The WTO and Agriculture

Why Is India so Furious?

Suman MODWEL[*]

I. INTRODUCTION

The sheer fact that agriculture at last came within the multilateral trading system during the Uruguay Round of trade negotiations, more than forty years after the creation of the General Agreement on Tariffs and Trade (GATT) and at the birth of its successor, the World Trade Organization (WTO) in 1994, is widely acknowledged as an achievement, a positive step forward. That the hopes raised thereby that the process of liberalization of this highly protected sector would achieve significant results by 2000 (the target date set for developed countries) were not realized is also a widely recognized fact.

Viewed from an historical perspective, and perhaps through hindsight, the disappointments and the messy state of affairs during the post-Uruguay Round implementation period, all through the Doha and Cancun Ministerial Conferences, should not really be all that surprising. After all, for centuries before that, trade in agriculture (and other primary products) largely followed a very carefully protected pattern amongst the developed and developing countries who founded the GATT in 1947.[1] The presiding trading principle was that of Ricardo and his logic of comparative advantage,[2] laced rather oddly with hefty doses of protectionism. The developed countries manufactured and sent a part of their output to the colonies, while the latter contented themselves (or were made to content themselves) with growing and exploiting primary products and exporting some to their masters. The developed countries were very careful not to encourage much processing (adding value) in the agriculture or textile sectors in the South, lest those countries compete with and threaten manufacturing in the North. Within these cosy bilateral relationships, granting preferential treatment to each

[*] Professor and Director of Research at the ENPC School of International Management, Paris, France; and Visiting Research Fellow at the Institut d'Etudes Politiques de Paris (Sciences Po).
The author may be contacted at: ‹modwel@enpcmbaparis.com›.

[1] See *GATT Basic Instruments and Selected Documents*, Vol. IV, Text of the General Agreement, 1969, Annexes A–G, the "grandfather clauses", virtually excluding agriculture from GATT rules.

[2] See David Ricardo, *On the Principles of Political Economy and Taxation*, 3rd edition, 1821, London.

other and to no other third party to facilitate this Ricardian process of inter-industry trade made sense.[3]

This article attempts to explain the perspective of India (and a number of other developing countries) in the continuing negotiations at the WTO on agriculture in the special context of the importance of this sector and of the extremely poor who subsist on it. In juxtaposing this with the incredible levels and varieties of continuing protectionism in the developed world, it attempts also to explain why India is so discontented with the way the trade talks are proceeding. It will do the following:

- take a broad look at some features of the Uruguay Round Agreement on Agriculture (AoA);
- note the resolve at Doha to carry on the work of liberalization and to dedicate the Doha Round of negotiations to development issues of developing countries, in particular by according various special and differential measure to them;
- assess what actually happened during and after the Uruguay Round, juxtaposed with continuing "tricks of the trade";
- explain the point of view of the G21 bloc of developing countries and particularly India's proposals;
- discuss, in particular, India's heavy emphasis on demanding special and differential (S&D) treatment and offer the author's own critique on this subject; and
- conclude with a review of the developments preceding and occurring at the Cancun Meeting with its attendant disappointments and future prospects.

II. Some Relevant Features of the Agreement on Agriculture

Table 1 offers a broad view of the reductions in tariffs, domestic support and export subsidies—the three pillars of the Agreement on Agriculture (AoA)—to which WTO Members have committed. Before the Uruguay Round, there were no bound tariffs in agriculture and a host of non-tariff barriers in the shape of import quotas, quantitative

[3] On this theme, though with reference to textiles, George Monbiot, in *Flight to India*, Guardian, 21 October 2003, writes, perhaps over dramatically: "Throughout the 18th and 19th centuries, India was forced to supply raw materials to Britain's manufacturers, but forbidden to produce competing finished products. We are rich because the Indians are poor. Now the jobs we stole 300 years ago are returning to India. Last week the Guardian revealed that the National Rail Enquiries service is likely to move to Bangalore, in southwest India. Two days later, the HSBC bank announced that it is cutting 4000 customer service jobs in Britain, and shifting them to Asia. BT, British Airways, Lloyds TSB, Prudential, Standard Chartered, Norwich Union, BUPA, Reuters, Abbey National and Powergen have already begun to move their call centres to India. The British workers at the end of the line are approaching the end of the line. There is a profound historical irony here. Indian workers can out compete British workers today because Britain smashed their ability to compete in the past. Having destroyed India's own industries, the East India Company and the colonial authorities obliged its people to speak our language, adopt our working practices and surrender their labour to multinational corporations."

TABLE 1: REDUCTIONS IN AGRICULTURAL SUBSIDIES AND PROTECTION AGREED IN THE URUGUAY ROUND NEGOTIATIONS
(As percentages of base levels[a])

	Developed Countries 6 years: 1995–2000	Developing Countries 10 years: 1995–2004
Tariffs		
Average cut for all agricultural products	–36%	–24%
Minimum cut per product	–15%	–10%
Domestic support		
Cuts in total (AMS[b]) support for the sector	–20%	–13%
Subsidies		
Value of subsidies (outlays)	–36%	–24%
Subsidized quantities	–21%	–14%

Notes: [a] Least developed countries do not have to reduce tariffs or subsidies. The base level for tariff cuts was the bound rate before 1 January 1995 or, for unbound tariffs, the actual rate charged in September 1986 when the Uruguay Round began. Only the figures for cutting export subsidies appear in the Agreement on Agriculture. The other figures were targets used to calculate countries' legally binding Schedules of Commitments. Each country's specific commitments vary according to the outcome of negotiations. As a result of those negotiations, several developing countries chose to set fixed bound tariff ceilings that do not decline over the years.

[b] Aggregate Measurement of Support.

Source: World Trade Organization, *Agriculture Negotiations: Backgrounder—The Issues and Where We Are Now*, updated 1 March 2004, available at: ‹www.wto.org/English/tratop_e/agric_e/negs_bkgrnd00_contents_e.htm›.

restrictions and public-sector involvement in the market. There were also subsidies of various types, at the point of production and to serve as price support in the market.

A noteworthy feature regarding non-tariff barriers was the "tariffication" process, generally converting such barriers by interpreting the gap between the world and domestic price as the tariff equivalent and then applying the cut to that. Health and safety measures were exceptions to this approach towards transparency. Incidentally, this process made some developed countries nervous about import surges, thus a special safeguard provision for some products was brought into the Agreement.

As for tariffs, the binding process entailed an upper limit from which reductions could be negotiated. These would then be the applied tariffs. In some cases, usually where very high tariffs or quota regimes prevailed and where some minimum access was to be provided, negotiations could result in a (lower or zero) tariff for a small quantity of imports, with the normal tariff applied thereafter. These were the Tariff Rate Quotas (TRQs).

It is significant to note that the cut would be calculated as a simple average across all tariff lines, not weighted by volume of imports. Thus, for example, for a "sensitive" product with a 100-percent tariff, the cut need be no more than the minimum 15 percent, whereas for non-threatening import products facing a low tariff of 2 percent, one could generously concede a reduction of 50 percent by just lowering it to 1 percent.

There was also the issue of specific—i.e. non-*ad valorem* (NAV) duties—and the problem of establishing an *ad valorem* tariff for them. It is estimated that the United States has 40 percent such specific (including mixed) tariff lines and that the European Union (EU) has 44 percent.[4]

Under the domestic support pillar, the three categories were:

– the Amber Box, consisting of the most trade- and production-distorting subsidies and other price-support payments;

– the Green Box, comprising measures that "do not have distorting effects in agricultural markets", such as research funds, direct payments decoupled from production levels and market prices, environmental assistance programmes, etc., allegedly having no, or at worst minimal, trade-distorting effects; and

– the Blue Box, which included subsidies for leaving land fallow and similar production-limiting schemes.

Amber Box subsidies are subjected to reductions which are calculated after aggregating all the various types of support to achieve the Aggregate Measurement of Support (AMS); Green Box support measures required no reduction commitments; and the Blue Box measures were also exempted "from the general rule that all subsidies linked to production must be reduced or kept within defined minimal (*de minimis*) levels".[5]

Under the export subsidies pillar, these subsidies have been capped and are subject to reductions, and it is generally accepted that the level has fallen in recent years. They still exist in significant measure, however.[6] This is to be contrasted with the fact that subsidies for non-agricultural products have for many decades been GATT/WTO-illegal.

III. AGRICULTURE IN THE DOHA ROUND

The Agreement on Agriculture formally mandates negotiations on trade liberalization. The challenges inherent in getting almost 150 countries, developed and developing, to discuss together and move forward in the give-and-take of negotiations in such a complicated area, with inbuilt protectionist barriers of all sorts that have existed for decades, if not centuries, in their internal economies, were formidable. It was no

[4] World Bank, *Global Economic Prospects—Realizing the Development Promise of the Doha Agenda 2004*, The International Bank for Reconstruction and Development/The World Bank, Washington, D.C., 2003.

[5] Doha Round Briefing Series, Agriculture, ICTSD, Vol. 1 No. 2, February 2003.

