

Non-trade Concerns in WTO Trade Negotiations: Legal and Legitimate Reasons for Revising the “Box” System?

James R. Simpson (Ryukoku University, Japan & University of Florida, USA)
and **Thomas J. Schoenbaum** (International Christian University, Japan & University
of Georgia, USA)



Contributed paper presented at the

International Conference

*Agricultural policy reform and the WTO:
where are we heading?*

Capri (Italy), June 23-26, 2003

**Non-trade Concerns in WTO Trade Negotiations:
Legal and Legitimate Reasons for Revising the “Box” System?**

Paper presented at the

International Conference

Agricultural Policy Reform and the WTO: Where Are We Heading?

Capri, Italy, June 23-26, 2003

James R. Simpson is Professor, International Agriculture, at Ryukoku University in Kyoto, Japan and is Professor Emeritus, University of Florida, USA.

and

Thomas J. Schoenbaum is Professor, International Law, International Christian University, Tokyo, Japan and is Professor Emeritus, Dean Rusk Chair of International Law, University of Georgia, USA.

Non-trade Concerns in WTO Trade Negotiations: Legal and Legitimate Reasons for Revising the “Box” System?

This is a critical time at the World Trade Organization concerning agricultural trade, the lynchpin of the Doha Development Agenda of multilateral trade negotiations. One vexing issue is that Non-Trade Concerns (NTCs), that are supposed to be taken into account in the negotiations regarding agricultural trade as set forth in the Work Programme adopted at the WTO Ministerial Conference in Doha, Qatar November 2001, are actually yet to be incorporated.

At present, agricultural negotiations are deadlocked as key players such as the European Union (EU) and Japan call for “well balanced” and “realistic” proposals to bridge the gaps among the parties. Many other nations, particularly lesser developed countries (LDC), have their own reasons for wanting drastic changes to the proposals, as well as to the Uruguay Round Agreement on Agriculture (URAA) in general.

The deadlock in agricultural trade negotiations cannot be understood unless it is placed in context, as it is not an isolated phenomenon. Rather, the crucial issues at stake are part of the larger controversy over management of globalization so that domestic social and political stability are maintained. This is the overriding issue of our time, and agricultural trade can be viewed as a case in-point. Globalization means liberalization emphasizing the benefits of the free flow of goods, capital and services. But the social concerns and tensions arising from this process must not be overlooked (Rodrik, 1997). This is the point being made by the EU and Japan when they call for “balance.”

The excesses of globalization can be managed only by paying adequate attention to what are termed “Non-Trade Concerns” (NTCs), and the ultimate Agreement on Agriculture of the Doha Development Agenda will have to be balanced to achieve success. A balance must be struck in the WTO between liberalization on the one hand, and NTCs on the other. The economic dimension of trade must be balanced with non-economic values. Simply ignoring NTCs is not an option. In our considered opinion, if this is done, the Doha negotiations will fail. Thus it is crucial to deal with the NTCs issue in order to further the goal of trade liberalization, both with respect to agriculture and other economic sectors.

NTCs are given explicit recognition both in Article 20 of the Agreement on Agriculture and in the Ministerial Declaration promulgated at Doha, Qatar in November 2001. Yet the role of NTCs has been minimized so far in WTO agricultural negotiations, for

several reasons. First, there is no clear or even accepted definition of NTCs. Second, there are no accepted criteria for their use. Third, it is unclear how NTCs fit in with the 1994 Uruguay Round Agreement on Agriculture (URAA), which provides the point of departure for the current negotiations.

We address these problems in this paper and provide a legal and economic framework for balancing NTCs with economic efficiency and liberalization. Discussion particularly focuses on how, and to what extent, Non-Trade Concerns fit with the overall, long-term objective of WTO which is “to establish a fair and market-oriented trading system for world agricultural trade.” We will consider these questions from both a legal and economic viewpoint and provide some guidelines about how countries desiring to incorporate NTCs in their negotiations strategies can do so.

Our thesis is that due regard for Non-Trade Concerns is not inimical to the goal of establishing a fair and market-oriented trading system; rather, that it is a centerpiece of international calls for greater attention to societal anxieties about globalization as witnessed by the debacle at Seattle. In brief, we argue that the key idea is to preserve a modicum of free trade, but that accomplishment of it requires policies that respond to social concerns. We provide the case of Japan to highlight the extent to which the NTCs problem can affect economically developed nations, and not just poor developing countries where the issue is one of food security from a malnutrition or extreme hunger point of view.

