
COTTON UPDATE: 1st June 2007

The Falconer 'Communication 2' 25 May 2007 – Some Observations

The Context

On Friday 25 May 2007 the Chair of the WTO agriculture negotiations circulated a follow-up paper to his 30 April 2007 text, called: 'Communication from the Chairman of the Committee on Agriculture Special Session – Second Installment'¹. This document is not characterised by an explanatory introduction, but simply footnotes that readers should easily follow this text on from the previous (1st) version. This text thus continues to probe specific issues with a view to providing direct guidance to negotiators as to where the impasse breaking concessions lie so as to find positions that might converge. This process is designed to provoke further comments from Members and now completes the introductory 'suite of 2' that will together serve as the catalyst for a second draft for his 22 June 2006 text – the so called draft modalities paper². Although not explicitly stated one senses that the issues in the second paper are perhaps of a secondary nature hierarchically to those in the first one, hence their sequenced release. For the C4 the first paper is certainly the more important one as it deals with more cotton specific matters. The second text does not exclude cotton, it contains two paragraphs on market access for cotton, and the section dealing with the 'green box' has some relevance to cotton. The remaining topics are of secondary concern, and listed briefly for sake of completeness.

Cotton Market Access

The text addresses market access for cotton (paragraphs 33 & 34). Market access is the least critical of the agriculture pillars for cotton, with domestic support and export subsidies (in general terms) discussed in the first paper. The

¹ WTO issued document : Unreferenced of 25 May 2007 available at : http://www.wto.org/english/tratop_e/agric_e/agchairtxt_25may07_e.doc

² WTO document series: Job(06)/199 22 June 2006.

tone of the Chair's wording is pleasing. He reaffirms the principle couched in the Hong Kong text that developed countries must improve market access for imports of cotton from least-developed countries by granting them duty and quota free access for cotton exports with immediate effect from the commencement of the implementation period.

The Chair then poses two additional access propositions. Firstly the question as to whether to extend duty and quota-free access into developed countries for cotton from other developing countries. The second question is whether the modalities should include market access by developing countries for imports of cotton from other developing countries. In this regard he suggests that these questions be answered in the affirmative and suggests that the wording used mirrors the Hong Kong language for least-developed country market access more generally.

For the C4 this approach is in line with the cotton mandate, and can be supported. In narrow terms it would be better for the C4 if the proposed access by both developed and developing countries was limited just to least-developed countries, as this would create some level of advantage for LDC's over developing countries active in cotton like Brazil and China. Given the current negotiating climate, it is unlikely that developed countries are going to extend the cotton preference to all developing countries in any event.

Green Box

The Chair addresses the new disciplines for the green box. He notes that these are currently exempt from reduction commitments and finds agreement that there have been no proposals to alter the basic existing architecture, i.e. that the green box remains non- or at most minimally trade distorting. In surveying the possible refinements contained in the June 2006 modalities, the Chair suggests that in the final drafting there would be far fewer amendments than envisaged at that time.

One of the changes that is still entertained relates to 'direct payments to producers'. This is of interest to cotton as in the Upland Cotton dispute direct payments made by the US were found to be incompatible with a green box classification because the base periods upon which the payments were made,

were updated which led to the size of the later payments increasing. The changes envisaged will accept the concept that base periods can be changed. The Chair sees the next step as being to clearly draft the text in a way that provides for occasional changes in base periods provided these were not done in a way that implied a link to prices or production. The Cotton proponents should pay particular attention here to ensure that the redrafting does not result in measures ruled illegal in Upland Cotton, now being negotiated into acceptance. The critical element will be to ensure that there is no price/production nexus with base period updates.

Other Secondary Issue Analysis:

Special Safeguard Mechanism (SSM)

This question is not without interest for the cotton growers. The Chair elaborates on the comments already made in the 30 April text. He again finds that there are many variables on the SSM issue with positions that are too wide apart to be in a position to begin to defining a centre of gravity. He does however feel that the matter of SSM triggers is now accepted in line with what was agreed in Hong Kong. There will thus be two distinct triggers: on import volume and on price. This issue has long been seen as a 'non-negotiable' item for the G33, and this text should provide some assurance to these proponents.

The Chair does make the interesting observation that dispels a common myth that developing countries were somehow excluded from using the current Special Safeguard (SSG) during the Uruguay Round. He observes that the reason why a number of developing countries did not have access to it was because they had the option of opting for 'ceiling bindings' instead of tariffication, noting that this option was taken in many cases.

He also puts forward that the term 'special' should invoke notions of unusual circumstances, meaning that the SSM would not be routinely or normally triggered, but only in 'special' cases. He thus pleads for realism from proponents who would have the SSM triggering 'on hundreds of tariff lines'.

This is one of the most controversial issues for developing countries, and the SSM would need to provide greater flexibility than the existing special safeguard for industrialized countries. Some, including the G20, have suggested that this flexibility be so wide that it leads to the elimination of the Special Safeguard for industrialized countries. The Chair however gauges that the SSG is also likely to continue, but with 'sharply reduced in its coverage'.