[6] The World Bank says: "During 1995-98, WTO members used 42% of the budgetary expenditure and 64% of the volume allowed for export subsidies, with the EU accounting for 90% of all OECD export subsidies"; World Bank, *supra*, footnote 4.

surprise, therefore, that even though negotiations started on time in 2000, not much headway could be made. It was the Fourth WTO Ministerial Conference at Doha, Qatar in November 2001 that gave an urgent call in its mandate to resolutely continue the process. Paragraph 13 of the Doha Ministerial Declaration, relating to agriculture, states as follows:

> "AGRICULTURE
>
> 13. We recognize the work already undertaken in the negotiations initiated in early 2000 under Article 20 of the Agreement on Agriculture, including the large number of negotiating proposals submitted on behalf of a total of 121 Members. We recall the long-term objective referred to in the Agreement to establish a fair and market-oriented trading system through a programme of fundamental reform encompassing strengthened rules and specific commitments on support and protection in order to correct and prevent restrictions and distortions in world agricultural markets. We reconfirm our commitment to this programme. Building on the work carried out to date ... we commit ourselves to comprehensive negotiations aimed at: substantial improvements in market access; reductions of, with a view to phasing out, all forms of export subsidies; and substantial reductions in trade-distorting domestic support. We agree that special and differential treatment for developing countries shall be an integral part of all elements of the negotiations and shall be embodied in the schedules of concessions and commitments and as appropriate in the rules and disciplines to be negotiated, so as to be operationally effective and to enable developing countries to effectively take account of their development needs, including food security and rural development. We take note of the non-trade concerns reflected in the negotiating proposals submitted by Members and confirm that non-trade concerns will be taken into account in the negotiations as provided for in the Agreement on Agriculture."

The words used were "substantial" for market access improvements and eventual "phasing out" of export subsidies. Even more significantly for the developing countries, special and differential treatment was to become "an integral part of all elements of the negotiations" and the aspect of "food security" for them was recognized.

IV. SOME SPECIFIC CHARACTERISTICS OF THE INDIAN POSITION

In its Submission to the Committee on Agriculture,[7] India highlighted the fact that the Doha negotiating mandate clearly recognizes that the developing countries are heavily disadvantaged in agriculture and that the "asymmetries, inequities and imbalances" need to be eliminated. The critical point made in the Submission was that for lack of financial resources developing countries could never come anywhere near the levels of domestic support and export subsidies provided by developed countries; thus, what matching concessions can they make? In fact, it is owing to these measures that world trade in agriculture is so distorted and international prices so depressed. The principal defence for developing countries against such a situation is to erect high tariffs to protect the domestic sector from these depressed world prices. The answer to the question then brings out the inter-linkage:

[7] *Agriculture from a Development Perspective: Special and Differential Treatment for Developing Countries* (Submission of India), WTO Doc. JOB(02)/175 of 18 November 2002.

> "… developing countries can be expected to reciprocate in market access, subject to their economic and social conditions, development needs, food and livelihood security and rural development requirements, only if they get adequate concessions and commitments by developed countries in all three pillars."[8]

Basically the same logic would argue for a lesser reduction of tariffs for developing countries as compared to developed countries and for a higher reduction of (especially peak) tariffs in the latter countries.

Added to this are some compelling and contrasting facts about the rural scene in the two sets of economies that should normally make it rather embarrassing for anyone to suggest that they negotiate on the basis of reciprocity and equal treatment. *Table 2* shows, for instance, that in 1999, 72 percent of India's population was rural and 35 percent (358 million) lived below the poverty line of US$ 1.00 per day.

TABLE 2: DISTRIBUTION OF POOR IN DEVELOPING COUNTRIES, 1999

	Population in millions			Percentage rural	Percentage of world's rural population	Population with income under US$ 1.00/day	
	National	Rural	Urban			Percentage	Millions
Least developed countries	596	443	153	74	15	49	292
Other low income countries	839	501	338	60	17	26	218
Middle income countries[a]	1,435	478	957	33	16	8	114
China	1,272	805	467	63	27	18	226
India	1,032	745	288	72	25	35	358
Total	5,175	2,972	2,203	57	100	23	1,209

Note: [a] Excluding China and India.
Source: World Bank, *Global Economic Prospects—Realizing the Development Promise of the Doha Agenda 2004*, The International Bank for Reconstruction and Development/The World Bank, Washington, D.C., 2003, Table 3.1.

In contrast:

> "… the largest 25 percent of farms (in the European Union) have average gross farm receipts of more than €180,000 and average farm net worth of almost €500,000. They produce 73 percent of farm output and receive 70 percent of support … In short, the subsidy programs prominent in current food and agriculture policy are not targeted to keeping small, struggling family farms in business but instead provide hefty rents to large farmers."[9]

In developing countries, agriculture is the mainstay of the rural population, and it is also a very fragile subsistence level mainstay, as the above figures demonstrate. "Flexibility in domestic policies for agriculture", argues the Indian Submission, "aimed at enhancing their food and livelihood security and for rural development should be

[8] Ibid.
[9] World Bank, *supra*, footnote 4.

incorporated in the rules and disciplines on trade in agricultural products through special and differential treatment for developing countries."[10]

The Indian Submission then elaborates specific elements of its demands under each pillar, some of which are:

- substantial reductions in tariff peaks and tariff escalation in products of export interest to developing countries;
- longer implementation periods in all market-access commitments by developing countries, since the impact of reduction here is immediate while any change in domestic support and exports by developed countries will show results only after a lag;
- achieve significant and meaningful reduction in domestic support by undertaking reduction commitments on a product-specific basis, resulting in reduction of all trade-distorting support, in the Amber Box, the Blue Box and Annex 2 (paragraphs 5, 6, and 7), to *de minimis* level at the end of the implementation period;
- eliminate export subsidies in an agreed time schedule, except subsidies provided by all developing countries under Articles 9.1(d) and (e) of the AoA, which shall remain without reduction commitments;
- discipline export credits, loans, guarantees, insurance, food aid and support extended through State trading enterprises or enterprises with special or exclusive privileges.

Additionally, Article 6.2 of the AoA provides that government measures of assistance, whether direct or indirect, to encourage agricultural and rural development and various subsidies generally included in such measures, such as investment subsidies, agricultural input subsidies and domestic support to producers to encourage diversification (e.g. from narcotic crops), shall be exempt from domestic support reduction commitments that would otherwise be applicable to such measures. Domestic support meeting these criteria shall not be required to be included in the calculation of a country's current AMS. During the course of negotiations, some more measures were added to this Article as amendments for further consideration in the "Harbinson text", the draft circulated by the Chairman of the Committee on Agriculture.[11] These included subsidies for concessional loans, transportation subsidies, assistance for conservation measures, marketing support and quality compliance programmes, assistance to agricultural co-operatives, and assistance for risk management and savings instruments to minimize effects of variations in farm income.

[10] Submission of India, *supra*, footnote 7.

[11] *Negotiations on Agriculture: First Draft of the Modalities for Further Commitments*, WTO Doc. TN/AG/W/1 of 17 February 2003.

Another element already existing in Article 6.4 of the AoA is that for developing country Members the *de minimis* support as a percentage of total agricultural production that shall not be counted in the AMS shall be 10 percent (as opposed to 5 percent for developed economies).

A. THE FOOD SECURITY BOX

India had always been rather vocal on food security and actually demanded in its proposals a Food Security Box "given the fact that more than 50% of the population in most of the developing countries is totally dependent on agriculture for their livelihood". It, along with a group of developing countries, proposed a number of measures constituting this Box, including:

> "… a special safeguard mechanism (SSM) on the lines of the Special Safeguard provisions (Article 5 of AoA) including a provision for imposition of Quantitative Restrictions under specified circumstances, [that] should be made available to all developing countries irrespective of tariffication in the event of a surge in the imports or decline in prices and to ensure food and livelihood security of their people."[12]

This was a riposte against Article 5 of the AoA, which permits defensive action by imposing duties in the face of a surge in imports of items subject to tariffs and which had so infuriated the developing countries. These developing countries also proposed that a certain number of products be declared as strategic products (SPs) with respect to food security concerns, for which the reduction commitments would not apply, and this was duly incorporated in the "Harbinson draft" (see Section VII of this article).

B. INDIA'S MAIN PILLAR—SPECIAL AND DIFFERENTIAL TREATMENT

In a sense, therefore, it can be said that India's position argues from a high moral ground, justifying its demands for "special and differential (S&D) treatment" essentially because:

- agriculture in India, unlike in the developed countries, is a major source of (mostly subsistence-level) livelihood for its rural population; and
- it simply lacks the resources of these economies to match the support they give to their farmers—in terms of hundreds of billions of dollars—having therefore virtually nothing to concede in the domestic support pillar, its only significant support to protect its precarious agriculture sector being high tariff walls.

V. POST-URUGUAY ROUND DEVELOPMENTS: ARE OBJECTIVES BEING REALIZED?

There is no dearth of analysis and critical commentary on post-Uruguay Round developments. There could be two perspectives for an audit. The first would be output

[12] Proposals by India, WTO Document G/AG/NG/W/102 of 15 January 2001.

based, looking at external indicators, the "results". Has trade in agriculture increased at a faster rate? In particular, have market shares of developing country exports to developed economies increased relative to those of the industrial economies? Have tariffs been reduced, especially the "peak tariffs" calculated to block entry of just those developing country exports that would threaten domestic industry, and quotas tariffied as planned? Have various measures of disciplining domestic support resulted in decreased spending on them? Have export subsidies been reduced as targeted?

The second perspective would look at the inputs, the endeavours and the *volonté* of the Member States to modify their trade policies and to work together when discussing and establishing the various modalities. How did the negotiations proceed? What was the behaviour of the Member States and their trade negotiators in the give-and-take process? Was it transparent and clean or prone to "tricks" and technical manipulations to satisfy the letter, not the spirit, of the mandate?