Definition of Non-Trade Concerns and Non-Trade Values

According to Article 20 of the Agreement on Agriculture, Non-Trade Concerns (NTCs) should be taken into account in the continuation of reform process. The Preamble of the Agreement recalls that the long-term objective “*is to establish a fair and market-oriented agricultural trading system*” and notes that “*commitments under the reform programme should be made in an equitable way among all Members, having regard to non-trade concerns, including food security and the need to protect the environment; having regard to the agreement that special and differential treatment for developing countries is an integral element of the negotiations ...*” In brief, Article 20 of the URAA only states that Non-Trade Concerns will be taken into account; it does not provide any definition or indication of what they are.

The WTO Ministerial Declaration from the Doha Conference is not much more help in defining NTCs, for Article 13 merely states that “We recall the long-term objective

referred to in the Agreement (Article 20 in the URAA) to establish a fair and market-oriented trading system through a program of fundamental reform encompassing strengthened rules and specific commitments on support and protection in order to correct and prevent restrictions in world agricultural markets.” There is also the statement that “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 keywords, and we emphasize them, are the terms “fair” and an “equitable way.” These two terms are simple, but vital, for a plethora of countries are worried about how their small scale, high cost agricultures will ultimately be affected by trade liberalization. They are crucial to many economically developed countries bent on deciding for themselves how to organize their use of natural, human and capital resources. In effect, NTCs are a first line of defense for food importing nations (and in some cases food exporters) to prevent unfavorable, and in many cases disastrous, outcomes of current and future negotiations.

Non-Trade Concerns have figured prominently in agricultural trade policy and negotiations since the first GATT round in 1947. The range has broadened since the Uruguay Round concluded to include food security, food safety and quality, rural development and animal welfare. Many of the NTCs attributes are bunched into the term “multifunctionality.” We provide minimal discussion on it for the topic is covered extensively in many fine outlets such as Blandford and Boisvert, 2002a; Blandford and Boisvert, 2002b; Bohman, et. Al., 1999; the conference organized through Landbruksdepartementet, Ministry of Agriculture, Norway, 2000; Latacz-Lohmann and Hodge, 2001; OECD, 2001; Paarlberg, Bredahl and Lee, 2002; Sakuyama, 2003; Swinbank, 2001 and 2002, just to mention a few.

It is our view that many nations espousing multifunctionality as their primary NTCs position have done so out of frustration and a feeling of helplessness in the WTO system—and not because they are protectionist. In fact, the issue in many higher income countries that espouse multifunctionality is not necessarily from the viewpoint of protecting agricultural producers. Rather, it is from the viewpoint of consumers and citizens as a whole that truly are concerned about the effects of increasing levels of food imports on their country’s natural resources.

It is important to realize that NTCs, and within it the multifunctionality concept, are widely recognized as being very important. For example, forty WTO members and observers met in Doha during the Ministerial Conference and held their own Non-Trade Concerns

Ministerial (Conference) from which a statement was released about the need to secure the coexistence of various types of agriculture, as foreseen in Article 13 of the Doha Declaration. Another major step was the 4th International Conference on Non-Trade Concerns in Agriculture at Ministerial Level, held in Rome June 14, 2002. This turned out to be a significant meeting as 54 ministers and representatives from WTO members and observers attended and reaffirmed their support for Non-Trade Concerns. Our view is that the NTCs issue (OECD and WTO have conveniently relabeled multifunctionality as NTCs) is not one of whether it is a legitimate matter, but rather how to legitimize it. This involves both paradigm and legal problems.

Problems with Incorporating NTCs in WTO Paradigms and Rules

The problem of incorporating NTCs into agricultural negotiations is their vagueness, which forces widely dispersed countries or groups of countries that want to take advantage of NTCs to prepare issues, target desired outcomes, and prepare and execute strategies against a well-supported, established organization (WTO) in one location in which the agreement underlying current rules and quantitative levels (URAA) is accepted as the floor or minimum of trade liberalization. The idea of longer-term discussion on NTCs is generally seen as a regression to be abhorred. Also, accepted doctrine is that agricultural trade rules should only be changed if they increase liberalization. Nevertheless, NTCs cannot be shunted aside. They are official policy of WTO and it serves in everybody's interest to define them and to negotiate criteria for their application. We agree that multifunctionality is not specifically in the WTO, but defining NTCs and adopting criteria is the best way for even the most ardent free trader or export minded country because that way everyone knows what they are dealing with.

A second difficulty, and one that is almost overwhelming, is the wide variety of concerns and the limited resources countries espousing them have to make their case. Another difficulty is in finding a leader or group of leaders to stand up and take charge on what is essentially a defensive issue. It is the opposite of uniting exporting countries who stand to benefit economically.

Lobbying for specific or even general consideration of NTCs is a particularly daunting undertaking considering that those who argue for regulation of imports through tariffs, quotas and the like have been labeled as *protectionist*—a very bad badge to wear, because it smacks of backwardness and failure to take on global leadership and

responsibilities. Unfortunately, to many trade specialists, the badge has become one of “you are either for me or against me.” It means the argument is “black or white,” and “you are either a free trader or a protectionist.” It is also the *de facto* badge worn by those espousing NTCs.