Tropical Products

The Chair elaborates on the outstanding need to agree upon a list of tropical products. He suggests an extended Uruguay list, where Members can object, with reasons, to a list product then not have to provide improved tariff access. This access is already agreed to be 'the fullest liberalization'. The Chair suggests that this means that the tariff cuts applicable could be no less than the largest that occur within the framework. The current view of the proponents is that 'full' equates to 'complete' which equates to 'zero' duties.

Small & Vulnerable Economies

The Chair elaborates on the SVE issue adopting the tone that all is essentially well. It is notable that as with cotton, in the absence of any other concrete proposals, the Chair intends accepting that of the SVE proponents. Shortly, in order to define what is a small, vulnerable economy, the proponents state that these are economies that, in the period 1999 to 2004, had an average share of world merchandise trade of 0.16 per cent or less and world trade in non agricultural products of 0.1 per cent or less and world trade in agricultural products of 0.4 per cent or less.

The Chair suggests that as regards treatment, the SVE export interests should be addressed by a modality that would require all Members to provide enhanced improvements in market access for products of export interest to SVEs; and that no delegation is disagreeing with such proposal.

Least Developed Countries

This section is already well accepted. The Hong Kong text states that developed countries shall, and developing countries declaring themselves in a position to do so should, provide duty and quota-free market for at least 97% of products originating from least-developed countries by the start of the implementation

period. The Chair suggests that the remaining 3% access should be phased in over the implementation period. This is a new suggestion and should be welcomed.

Recently Acceded Countries

In this section the Chair reports that it has been settled in the General Council that all Members that acceded to the WTO since the conclusion of the Uruguay Round (14), except those that have since joined the European Communities and those that are classed as least-developed countries, would be able to avail themselves of specific flexibility provisions. These obligations would generally not be to have 'a free round' but rather entail reduced levels of commitment. The Chair does however make an exception and suggests that Saudi Arabia and Vietnam, having acceded since Hong Kong, should be exempted from any new commitments. Generally recently acceded members are accorded a 5% lesser cut than what is allowed for other developing countries in overall trade-distorting domestic support. Similarly, for the phasing of tariff cuts for some products, these Members will need to implement their commitments within a year after the final implementation of their accession commitments.

Tariff Escalation

Using very interesting phraseology the Chair expresses the view that this topic is no longer a negotiating issue. He states that; 'If I was honest about this – and I will try to be so – I could only conclude that your revealed preferences to this point are that you would expect this to drop by the wayside'. He continues later that: 'I cannot frankly see any realistic chance of doing it within the time frame you have effectively set yourselves for modalities unless there is a quantum leap in efforts on this front'. It simply remains for us to note that the topic is present in the Hong Kong mandate and this requires that the modalities address tariff escalation through a formula which Members are to agree upon. We note that the current tiered formula for market access does not do this.

Tariff Simplification

The Chair points out that there has been little progress in this area. The negotiating framework simply states that the matter remains 'under negotiation' (not reaching the status of an explicit requirement to 'address' simplification). In view of this, the Chair finds that the differences in position and the time needed to

negotiate and agree to a methodology that would be needed to convert complex tariffs to more simplified ones, leaves room only for a simple solution – that is modalities that specify that no tariff may be bound in a form more complex than the current binding and that complex matrix tariffs will be simplified in a transparent and verifiable way.

Long Standing Preferences

The Chair points out that while this is a contentious issue, he remains convinced that it is very limited in scope. He notes that the problem is essentially concentrated on bananas and sugar with a few others bringing up the rear (fruit, vegetables and beef). Essentially the Chair sees that a product by product arrangement will be found - the situations will not be effectively resolved through a 'one-size-fits-all approach'.

The Chair concludes again as he did in June 2006 with a notion that has been highly unpopular with the ACP Group. This view is that that addressing preference erosion does not necessarily limit the solution to being trade-based, but recognizing that non-trade-based solutions, or combinations of trade-based and non-trade-based solutions, may present the most appropriate means of addressing preference erosion. This solution essentially entails targeted technical assistance programmes and other measures like more effective utilisation of existing preference schemes, for assisting long-standing preference-receiving Members to diversify their export base and additional financial assistance and capacity building to address supply constraints more generally.

Commodities

The Chair suggests that the wording present in the June 2006 draft modalities has become generally acceptable. This wording states that:

'In the event that adverse effects of tariff escalation were not to be eliminated via the tiered formula for reductions in bound duties and such specific measures on tariff escalation as are provided for, Members shall engage with commodity dependent producing country Members to ensure satisfactory solutions. Provision shall be made for suitable procedures for negotiations on the elimination of non-tariff measures affecting trade in commodities.'

The sentiment is expressed that this text enjoys a reasonable expectation and could be agreed upon. We simply observe that this may not be entirely true given

that this expectation seems grounded on tariff escalation solutions, which the Chair notes earlier may be off the agenda entirely.

Closing Observation

The following closing quotation from Ambassador Falconer would be appropriate as an indication of what lies ahead by way of elucidation before the process moves to the drafting of a second draft modalities text to replace the June 2006 draft:

"I have nothing at this point to add....."

(Chairman's Communication (2) 25 May 2007 paragraph 85)

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IDEAS Centre, 10, rue de l'Arquebuse, 1204 Geneva, Switzerland
T +41 22 807 17 40, F +41 22 807 17 41