The picture is not at all encouraging on either count. To deal with the output-related perspective first, between the periods 1980–1990 and 1990–2000, while agriculture exports from developing countries to other developing countries increased their growth rate from 3.6 percent to 7.8 percent, their growth rate to developed countries declined from 3.4 percent to 3.3 percent. The declines were mostly in grains, coffee, cocoa, tea, sugar, and textile fibres and were attributed to such factors as price declines, high rates of protection and expanded production in industrial countries.[13] In contrast, import growth rates in developing countries increased from 3 percent to 6 percent during the same period.[14]

India and other developing countries brought out in their Submission on "Market Access" to the Committee on Agriculture the irony that:

> "… the opposite scenario seems to have taken place. There seems to have been more exports from the developed countries into the markets of developing countries. The FAO reports that for developing countries, 'Food imports were reported to be rising rapidly in most case studies. There was a remarkably similar experience with import surges in particular products in the post-UR period. These were dairy products (mainly imports of milk powder) and meat products (mainly poultry) … On the whole, a common observation was the asymmetry in the experience between the growth of food imports and the growth of agricultural exports. While trade liberalization had led to an almost instantaneous surge in food imports, these countries were not able to raise their exports.'"[15]

They further quoted statistics of the United Nations Conference on Trade and Development (UNCTAD) according to which the share of developing countries in world agricultural exports remains low: from 31.7 percent in 1970–1972, it fell to 25.4 percent in

[13] World Bank, *supra*, footnote 4.

[14] Ibid.

[15] WTO Doc. G/AG/NG/W/37, Submission by India and other developing countries on "Market Access", quoting here Food and Agriculture Organization, "Symposium on Agriculture, Trade and Food Security: Issues and Options in the Forthcoming WTO Negotiations from the Perspective of Developing Countries", Geneva, Switzerland, 23–24 September 1999, Paper No. 3, *Synthesis of Country Case Studies*.

1990–1992 before increasing to 30.7 percent in 1996–1997. This last figure is smaller than that of the performance of twenty-five years earlier. In contrast, between 1980 and 1996, the annual growth of exports by countries who are Members of the Organisation for Economic Co-operation and Development (OECD) of primary agricultural commodities and processed agricultural products was respectively, 2.5 percent and 6.5 percent.[16]

To give an overall picture of the extent of the producer support estimates (PSE) and the general services support estimate (GSSE, included mostly in the Green and Blue Box categories), *Table 3* demonstrates that the situation in 2000 was slightly worse than in the reference period 1986–1988.

TABLE 3: ESTIMATES OF WORLDWIDE SUPPORT TO AGRICULTURE, 1986–2000
(US$ billions)

	1986–1998	1998–2000	1998	1999	2000
Producer Support Estimate (PSE),	236.4	257.6	253.7	273.6	245.5
of which:					
Market price support	182.4	170.2	170.1	182.1	158.0
General Services Support Estimate (GSSE)	41.6	57.1	58.9	57.0	55.5
Total Support Estimate (TSE)	298.5	340.5	339.1	355.9	326.6
Total value of production (at farm gate)	559.2	651.0	668.3	653.1	631.6

Source: Extracted by author from tables in Organisation for Economic Co-operation and Development, *Agricultural Policies in OECD Countries 10 Years after the Uruguay Round: How Much Progress?* OECD, Paris, 2002.

Apart from the observation that there is no significant change in 2000 from the levels of the Uruguay Round base period, 1986–1988, it should also be noted that the total support estimate is a good 50 percent of the total value of agricultural production.

Unsurprisingly, an OECD report prepared in 2002 is mild in its comments, emphasizing more the positive side of the "changes in the composition of policy instruments" that have taken place. Thus, it notes that:

> "… while overall levels of producer support for the OECD average have not declined significantly after the Uruguay Round, notable changes in the composition of policy instruments have taken place. The gap between domestic producer prices and international market prices has narrowed considerably, both while the Uruguay Round negotiations were conducted and after the Round. This mirrors the fact that the share of market price support and output payments in the overall level of producer support has declined significantly. This is an important development, because these policy measures have pronounced distorting effects on production and trade. In other words, while the overall level of support has not been greatly reduced after the Uruguay Round, it can still be said that some progress has been made, in the OECD area, towards liberalizing international agricultural trade."[17]

[16] United Nations Conference on Trade and Development, *The World Commodity Economy: Recent Evolution, Financial Crises, and Changing Market Structures*, Trade and Development Board, Commission on Trade in Goods and Services, and Commodities, Doc. No. TD/B/COM.1/27 of 16 July 1999.

[17] Organisation for Economic Co-operation and Development, *Agricultural Policies in OECD Countries 10 Years after the Uruguay Round: How Much Progress?* OECD, Paris, 2002.

This same report goes on to say that:

> "… the Uruguay Round has not only resulted in new legal rules and quantitative reduction commitments in the areas of market access, domestic support and export competition. It has also affected the nature of the policy debate in agriculture. The WTO has become a relevant factor in agricultural policy making. Moreover, new items have emerged on the agenda for the international dialogue on agricultural policies. In the OECD, policy issues related to the multifunctional character of agriculture, and to the decoupling of support from production decisions in agriculture, play a prominent role."[18]

However, this needs to be juxtaposed with some evidence (cited in Section VII of this article) which suggests that the switch from market-support subsidies to direct payment makes no difference in the revenues of the farmer in any particular year and, hence, to his predisposition towards export dumping and which also casts doubt upon whether decoupling really has served its intended objective.

In fact, most of the reviews of post-Uruguay Round developments from other expert sources seem to be sharply critical. An Oxfam report notes that:

> "… under the Uruguay Round Agreement on Agriculture (AoA) the US and the EU, along with other industrialised countries, agreed to cut overall support to agriculture by 20 per cent … both parties have complied with the letter of the agreement. Yet average overall government support as measured by the Producer Support Estimates (PSE) *rose* from an average level of $238bn in 1986-1988 (the reference period for subsidy reductions) to $248bn for 1999-2001. How did rich countries comply with the subsidy-cutting requirements of the AoA while increasing real support levels?" (emphasis original). [19]

What the Uruguay Round negotiators hoped was that the AMS would capture the totality of support measures, to which these reductions could then be applied. What they naïvely did not anticipate was that the Members would divert such "culpable" subsidies, included in the AMS and subject to reductions, to the innocent Green Box ones not included in the AMS (which were, in any case, not that innocent and had the same distorting effects) so that, measured in terms of total PSE, one was back to square one—even, in fact, at increased levels of support.[20]

In fact, there seems to be significant evidence of the "opposite scenario" taking place in all aspects of tariff reductions, in the tariffication process and the non-transparency surrounding it, in TRQ determination and administration conversion, in continuing high subsidies—sometimes higher than before, largely through shifting one form of subsidy (undesirable) to another (permitted)—and by taking advantage of the inbuilt imbalances, asymmetry and loopholes in the AoA and the Doha mandate. These imbalances and loopholes are largely responsible for the somewhat perverse results obtained so far which are, at least to some extent and while acknowledging that there would be other factors involved such as world price declines and unrelated internal

[18] Ibid.

[19] Kevin Watkins, *North Agricultural Policies and World Poverty*, Conference Paper presented at ABCDE-Europe, May 2003, Oxfam, London.

[20] The manipulations involved in this, and the rethinking it is inducing in the supposedly effectively decoupled subsidies, are discussed in Section VI of this article.

economy shocks, responsible for the disappointing results in market access of developing countries. One could call them "tricks of the trade".

VI. Tricks of the Trade

Let us now turn to the second perspective referred to in Section V—the input process—looking at the behaviour of the negotiators, the use of the rules and the ways in which the modalities were framed to achieve results that would not "break the rules".

A. The market-access area

As discussed earlier, there are inter-linkages between the three pillars of market access, domestic support and export subsidies that play a role in undermining the reduction in the protection in one quarter by increasing it in the other. However, in the market-access area there are several "tricks" that stand alone.

1. *The Percentage Game of Unweighted Tariff Reductions*

The AoA was benign in agreeing that the average 36-percent tariff reduction (15 percent minimum for each tariff line) across all tariff lines for developed countries in the linear reduction formula should be on a non-weighted basis, though it must be conceded that this in itself was viewed as a significant concession wrung out of the developed countries. The result was that:

> "… OECD governments reduced high tariffs on sensitive products (such as products which they produced) by a smaller percentage, while reducing low tariffs by a larger percentage. The FAO found that few developing countries took advantage of this possibility of reducing low tariffs by high amounts, in contrast to developed countries."[21]

Calculating the reductions on a percentage basis rather than on actual reductions from peak levels thus made a 50-percent cut from 2 percent to 1 percent look more impressive than the minimum cut of 15 percent bringing a 100-percent peak tariff down to only 85 percent. As illustration, *Table 4* shows the duty rates for EU and U.S. tariff lines for most-favoured nations (MFNs) and least developed countries (LDCs). It will be seen that a large number of tariff lines have duties above 20 percent, specially in the EU, where twenty-two of them go beyond 100 percent. Of course, these relate to products of interest to developing countries such as, in the EU for example, cereals at 75.6 percent, meat at 71 percent, oil seed at 74.4 percent, etc. In fact, India's Submission on "Market Access", which drew on UNCTAD/WTO studies, states that:

> "… products with the highest frequencies of tariff peaks and escalations are in the major agricultural staple foods—cereals, meat, sugar, milk, butter and cheese—as well as those of export interest to developing countries, such as sugar, tobacco, cotton and fruits and vegetables."[22]

[21] Submission by India and other developing countries on "Market Access", *supra*, footnote 15.

[22] Ibid.