A third problem with NTCs is that they are seen as an end, and not as a means to an end. One of our objectives is to show that incorporation of them into WTO rules can become a means to “fair” and “equitable” world trade in food and other agricultural commodities. It is probably quite fair to say that trade theorists specializing in agriculture do not want the WTO to become a forum for introduction of non-economic values into equations for setting liberalization targets. The trade paradigm is clear. So, don’t mess with it. However, even the most basic classical economists, in what was once called political economy, were steeped in moral and ethical foundations, and it showed in their writings. Nevertheless even today, in a world that largely holds to neo-classical economic thought, the common way to quantitatively write a decision-making expression is that the dependent variable (or goal) is some function of a series of independent variables, some of which (like NTCs) can act as constraints on the outcome.

Worldwide, it is generally accepted that increased trade and efficiency are desirable. However, most people (and certainly the protestors at Seattle during the failed attempt to set a new round) believe that other values should be taken into account since materialistic progress is just one aspect of maximizing quality of life in this world. We argue that economic efficiency is a value, and that it is a good value. However, ethically and legally it should be balanced against other values, and it should not violate human rights.

Legal and Human Rights Aspects of NTCs

There are several international covenants such as *The Universal Declaration of Human Rights*, and a later document promulgated by the United Nations called the *International Covenant on Economic, Social and Cultural Rights* (ICESCR) that provide a human rights framework for NTCs. Several sections of the International Covenant brought into effect a quarter century ago pertain to present day food production and WTO member proposals on multifunctionality. Article 1 states “All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development. All Peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations

arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.”

The term “Peoples” is legally different from nations. The idea is that the rights covered are group rights that do not depend on the nation-state for their validity and recognition. The term “Peoples” is better than nation states because it means that nation states cannot make derogations from the rights in covenants. The rights belong to the “peoples” and thus are inalienable.

There is also Article 6 which says “The States Parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right.” Common sense says improvement of economic welfare through international trade shifts will lead to losers in some countries and gainers in others. But this is different than worldwide imposition of regulations that could eventually emasculate a whole sector of a country’s economy, or at least most of it—as is the situation faced by Japan (See Appendix I).

Article 11 deals specifically with food by saying “The States Parties to the present covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions.” Certainly the term “continuous improvement of living conditions” must include the right to a nationally decided level of domestic food production as part of living a stress-free life, provided it is shown the citizens want it. This aspect is further reinforced by Article 11 which also exhorts States Parties to take into account “the problems of both food–importing and food-exporting countries, to ensure an equitable distribution of food supplies in relation to need.” We believe this article is enough to show that a “true level playing field” (a term often used by the agricultural exporting countries bent on drastic market opening measures) should include, for example, the right for countries to set minimum domestic food production levels they want as an integral part of fair and equitable agricultural trade rules.

Much of the controversy swirling around the WTO centers on grave concern about globalization leading to homogenization of cultures, disappearance of diversity, a feeling of helplessness and being controlled by powerful international forces. *The International Covenant on Economic, Social and Cultural Rights* states, in Article 25, “Nothing in the present covenant shall be interpreted as impairing the inherent right of all peoples to enjoy

and utilize fully and freely their natural wealth and resources.” This article may be interpreted as ensuring the right of any country, no matter what its economic status, to organize and protect a minimal portion of its agriculture the way it wants to, even to the extent of maintaining high-cost, small family farms if that is its citizen’s choice. Virtually the entire developing world, and substantial aid agencies, support and promote small size farms in their development programs.

There is a basis in the UN Charter that the human rights guaranteed in the Covenants have a special and higher status than other international agreements. Articles 2 and 55 of the UN Charter guarantee universal respect for human rights (Steiner and Alston, 2000). The UN Charter is a kind of international constitution and higher than the WTO agreements. Thus, all intergovernmental organizations must respect human rights principles.

A reasonable question is whether the human rights argument can be used for NTCs purposes; for example, the right of a country to set some minimum level of food self-sufficiency, or to set other restrictions on imports as is the case with countries espousing the multifunctionality concept. The answer is that, at present, there is no precedent set for using the Covenant to override other international agreements. The WTO and human rights covenants are two different legal regimes. They are autonomous and do not generally collide. There is no court or authority to rule on which is higher. The WTO is only concerned with “covered” agreements, i.e., the WTO agreements (Matsushita, Schoenbaum and Mauroidis, 2003).

There are no cases on food security under the International Covenants and there are not likely to be. The covenants are enforced by each country filing a report with the UN Human Rights Committee. This group, as well as other UN members, can investigate to some extent and can always castigate a country for not living up to human rights norms. But, as can be imagined, no country or the Human Rights Committee has ever criticized any country for importing too much of its food supply. Of course, any country can make this argument under the Covenants, but the Catch-22 is that there is no way to litigate it or assert it before any international tribunal.

