: Lessons from eight projects.* Nancy L. Johnson, Chiara Kovarik, Ruth Meinzen-Dick, Jemimah Njuki, and Agnes Quisumbing, 215.

1435. *A framework for physical growth and child development.* Harold Alderman, Jere R. Behrman, and Paul Glewwe, 2015.

1434. *Filling the legal void? Experimental evidence from a community-based legal aid program for gender-equal land rights in Tanzania.* Valerie Mueller, Lucy Billings, Tewodaj Mogues, Amber Peterman, and Ayala Wineman, 2015.

1433. *Agricultural intensification in Africa: A regional analysis*. Alejandro Nin-Pratt, 2015.

1432. *Inputs, productivity, and agricultural growth in Africa south of the Sahara*. Alejandro Nin-Pratt, 2015.

1431. *When expectations become aspirations: Reference-dependent preferences and liquidity Constraints. Berber* Kramer, 2015.

1430. *Demand for complementary financial and technological tools for managing drought risk*. Patrick S. Ward, David J. Spielman, David L. Ortega, Neha Kumar, and Sumedha Minocha, 2015.

1429. *Examining gender inequalities in land rights indicators in Asia.* Caitlin Kieran, Kathryn Sproule, Cheryl Doss, Agnes Quisumbing, and Sung Mi Kim, 2015.

1428. *Is reliable water access the solution to undernutrition?: A review of the potential of irrigation to solve nutrition and gender gaps in Africa south of the Sahara*. Laia Domènech, 2015.

1427. *What will it take for biofortification to have impact on the ground?: Theories of change for three crop-country combinations.* Nancy Johnson, Hannah Guedenet, and Amy Saltzman, 2015.

1426. *Managing risk with insurance and savings: Experimental evidence for male and female farm managers in West Africa*. Clara Delavallade, Felipe Dizon, Ruth Vargas Hill, and Jean Paul Petraud, 2015.

1425. *The impact of "at-the-border" and "behind-the-border" policies on cost-reducing research and development*. Julien Berthoumieu and Antoine Bouët, 2015.

1424. *Market imperfections for tractor service provision in Nigeria:* International Perspectives and Empirical Evidence. Hiroyuki Takeshima, 2015.

1423. *Agriculture, nutrition, and the Green Revolution in Bangladesh*. Derek D. Headey and John Hoddinott, 2015.

1422. *Rural finance and agricultural technology adoption in Ethiopia: Does institutional design matter?* Gashaw Tadesse Abate, Shahidur Rashid, Carlo Borzaga, and Kindie Getnet, 2015.

1421. *Is more inclusive more effective? The "new-style" public distribution system in India*. Avinash Kishore and Suman Chakrabarti, 2015.

INTERNATIONAL FOOD POLICY RESEARCH INSTITUTE

www.ifpri.org

IFPRI HEADQUARTERS

2033 K Street, NW
Washington, DC 20006-1002 USA
Tel.: +1-202-862-5600
Fax: +1-202-467-4439
Email: ifpri@cgiar.org