TABLE 4: STRUCTURE OF MFN AND LDC DUTY RATES IN THE UNITED STATES AND THE EUROPEAN UNION, 1999

	United States			
	Number of tariff lines	As a %-age of all tariff lines	Average MFN rate (percent)	Average LDC rate (percent)
Where MFN Tariffs are:				
Greater than 100%	3	0.1%	115.4%	42.8%
Between 50 and 100%	5	0.1%	86.0%	70.9%
Between 40 and 50%	1	0.0%	44.0%	38.9%
Between 30 and 40%	9	0.2%	33.3%	20.5%
Between 25 and 30%	20	0.4%	26.4%	16.8%
Between 20 and 25%	47	0.9%	22.0%	13.0%
Between 15 and 20%	226	4.4%	16.8%	12.5%
Between 10 and 15%	374	7.3%	12.0%	6.8%
Between 5 and 10%	1,096	21.4%	6.9%	1.9%
Between 0 and 5%	2,355	46.1%	2.9%	0.1%
At 0%	977	19.1%	0.0%	0.0%
All products	5,113	100.0%	5.0%	1.8%
Tariff peak products (Where MFN Tariff is greater than 15%)	311	6.1%	20.8%	14.4%
	European Union			
	Number of tariff lines	As a %-age of all tariff lines	Average MFN rate (percent)	Average LDC rate (percent)
Where MFN Tariffs are:				
Greater than 100%	22	0.4%	132.5%	46.2%
Between 50 and 100%	49	1.0%	73.8%	26.0%
Between 40 and 50%	25	0.5%	43.6%	12.1%
Between 30 and 40%	46	0.9%	34.5%	13.3%
Between 25 and 30%	26	0.5%	27.0%	9.4%
Between 20 and 25%	60	1.2%	22.2%	5.0%
Between 15 and 20%	89	1.7%	17.2%	1.7%
Between 10 and 15%	715	14.0%	11.9%	0.2%
Between 5 and 10%	1,478	28.9%	6.8%	0.0%
Between 0 and 5%	2,125	41.6%	3.0%	0.0%
At 0%	478	9.3%	0.0%	0.0%
All products	5,113	100.0%	7.4%	0.8%
Tariff peak products (Where MFN Tariff is greater than 15%)	317	6.2%	40.3%	12.3%

Source: WTO Files, cited in Bernard Hoekman, Francis Ng, Marcelo Olarreaga, *Tariff Peaks in the Quad and Least Developed Country Exports*, CEPR Discussion Papers 2747, February 2001, available at: ‹www.netec.mcc.ac.uk/WoPEc/data/Papers/cprceprdp2747.html›.

The story is not complete, however, until one looks at the specific or NAV duties that many of the above products encounter at the borders of the developed economies.

2. *Dirty Tariffication*

It has already been mentioned that the United States has 40 percent and the EU has 44 percent specific (including mixed) tariff lines where the tariffs are stated in non-*ad valorem* terms. Many of these were originally levied in the form of non-tariff barriers of various types and shapes, including quotas, and it was certainly a laudable achievement of the Uruguay Round to insist that they be converted to tariffs, i.e. subjected to the tariffication process. The base rate used for such conversion to tariffs in this tariffication exercise was calculated (by the countries themselves) as the difference between the internal and the external price for the product concerned in the reference period 1986–1990.[23] All such NAV tariffs were to be bound; that is, they were not to be increased without notification and compensation. As this exercise was left to the individual countries and there was ample room for ambiguity and lack of transparency in terms of determining the right "price gap", it can hardly come as a surprise that the NAVs were determined at rates significantly higher than the estimated tariff equivalent of border measures in 1986–1988. Another good intention on the road to hell, as developing countries may say.[24] As to the question: "How 'dirty' was tariffication?" a detailed study made by Merlinda Ingco of the World Bank provides an answer:

> "The actual tariff equivalents of all border measures in 1986-88 and the post-UR base tariffs for several major commodities are summarized in Table 2a and 2b [not included]. In many countries, 'dirty' tariffication appears to have occurred in the 'sensitive' commodities such as dairy, sugar, and grains. The extent of 'dirty' tariffication varied widely among countries and commodities. Among the industrial countries, the magnitude appears largest in the European Union and EFTA, where the post-UR base tariff equivalents in most commodities were set at levels way above the estimated 1986-88 price wedges. In the European Union (EU), the estimated post-UR *ad-valorem* tariff equivalents are significantly higher than the actual rates of protection in 1986-88 except for poultry. The largest differentials (in percentage points) are estimated for rice (207 percent), milk (97.2 percent), butter (72 percent), sugar (63 percent), barley (58.5 percent), durum wheat (52.6 percent) and sheepmeat (21 percent)." [25]

3. *Tariff Rate Quotas*

TRQs were adopted during the Uruguay Round as a method for providing at least some access to markets with high tariffs, i.e. to provide minimum market-access opportunities at a low or zero tariff. Basically, a limited volume of imports is allowed at

[23] *Agriculture and the WTO*, available at: ‹www.worldbank.org/wbi/attackingpoverty/events/Turkey_0601/CD-ROM%20Agr.pdf›.

[24] It has never been the position of the author that developing countries do not resort to similar and other tricks of their own.

[25] Merlinda Ingco, *Agricultural Trade Liberalization in the Uruguay Round*, World Bank Policy Research Working Paper, World Bank Group, Washington, D.C., August 1995.

the lower tariff and all subsequent imports are charged the higher tariff. Assuming that the demand for imports at the low or zero tariff is greater than the volume allowed by the TRQ, there is a rationing situation inherent in the administration of the system, potentially susceptible to charges of favouritism, non-transparency, abuse, etc. The Indian Submission on "Market Access" mentions "instances of manipulation of domestic consumption calculations in setting current and minimum access levels". It also points out "cases of quota under-fill", i.e. imports falling short of the volume specified under tariff quota commitments. Citing UNCTAD sources, it says that "in some cases, even when the tariff quota volume was under-filled, imports were levied at the higher above-quota tariff rate" and "that 'general lack of domestic demand as a reason for quota under-fill, is seriously challenged when the domestic prices of those goods were clearly higher than world prices'."[26] The Indian stand is that in the "intervening" period they should be expanded with greater transparency in their administration, and with special preference to developing countries having less than US$ 1000 per capita income, but that they should eventually be abolished.[27]

4. *Tariff Escalation*

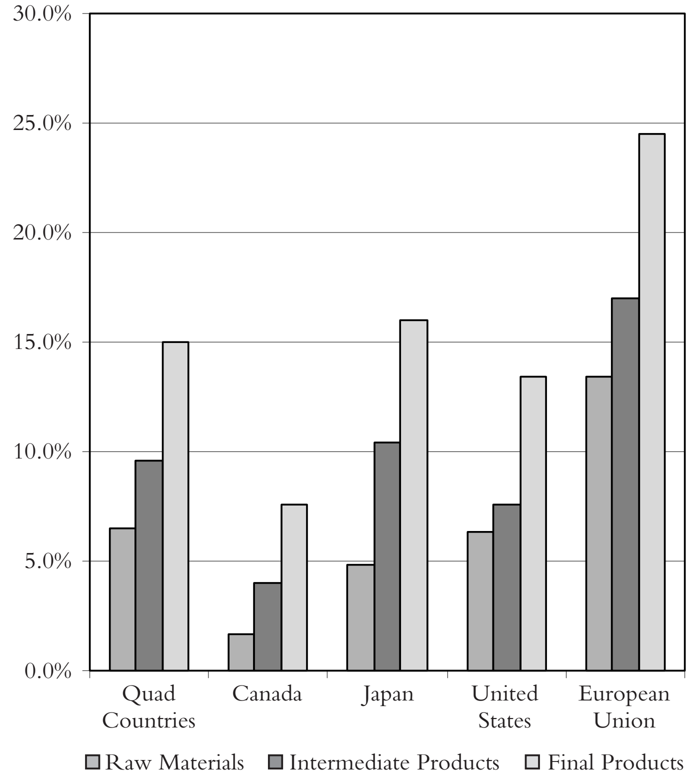
This is one of the oldest and perhaps most pernicious practices in the customs regimes of developed countries, increasing the tariff as one moves up from the raw material to the intermediate product and then to the final stage of processing. The intention is clearly to discourage the evolution of value-added products in the export basket of developing countries which could compete with the domestic industries in the developed economies, almost in a sense signalling that their place remains where it was defined in the days of their colonial past. The GATT, and now the WTO, boast how over the years tariffs of processed products, including manufactures, have been brought down to low, single-digit levels. It is an odd coincidence then that exactly in those products of interest to developing countries, such as coffee, cocoa, sugar, fruits, vegetables and seafood, the opposite is the case. *Figure 1* and *Table 5* are self-explanatory.

B. DOMESTIC SUPPORT AND EXPORT COMPETITION: JUGGLING BETWEEN THE BOXES

In Section VII of this article, an example is given of how an export subsidy to a U.K. farmer helped him to stay in the export business despite costs of production way above world prices. These subsidies are, however, slated for a 36-percent cut for developed countries, taking 1986–1990 as a base period. Coupled with tariff cuts of similar percentage, this could mean trouble for the farmers growing wheat, sugar, cotton and other crops with high tariff peaks and deep subsidies, not to speak of an array of direct payments and grants in the Green Box category.

[26] Submission by India and other developing countries on "Market Access", *supra*, footnote 15.
[27] Ibid.

Figure 1
ESCALATING TARIFF RATES IN DEVELOPED COUNTRIES, 2003
(As percentage of F.O.B. value)



Source: World Bank, *Global Economic Prospects—Realizing the Development Promise of the Doha Agenda 2004*, The International Bank for Reconstruction and Development/The World Bank, Washington, D.C., 2003.

Developing countries perhaps did not fully realize the import of the Green Box, the Blue Box and the *de minimis* exemptions (the Amber Box, including clearly production- and trade-distorting measures that were transparent enough). Green Box provisions for research, direct payments allegedly "decoupled" from production levels and current prices, structural adjustment assistance, safety net programmes, environmental programmes, etc. in unlimited amounts could continue without any reduction. The Blue Box payments were an exception to the rule that subsidies linked to production must be reduced or kept within defined *de minimis* levels. These included payments for set-offs, leaving land fallow or not exceeding dairy product quotas. Not many countries provide Blue Box support, but the EU does. The real cracks through which financial assistance to help farmers maintain their market presence crept back to compensate for the Amber Box reductions are to be found in the Green Box.

TABLE 5: ESCALATION OF *AD VALOREM* TARIFFS ON SELECTED PRODUCT GROUPS IN SELECTED ECONOMIES, 2003
(As percentage of F.O.B. value)

	European Union	United States	South Korea	Japan
Tropical Products				
Coffee				
Raw	7.3%	0.1%	5.2%	6.0%
Final	12.1%	10.1%	8.0%	18.8%
Cocoa				
Raw	0.5%	0.0%	5.0%	0.0%
Intermediate	9.7%	0.2%	5.0%	7.0%
Final	30.6%	15.3%	12.3%	21.7%
Sugar				
Raw	18.9%	2.0%	a	25.5%
Intermediate	30.4%	13.8%	19.3%	11.6% (b)
Final	36.4%	20.1%	50.0%	a
Expanding Commodities				
Fruits				
Raw	9.2%	4.6%	49.6%	8.7%
Intermediate	13.3%	5.5%	30.0%	13.2%
Final	22.5%	10.2%	41.9%	16.7%
Vegetables				
Raw	9.9%	4.4%	135.4%	5.0%
Intermediate	18.5%	4.4%	52.2%	10.6%
Final	18.0%	6.5%	34.1%	11.6%
Seafood				
Raw	11.5%	0.6%	15.6%	4.9%
Intermediate	5.1%	3.2%	5.8%	4.3%
Final	16.2%	3.5%	20.0%	9.1%

Notes: [a] All tariffs are specific; i.e. tariffs based not on value but on quantity.
[b] 56 percent of tariffs are specific.

Source: World Bank, *Global Economic Prospects—Realizing the Development Promise of the Doha Agenda 2004*, The International Bank for Reconstruction and Development/The World Bank, Washington, D.C., 2003.

The presence of developed country agricultural exports in world markets did not diminish after the Uruguay Round but in fact increased in some product categories. The increased PSE of expenditures in the United States and the EU more than made up for the diminution of AMS support (from the Amber Box). Their costs of production remain significantly above world prices of such commodities as rice, corn, wheat and cotton. It all adds up quite logically.

How decoupled is decoupled? Lately, many intellectual exercises have been performed with the intent of further reflecting on the sharpness of the difference between coupled support measures—that is, those linked to production levels and price—and direct payments to producers "decoupled" from current prices or production levels. The latter were included in the Green Box with neither any limit on the level of such payments nor any obligation to reduce them, based on the assumption that they would have no, or minimal, trade-distorting effects. Empirical evidence of what happened in terms of an apparent switching from Amber Box support measures to those in the Green Box raises the suspicion that the real effects, or non-effects, of decoupling were not fully realized or that there were loopholes in the modalities that were fully exploited by the United States and the EU in particular. One such study by the OECD[28] defines a policy as "fully decoupled" if it does not influence production decisions or interfere with the free market determination of prices. This is a rigorous definition where not only is there no change at the point of equilibrium but where no changes in the supply or demand curves take place. On the other hand, for a policy to be "effectively fully decoupled" it is sufficient for the level of production and trade to remain unchanged at the equilibrium quantities at that time although the supply and demand curves could change in the future owing to supply or demand shocks.

It is clearly a very difficult task to ensure that a policy measure is "fully decoupled". According to this typology, perhaps many policies in the Green Box were in the "effectively decoupled" category, with many possibilities of influencing decisions at the production and trade level, and this is in all likelihood what happened. Examples are usually cited where such allegedly decoupled policies may influence decisions on investment (future spending; staying in business or quitting) and current spending (continue with the same levels of production). It is significant to note that, depending upon his attitude to risk, the EU farmer, assured as he is of a future stream of direct payments (at least up to a reasonable 5-to-10-year horizon, even if he loses faith in the negotiators in Brussels to continue their good work thereafter), may decide to produce and export even though his operational profit-and-loss account may not balance in any particular year. Such wealth, insurance and risk effects are discussed in the OECD study. What can definitely be said, with *ex post* wisdom, is that the decoupled nature of such policies was not rigorously examined before they were placed with no limits in the Green Box.

The words of an Oxfam report are particularly relevant in this context:

> "By any standards, the AoA was an act of considerable generosity to the EU and the US. Under the AMS reduction commitments, both retained the right to provide around $80bn in subsidies, in addition to unlimited Green Box and Blue Box payments. Moreover, the reference years chosen as benchmarks for measuring domestic support and export subsidy reductions were marked by low prices and historically high levels of export subsidisation. In other words, the base period subsidy was abnormally high, minimising the real cuts required. In the case of export subsidies, a rollover provision allowed countries to carry forward unused subsidy allowances. In effect, export subsidy rights could be accumulated during periods of high prices. Additionally, there was no upper limit on the unit export subsidy that could be applied, so that the value and volume constraints did not apply simultaneously.

[28] Organisation for Economic Co-operation and Development, *Decoupling: A Conceptual Overview*, OECD Doc. COM/AGR/APM/TD/WP, 2000.

> This allowed for huge disparities in the rate of subsidisation between commodities and over time. In the case of domestic subsidies, AMS reduction commitments were aggregated across all commodities, thereby making it possible to reduce commitments in some areas while raising them in others.
>
> Market access disciplines were similarly riddled with loopholes. Protection actually increased for some commodities as the bound rates agreed for the 1986-88 base period afforded higher protection than applied rates in the pre-base period. Special safeguard (SSG) provisions also allowed developed countries to impose additional tariffs for over 6,000 tariff lines in the event of an import surge or a fall in import price below a specified reference level. The SSG is far easier to invoke than other safeguard provisions because it is not necessary to prove injury to domestic producers. Few developing countries are entitled to use the special safeguards measure.
>
> These various provisions amounted to major concessions for industrialised countries, effectively securing them the right to continue providing large, trade-distorting agricultural support measures. No comparable concessions were made to developing countries. Indeed, the round was marked by a concerted effort to erode the principle of special and differential treatment for poor countries.
>
> …
>
> The ability of the EU and the US to maintain high levels of support while complying with WTO rules has profoundly important implications for the structure of competition between producers in rich countries and those in developing countries."[29]

VII. Special and Differential Treatment—Are Indian Farmers Special or Are Those in the West?

Controversy surrounds the concept of special and differential treatment, essentially similar in its logic to the infant industry argument or that of positive discrimination for the poor and feeble, etc. There are those who argue that such policies marginalize the intended beneficiaries even more by keeping them out of the game, especially its rules, and that very often the results after years of such S&D treatment are either minimal or even negative in terms of their development and growth.[30] However, the following discussion will not focus on the merits or demerits of S&D treatment to developing countries in general but will be confined to examining the arguments forcefully presented by countries such as India for S&D treatment in the specific context of the inter-linkage between the three pillars of market access, domestic support and export competition in the agriculture negotiations.

There can be no gainsaying the fact that developing countries, for the reasons discussed above, generally maintain very high peak tariffs. In India, 70 percent of the tariff lines are reportedly bound at 100-percent tariffs, 25 percent at 150-percent tariffs and 5 percent at 300-percent tariffs. Whatever be the justification for maintaining such

[29] Watkins, *supra*, footnote 19.

[30] See Michael Hart and Bill Dymond, *Special and Differential Treatment and the Doha "Development" Round*, 37 J.W.T.2, April 2003, as one such hard-hitting article.

peak tariffs, when one accuses the EU, the United States, Japan and other OECD countries of maintaining similar peaks, particularly in products of interest to developing countries, is it a case of the frying pan calling the kettle black?

This debate can continue but, at least in the context of the agriculture issue in its three pillars, the scope of the discussion becomes limited and specific, and here it may be submitted that there is actually a reversal of roles in terms of who is the real *demandeur* of S&D treatment. To elaborate, let us take just one example of the costs of wheat production in India and the EU and world prices. *Table 6* gives the picture for different Indian states.

TABLE 6: COST OF PRODUCTION OF WHEAT IN SELECTED STATES OF INDIA, 1995–1996
(Indian rupees per metric tonne)

Indian States	Cost of production
Haryana	2,923
Madhya Pradesh	3,770
Punjab	3,428
Uttar Pradesh	3,280

Source: Vasant P. Gandhi, Zhang-Yue Zhou and John Mullen, *Wheat Economy of India: Development, Nature and Trade Prospects*, Agribusiness Perspectives, Paper 46, 10 October 2001.

Even allowing for price fluctuations and escalations, when one compares this cost (which converts after averaging to approximately UK£ 50 per metric tonne, even in terms of 2000 exchange rates)[31] with the cost of production in the EU of UK£ 113 per metric tonne, as cited by Khor, [32] we see that the gap is huge and the problem is clearly not on the Indian side. As for the world price, it was quoted at UK£ 73 per metric tonne in 2000.[33] How then to enable these EU farmers to export part of their output, and at a profit, too? The answer in this example was a subsidy of UK£ 57 per metric tonne to enable revenues of UK£ 130 (73+57) per metric tonne and a profit of UK£ 17 (130–113) per metric tonne.

One can attempt a similar exercise for the United States. A recent study comes out quite graphically with the extent of dumping, using constructed costs of production, government subsidies to inputs, and transportation costs and then comparing the total to export prices. It says: "The results are shocking. Levels of dumping hover around 40% for wheat, between 25% and 30% for corn (maize) and levels have risen steadily to nearly 30% over the past four years for soybeans."[34] *Figure 2* shows the relationship between cost of production and export prices.

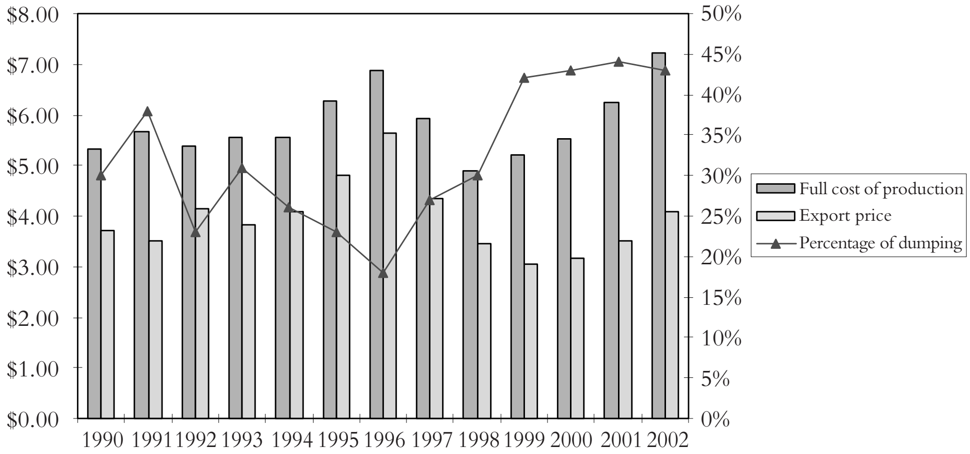
[31] The Indian rupee depreciated against the pound sterling steadily between 1995 and 2002, maintaining its real rate; it is broadly assumed that costs in rupees increased without any change in the pound value.

[32] Martin Khor, The *WTO Agriculture Agreement, Features, Effects, Negotiations, and What is at Stake*, 2002, available at: ‹www.urfig.org/sup-agri-khor-negotiations-whatisatstake-pt.htm›.

[33] Ibid.

[34] *US Dumping on World Agricultural Markets*, Institute for Agriculture and Trade Policy, Cancun Series, Paper No. 1, 2003, available at: ‹www.tradeobservatory.org/library/uploadedfiles/US_Dumping_on_World_Agricultural_Markets_Febru.pdf›.

Figure 2
FULL COST OF PRODUCTION VS. EXPORT PRICE FOR WHEAT, AND PERCENTAGE OF DUMPING, UNITED STATES, 1990–2002



Notes: Cost of production and export prices in US$ per bushel. 1 metric tonne = 36.74 bushels. Percentage of dumping calculated as the difference between the full cost of production and the export price, divided by the full cost of production.
Source: *US Dumping on World Agricultural Markets*, Institute for Agriculture and Trade Policy, Cancun Series, Paper No. 1, 2003, available at: ‹www.tradeobservatory.org/library/uploadedfiles/US_Dumping_on_World_Agricultural_Markets_Febru.pdf›.

It will be seen that export prices for 2000 come out roughly the same as cited in the UK case (approximately US$ 115 per metric tonne), and the full costs are also comparable (approximately US$ 200 per metric tonne).

It is to be noted also that Indian wheat is not faced with a fair, market-determined world price but one that is markedly oligopolistic and depressed because of the widespread dumping. What makes the situation poignant is that Indian wheat, at least from the states of Haryana, Punjab and Rajasthan, most likely enjoys comparative advantage on its own terms. Just comparing its economic cost of production, while also adding estimates of marketing and shipping costs to the border, with the world price strongly suggests this conclusion, at least up until about five years ago, before world cereal prices started falling.

A study using domestic resource cost (DRC) analysis confirms this.[35] Wheat

[35] Domestic Resource Cost: A measure, in terms of real resources, of the opportunity cost of producing or saving foreign exchange. It is an *ex ante* measure of comparative advantage, used to evaluate projects and policies. The term was introduced to the economics literature by Bruno (*Deardorff's Glossary of International Economics*). It is a ratio of all domestic input costs, including social costs (even factoring in environmental damages) of export production to foreign exchange earned at the border by exporting the product. Thus, a coefficient of less than 1 would reveal *ex ante* competitiveness (comparative advantage).

production in Haryana, Punjab and Rajasthan states of India in 1998–1999 reveals the following coefficients of competitiveness (i.e. the ratio of input costs to earnable foreign exchange at the border)—all less than one (see *Table 7*).[36]

TABLE 7: WHEAT PRODUCTION IN SELECTED STATES OF INDIA: COEFFICIENTS OF COMPETITIVENESS, 1998–1999

State	Coefficient of competitiveness
Haryana	0.7609
Punjab	0.7362
Rajasthan	0.8405

Source: Gopal Naik (1999), as cited in Vasant P. Gandhi, Zhang-Yue Zhou and John Mullen, *Wheat Economy of India: Development, Nature and Trade Prospects*, Agribusiness Perspectives, Paper 46, 10 October 2001.

This exercise could be extended to many other products, such as sugar, cotton, rice, maize, etc. There is no doubt that for each product category different sets of developing countries would manifest similar coefficients of competitiveness. In fact, two more examples may be cited, but without using DRC methodology. According to a Brazilian source, although:

> "… the average cost of sugar production in the Brazilian Centre-South is estimated at US$ 180 per metric tonne of sugar, by comparison, production costs in two of the major exporters, the European Union and Australia, go as high as US$ 710 and US$ 335, respectively, and in the United States producing a tonne of sugar costs US$ 350."[37]

Perhaps the most notorious example is cotton. The United States is the most important exporter, accounting for 40 percent of the world market, rendered possible, of course, by it spending US$ 3.8 billion in 2000–2001 as payments to farmers, or US$ 55,859 per farmer. Prices are said to have been depressed to about US$ 0.39 per pound, a record level and unsustainable for all producers in China and West Africa who reduced stocks, whereas the United States continued to expand output despite estimated costs of production of about US$ 0.75 per pound. Cotton producers in West Africa depend on this crop for their livelihood; they are said to be among the most efficient cotton growers but can compete only with price levels not below US$ 0.50 per pound.[38]

We are thus speaking of a situation of not only a massive and sustained drive to deny a very legitimate right of the Third World to exploit its comparative advantage but, to add insult to injury, of getting it into a corner at the negotiating table where it must behave like a group of supplicants pleading for lenient treatment and some reprieve, not as the injured parties demanding just redress of their grievances. Actually, it may well be that a strategic mistake was made by the Third World in insisting on the

[36] Vasant P. Gandhi, Zhang-Yue Zhou and John Mullen, *Wheat Economy of India: Development, Nature and Trade Prospects*, Agribusiness Perspectives, Paper 46, 10 October 2001. The study acknowledges that "the competitiveness has eroded somewhat between 1995/96 and 1998/99 mainly due to changes in the international price but Punjab, Haryana and Rajasthan remain competitive. Thus, by and large, wheat production in India is internationally competitive."

[37] Statement by Brazilian Ambassador Barbosa, 14 May 2003.

[38] Watkins, *supra*, footnote 19.

words "special and differential". Semantically, it has slightly pejorative connotations. Perhaps "equitable and non-injurious" treatment or some such phrase might have been more apt. Be that as it may, the time has come to correct the perception and cast the gentlemen farmers of the Western world, and not the impoverished ones of the Third World, in the role of S&D *demandeurs*.

It is interesting to note that the double-edged nature of the S&D treatment facility for developing countries has been commented upon by another trade policy analyst from India, a former Deputy Director-General of the WTO. In his study, after an informative survey tracing the historical origin and evolution of the S&D treatment concept in the GATT/WTO, the author finds:

> "In the Uruguay Round many developing countries were so preoccupied with S&D treatment that the developed countries got away with the minimum degree of liberalization, although one good result was that a framework was created for future liberalization."[39]

Not quite concluding that the concept of S&D needs to be eliminated from the WTO Agreement, he nevertheless concedes that "S&D treatment does not need to be built into the basic design of the modalities".[40]

VIII. Negotiations Preceeding the Cancun Ministerial Meeting

It is not the intention of this article to render a chronologically consistent and comprehensive account of the negotiations in the Committee on Agriculture and at the Doha and Cancun Ministerial Meetings nor even to summarize the main events in any systematic way. There is no dearth of material and commentary available all across the World Wide Web: from the WTO itself; from the official sites of the OECD, the EU and several WTO Member states; and from those of a host of research institutions, so-called Third World networks, non-governmental organizations, etc., which have done this in their own way and with their own slant. Rather, this article will look selectively to see to what extent the views of the developing countries, including India, found favour or limited accommodation and to explore the dynamics generated in the inevitable stand-offs with the Quad countries (the United States, the EU, Japan and Canada).

References have already been made to some submissions made by India, conjointly with certain developing countries, to the Committee on Agriculture. The proposals made by India in its basic Submission[41] contained several elements of detail, but only the essential ones that agitated the Indian government and public have been discussed here. They were, of course, opposed by the developed bloc in one way or another, some more intensely, some less so, some more by the EU, some mildly by the United States, and so on, depending upon the particular proposal and the power of the vested group opposing it.

[39] Anwarul Hoda, *Special and Differential Treatment in Agricultural Negotiations*, ICRIER Working Paper No. 100, May 2003.

[40] Ibid.

[41] Proposals by India, *supra*, footnote 12.

The negotiations actually started becoming tense when they entered the modalities phase—that stage when actual targets have to be negotiated (including numerical targets) for achieving the objectives set out in the Doha Ministerial Declaration. Proposals for formulas and modalities from all countries were due by 31 March 2003, to be worked up into draft commitments at the Cancun Ministerial Meeting in September 2003. The ideas developed in the "modalities" phase, and those proposed earlier, were compiled in an overview document which the negotiations Chairman, Stuart Harbinson, circulated to WTO Members on 18 December 2002. This document is around ninety pages long and is a comprehensive listing of positions on all the issues. A revised draft was circulated on 18 March 2003. There being no agreement among the Members, the 31 March deadline "came and went, with positions remaining wide apart and no consensus on the draft or on how to modify it".[42] Of course, the most vexed issues, discussed earlier in this article, were the domestic support categories (various "Boxes"), tariffs, tariff-reduction formulas, tariff quotas (including their administration), export subsidies (including their definition, i.e. what is to be excluded, how export credits are to be treated, etc.), various provisions for developing countries, trade preferences, and so on.

The "Harbinson texts" were therefore reference documents of sorts, evolving and recording the persistent attempts made by Chairman Harbinson to reconcile what proved to be the irreconciliable positions of the different Member States. They embody the crystallization of the debate, as it were.

Did Harbinson's proposals go too far in trying to accommodate the position and strident demands of India and other developing countries? It seems, for instance, that they displeased the United States because they entailed eventual reductions of AMS support from the current levels of about US$ 20 billion to US$ 8 billion over a period of five years (the AMS reduction proposed being 60 percent for developed countries as compared to their commitment to reductions of 36 percent over the Urugauy Round period). The EU, more nervous about market access, disliked Harbinson's tariff-reduction formula, a clear threat to its sectors protected by peak tariffs, sugar being the most prominent example (it would face extinction if tariffs were to be cut by 45–60 percent as the formula envisaged). Somewhat surprisingly, one obtained the impression, perhaps exactly for the same reason—market-access elements—that the Indian government was not all that unhappy with the draft, or at least with this part of it.[43]

[42] World Trade Organization, *Agriculture Negotiations: Backgrounder—The Issues and Where We Are Now*, updated 1 March 2004, available at: ‹www.wto.org/English/tratop_e/agric_e/negs_bkgrnd00_contents_e.htm›.

[43] These insights were gathered in discussions with officials at the Ministry of Agriculture in New Delhi and with the Indian Delegation to the WTO in Geneva. It must be asserted here that these are the author's own impressions, not the explicit pronouncements of the concerned officials. In any case, as is well known, the negotiations in these Committees and Ministerial Meetings assume the form of give-and-take, the "give" and the "take" happening often in different sectors, concessions being extracted at one end and given at the other, and that also at the "eleventh" hour—provoking considerable anger and frustration by many small developing countries—as was the attempt once again at Cancun. Hence, even if some element of a draft package appears fine to one Member, such would hardly ever be admitted up front.

To give a little more background, the Harbinson formula incorporated a graded approach to reducing tariffs, with higher reductions for peak tariffs, as can be seen in *Table 8*.

TABLE 8: TARIFF RATE REDUCTIONS FOR DEVELOPED COUNTRIES UNDER THE HARBINSON FORMULA AS COMPARED TO THE URUGUAY ROUND APPROACH

	Ad valorem Tariff Rates	Average Reduction	Minimum Cut
The Harbison Formula			
	Greater than 90 percent	60%	45%
	From 15 to 90 percent	50%	35%
	Less than 15 percent	40%	25%
The Uruguay Round Approach			
	All *ad valorem* tariffs	36%	15%

Source: Parthapratim Pal, *A Brief Analysis of Harbinson's Text*, 21 April 2003; available at: ‹www.networkideas.org/news/apr2003/news21_Harbinson_Text.htm›.

For developing countries, in his revised draft Harbinson[44] was a little more generous, as seen in *Table 9*.

TABLE 9: TARIFF RATE REDUCTIONS FOR DEVELOPING COUNTRIES UNDER THE HARBINSON FORMULA AS COMPARED TO THE URUGUAY ROUND APPROACH

	Ad valorem Tariff Rates	Average Reduction	Minimum Cut
The Harbison Formula			
	Greater than 120 percent	40%	30%
	From 15 to 90 percent	35%	20%
	Less than 15 percent	20%	15%
The Uruguay Round Approach			
	All *ad valorem* tariffs	24%	10%

Source: Parthapratim Pal, *A Brief Analysis of Harbinson's Text*, 21 April 2003; available at: ‹www.networkideas.org/news/apr2003/news21_Harbinson_Text.htm›.

This formula, a graded linear approach, would certainly be more attractive than the EU–U.S. proposal, which essentially proposed a blended formula composed of a mixture of different percentages of tariff lines for reductions according to the Uruguay Round formula—which is a straightforward linear approach—the Swiss formula, and zero duty for certain tariff lines.[45] According to the Swiss formula, depending on the coefficient, e.g. 25, the final standard tariff could not exceed the coefficient, i.e. 25 percent after tariff reduction. Higher tariffs would thus face steeper cuts under the Swiss formula. Although developing countries had the flexibility of not applying the Swiss formula in the EU–U.S. proposal, this flexibility was removed in the Cancun text. Thus, peak tariffs, of which there are plenty in developing countries, including India, for the reasons

[44] These proposals emanated from the Chairman "on his own responsibility", a practice frequently resorted to and subjected to severe criticism, as there were no proper consultations with concerned Members before particular elements were included in the proposal.

[45] *Joint Initiative by US and EU Presented Today*, 13 August 2003; available at: ‹europa.eu.int/comm//press_room/presspacks/cancun/pp_cancun_en.html›.

discussed earlier, would suffer heavy cuts. The EU and the United States also have some very high tariff lines in cereals, sugar, cotton, etc., but could avoid entering them in the Swiss formula zone, placing them instead in the Uruguay Round linear category, where the average cuts would be 36 percent with only a 15 percent minimum per tariff line. As for the zero-duty category, the EU–U.S. proposal envisaged 0–5 percent tariffs for a certain minimum number of tariff lines to be included in this category for developing countries. This was again rather distressing, considering that India had hardly any bound tariffs below 100 percent whereas developed countries had ample tariff lines already near or at the zero rate which could therefore be conveniently included in this category without suffering any further significant reduction, if indeed any reduction at all.

Corroborating the impressions gathered in discussions with officials of the Indian government, other reports also commented that countries such as India, Kenya and Nigeria were somewhat pleased with Harbinson's text, as they felt that their developmental and food security needs were appropriately addressed. India welcomed the proposed negative-list approach by which developing countries could exempt a number of "strategic products" from general reduction commitments. However, India reportedly rejected the ten-year tariff reduction period for developing countries, regarding it as too short.[46]

Overall, therefore, despite no agreement and missed deadlines, it seems that India and these "like-minded countries" came to Cancun in a positive although not necessarily optimistic mood, well prepared and ready in spirit to play the negotiating game—give a little, take a little—and hopefully get to "Yes" for the next round of negotiations.

IX. The Cancun Ministerial Conference

Perhaps because of this mental orientation, the let-down at Cancun manifested itself in a more exaggerated and emotionally overcharged and aggressive manner. This time, having gone down the learning curve in confronting the negotiating pressure tactics of the developed bloc during the last two decades—from the onset of the Uruguay Round—the developing countries were far better prepared and organized. Thus, to offer more efficient combat in the context of agriculture (and the equally controversial "Singapore Issues"):

> "At Cancun, for the first time, the West's proposal was challenged by a new strategic alliance of developing countries, called the G21, led by Brazil, India, China and South Africa, with their own proposal directed to the needs of the richer developing countries.
>
> 'The G21 proposed a radical alternative to the official negotiating text, demanding serious reductions in rich countries' subsidies and greater market access commitments from the rich

[46] See, for example, Parthapratim Pal, *A Brief Analysis of Harbinson's Text*, 21 April 2003; available at: ‹www.networkideas.org/news/apr2003/news21_Harbinson_Text.htm›.

> countries than would be required from developing countries,' according to one news report. 'The main interest of the G21 countries is in levelling the playing field … so that the developing countries are better able to compete in international markets and reap greater benefits from agricultural trade.'"[47]

The G21, displaying organized solidarity at a level never seen in earlier Ministerial Meetings, refused to accept the revised Draft Cancun Ministerial Text issued by the Chairman of the WTO General Council on 24 August 2003 "on his own responsibility". They issued their own framework proposal on 4 September, recalling the Doha Declaration's call for "substantial reduction in trade-distorting domestic support" and reiterating the specific measures in all the three pillars of domestic support, market access and export subsidies, with special and differential treatment precisions in each, for which they had been pressing during the last three years of negotiations in the Committee on Agriculture.[48]

From an historical perspective, it is worth mentioning that what must have particularly irked, to put it mildly, the U.S.–EU bloc was the ubiquitous presence of the duo of India and Brazil leading the G21 pack. They had acquired notoriety for the persistent noise and almost filibustering tactics they used, along with some other Third World countries such as Argentina, Egypt, etc., during the Uruguay Round negotiations in seeking their objective (perhaps partially achieved) to re-establish "symmetry" and obtain some *quid pro quos*, notably the entry of agriculture into the multilateral trading system, the phasing-out of the protected-quota-ridden textile trade regime, and recognition of labour as also a factor of production, along with capital, deserving the same right of free movement and market access, in return for letting the then so-called "new" issues of services, trade-related intellectual property rights and trade-related investment measures enter into the negotiations.[49]

The ignominious collapse of the Cancun Ministerial Meeting made headlines across the world and need not be discussed here. In the agriculture context, Annex A of the Cancun text of 13 September 2003[50] was a sharp let-down to India and the G21. It maintained "the same imbalances and problems", largely ignored the draft framework submitted by the G21 on 24 August and, in some instances, took positions that were worse than previous drafts emanating from the North. In many respects, it

[47] Alternative Views, *What Happened at Cancun? Developing Countries Form Alliance to Force WTO to Address Their Issues: Summarries of articles by Frank Popp*, available at: ‹www.alternative-views.org/10-16-03-Art05.htm›.

[48] See WTO Doc. WT/MIN(03)/W/6 of 4 September 2003. The inclusion of China in the G21 was widely commented upon by the media. It was also observed that it played a supportive but relatively quiet role. Perhaps, it was presumed, this was because it was in a learning mode, having only recently entered the WTO. However, an official in New Delhi observed that China had already been "duly fleeced good and proper" by the United States in negotiating its entry ticket to the WTO; for example, it had reduced its tariffs to an average of 15 percent and did not have much wind left to sail in rough waters along with India, Brazil and the rest.

[49] The author, along with colleagues at the Indian Institute of Foreign Trade, produced a study, *Trade in Services*, IIFT, 1984, which was perhaps the first comprehensive, though still modest, effort to emanate from a developing country discussing these new issues.

[50] WTO Doc. JOB(03)/150/Rev.2 of 13 September 2003.

was worse than the much-negotiated Harbinson draft. The Third World Network offers this critique:

> "On domestic support, there is hardly any change. Developed countries will be able to retain their high subsidies and indeed to raise them, as the Blue Box category continues to be maintained, and there is no assurance that the Green Box will be adequately disciplined."[51]

It may be recalled that right up to 1999 the United States had agreed that the Blue Box (Article 6.5 of the AoA) category would be removed, but it has staged a comeback. The Green Box aspects were inadequately addressed in the Harbinson draft, and the possibilities of the switching between the Amber and Green Box (as discussed in Section VI.B of this article) remain, with no cap on the latter, and the result is that there is every risk of maintaining or even increasing subsidies in one guise or another. This all-important aspect of export dumping for the developing countries thus remains unresolved.[52]

On market access, the Harbinson formula, which had found favour with the developing countries, was rejected and the blended formula proposed by the EU and the United States remains, with the insult added to the injury that the Swiss formula would be applicable also to developing countries, albeit with a higher coefficient, with all the implications discussed earlier in Section VII. The Third World Network comments:

> "A major problem is how badly developing countries are treated in market access. They are subjected to even more disciplines and tariff reductions than the previous draft, even though many of them made demands to expand S and D treatment. The major developed countries on the other hand insisted that developing countries commit to opening their markets more, and the revised draft has bowed to their influence. This is most unfair because many developing countries are already suffering from increases of agricultural imports (artificially cheapened by subsidies) and the only tool they have (i.e. tariffs) to counter unfair competition from the rich nations is being removed very significantly through the draft ... Thus for a majority of tariff lines, developing countries will have to very significantly reduce their tariffs. Since developing countries have little or no capacity to provide subsidies, this serious erosion of their ability to use tariffs to protect farmers against imports will have severe adverse implications on rural livelihoods and poverty eradication objectives. In the previous draft the obligations were bad enough but there was a flexibility for developing countries whether or not to have the Swiss formula applied to them. This flexibility is now removed."[53]

Developing countries were also not happy with the vague, restrictive and qualified language used in acknowledging the concepts of Special Products and Special Safeguard Mechanisms discussed earlier in Section VII. The Third World Network criticizes the:

> "… very inadequate treatment of special products (SPs) and special safeguard mechanisms (SSMs) in the draft. More than 30 developing countries had formed an alliance for SPs and SSMs in Cancun to press their case for strong SP and SSM mechanisms, in which they can

[51] *Comment by Third World Network on the Cancun Text of 13 September*, available at: ‹www.twnside.org.sg/index.htm›.

[52] One gathered the impression in discussions with officials in New Delhi that for the Ministry of Agriculture this, not market access, was their top priority.

[53] Third World Network, *supra*, footnote 51.

> self-select certain products as SPs which would not be subjected to tariff cuts, and in which an SSM can be used in a simple and effective way to counter import surges (reflected in an increase in import volume, and/or a decrease in import prices). This is required to protect farmers' livelihoods and food security. The draft mentions these two concepts in a very inadequate way."[54]

On export competition, there appears to be a clear violation of the Doha mandate that export subsidies will be reduced with the aim of phasing them out. No modalities or target dates have been set for elimination of subsidies or export credits. The draft states that "the question of the end date for phasing out all forms of export subsidies remains under negotiation". This is obviously the result of hard pressure from the EU, which actually considers that even this formulation is an enormous concession given in the context of the reform of their Common Agricultural Policy, considering the pressures they are subjected to internally, and in return for "equivalent agricultural concessions from the EU's WTO partners".[55]

X. POST-CANCUN

As late as December 2003, the post-Cancun state of shock still persisted, but there were signs that the Delegations of WTO Members in Geneva were getting back to business as usual and resuming their consultations and negotiations. Not unsurprisingly, however, there had been no signs of convergence of views as of that date. On agriculture, the WTO General Council Chairman convened an informal "Green Room" meeting of about 30 Members on 20 and 21 November 2003. Various suggestions were put forward, but they did not amount to any significant breakthrough nor did they lessen the highly discontented mood of India and other developing countries. A highlight of the meeting worth noting, however, was a presentation that India made on the relative effects on developed and developing countries of reductions under the blended formula proposed in the Cancun text (based on the EU–U.S. proposal). Estimates of percentages of tariff lines in different categories were used: 20 percent under the Uruguay Round formula; 50 percent under the Swiss formula (assuming a coefficient of 25 for developed and 50 for developing countries); and 30 percent under the zero-duty category. It was demonstrated that the developing countries would have to make more important cuts than the developed countries under all scenarios.

This result does not appear surprising, as the developing countries, as earlier discussed, generally have higher bound tariffs. Hence, the Swiss formula would entail deeper cuts for them as compared to the developed countries, who generally are estimated to have a sufficient number of tariff lines already low enough to be conveniently slotted into the Swiss formula category where the cut would not hurt that

[54] Ibid.

[55] EU General Affairs Council, *Mandate from Cancun*, 21 July 2003; available at: ‹ue.eu.int/pressData/en/gena/76753.pdf›.

much. The same logic would apply essentially to the zero-duty category. Here, in fact, tariffs lines bound at, say 100 percent, however minimal might be the number that would have to be included in the zero-duty category, would all have to come down to 0–5 percent. There was a demand from several developing countries for the WTO Secretariat to make comprehensive studies in this regard and to estimate the effect of the blended formula on different developing countries, taking into consideration their specific tariff profiles.

The Chairman of the General Council is reported to have informed journalists after the meeting that "the positive thing is that discussions went on. But there is no basis for any new text at this stage." This is perhaps an apt summary of the present state of play in the trade talks.

XI. CONCLUDING REMARKS

Given the state of flux in the WTO negotiations on agriculture, the ups and downs—which are more downs from India's point of view—one is almost tempted to take Confucious' advice: "Don't conclude!" However, what follows will briefly summarize the discussions and arguments presented in this article.

The article traces those aspects of the WTO's efforts made since the advent of the Uruguay Round to bring agriculture into the multilateral trading system that are particularly important from the perspective of Third World economies, having regard to the crucial importance of this sector, both in domestic and export production, in their economies. In this context, it discussed Third World demands, and those of India in particular, for special and differential treatment and has argued that it is in fact the rich farmers of the Western countries who are actually insisting, unjustifiably, on special and differential treatment to protect their agriculture with subsidies, domestic support and a variety of other protective measures. It has been demonstrated how the plight of the Third World farmer, who is producing and living largely at the level of subsistence and is competing against his rich counterpart in quite unfair terms, acquires a sharper poignancy when we see that the former has a clear comparative advantage in export markets in the true sense of Ricardo's principle of comparative advantage. It has been submitted that India and other developing countries are in a situation where their legitimate right to exploit this comparative advantage is being denied and, to add insult to injury, they are placed into a corner at the negotiating table where they have to behave like supplicants pleading for lenient treatment and some reprieve and not as injured parties demanding just redress of their grievances. The author has also suggested that a strategic mistake may have been made by the Third World in insisting on the words "special and differential", as semantically the term has slightly pejorative connotations. Perhaps "equitable and non-injurious" or some such alternative phrase should have been preferred.

While acknowledging the breakthrough that the Uruguay Round made just by bringing agriculture to the negotiating table, the article also discussed the naïve manner in which the Uruguay Round approach segmented "bad" domestic subsidies from "good" (i.e. allegedly non-trade-distorting) ones. As a consequence, the latter were not subject to any obligation to be reduced or even limited, thus giving a *carte blanche* to developed countries to switch from the former to the latter and to continue supporting their agriculture in one guise or another. It also discussed other "tricks of the trade" such as dirty tariffication, wherein the laudable process of converting non-*ad valorem* tariff lines to transparent tariff equivalents was subverted to actually increase barriers by manipulating the calculations of the "price gap" between the interior and the border price, and the continuing tariff escalation for exports of processed agricultural products.

The negotiations in the Committee on Agriculture, long and arduous, led to a draft text by its Chairman that raised the hopes of India and other developing countries that they could come to a reasonable agreement on agriculture at the Ministerial Meeting at Cancun. That they saw those hopes dashed in the fiasco at Cancun helps explain the frustration and anger of India and its fellow members of the G21 bloc of developing counties at the utter lack of accommodation shown by the bloc of developed countries led by the EU and the United States. India and other developing countries are still recovering from that shock in the post-Cancun phase, where there is so far no basis for any new agreement in sight. In fact, the only positive feature is that there has been no "walk-out" and the discussions are continuing amongst the Member States' Delegations, both formally and informally, at the WTO in Geneva.