The WTO dispute settlement apparatus does not have jurisdiction or the ability to decide such a human rights request because there is no provision in the WTO Agreement on Agriculture asserting a food security right. There is none, so a country or group of countries would have to assert a rights related position during WTO negotiations and successfully have it included in a new Agreement on Agriculture.

The WTO has never addressed the food security issue although there is considerable discussion about a “development box” and ways in which lesser-developed countries problems can be addressed. NTCs are only mentioned—referred to—and that is about all. In fact, it is impossible for a WTO member to assert or complain about lack of legislation related to food security or NTCs to the WTO Dispute Settlement Body. The upshot is there is no international law on the issue of food security or Non-Trade Concerns.

The problem is how to create the international law. The three agricultural pillars of market access, domestic support, and export subsidies have specific provisions and precise legal criteria governing them. NTCs, the fourth pillar, have conveniently been forgotten—and always will be ignored or dismissed unless and until specific criteria are developed and inserted into a WTO agreement.

Proposal to Incorporate Non-Trade Concerns into WTO Law

Debates about rights to Non-Trade Concerns are one thing; changing enacted trade rules is another. The important point is that while WTO rules can be modified if there is sufficient sympathy for changes, they can be very difficult to enact in practicality. The fact is that even if a significant number of the WTO’s current 147 members would like to make changes to WTO rules decided in the URAA because they felt that their human rights guaranteed under an international covenant were being abrogated, they would have an extremely hard time of bringing it about due to the great power wielded by the Cairns group and the United States. WTO rules are set by consensus and failing that by a vote. A majority vote is sufficient for general decision-making, but a two-thirds vote is needed to amend an agreement. But in practice there must be a consensus in the WTO for progress to be made. This means that no member or group of members can prevail without compromise.

Ironically, one way to incorporate NTCs might be the “box system,” a major pillar of WTO rules. There continues to be considerable discontent about this system, and much discussion has taken place about amending it, with proposals ranging from minor modifications, to elimination of one or more boxes, to complete elimination of the system, and even the creation of a “development box.” There is a long history of debate on a proposal by the EU for a “food security box” for developing countries that could be modified to include developed countries at risk of losing a substantial portion of their agriculture from substantial tariff reductions. At present, food security is only mentioned in Annex 5 of the URAA, and then only as a vague concept.

We propose a “Non-Trade Concerns Box” in which food security and the multifunctionality concept could be included along with a country’s rights to decide how to use and preserve its natural resources. The following are proposed to ensure that essential community and social values are not sacrificed on the altar of economic efficiency and free trade. It is in this spirit of developing a method and principles to balance economic and non-economic values that the following five proposals, which can be incorporated into an NTCs box, should be considered

First, we propose a principle of food security. Any future WTO Agreement should specify a minimum measure—in terms of calories consumed or some other objective measure—of domestic agricultural production that no WTO member will be asked to relinquish. For example, a country should have the right to produce domestically a certain percentage of the food needed to feed the population. This should be set, not only for security purposes, but to ensure the social viability and existence of rural areas.

Such a food security requirement would be new for the WTO, but as described earlier is already present in the international human rights legal instruments; the *United Nations Universal Declaration of Human Rights* (promulgated in 1948 and amended in 1976), the *International Covenant on Economic, Social and Cultural Rights* (1976); and the *International Covenant on Civil and Political Rights* (1976) to which virtually all WTO members are parties. The WTO should respect these rights by defining a minimum to safeguard the right of each WTO member to maintain an agricultural sector necessary for its own subsistence and to allow its peoples to pursue economic, social and cultural development.

Second, we propose that NTCs be defined in any future WTO Agreement. We propose a definition that is rooted in welfare economics. An NTC is what economists term a positive externality—a positive benefit that is an associated consequence of a policy instrument. An NTC differs from the closely related concept of “multifunctionality” in that the latter is equated with “non-commodity outputs” of agriculture—negative as well as positive externalities (OECD, 2001). We propose a definition of NTCs that is restricted to positive externalities. The concept of NTCs should also be defined as a positive externality that contributes to sustainable development, the use of resources so that the entire stock of capital is not diminished, and so that an indefinite stream of benefits can be maintained. This definition of NTCs would bring discipline to the vague assertions of NTCs by WTO members. It means that NTCs can be differentiated from sheer protectionism.

Third, we propose that NTCs be quantified. As a positive externality they must not only be specifically defined by a WTO member who seeks to rely upon it, but must also be susceptible to quantitative measurement using an accepted valuation technique. In the case of certain NTCs—those reflecting non-economic values—the WTO should specify an accepted valuation technique such as contingent valuation (e.g. Bishop, Champ and Mullarkey, 1995; Bishop and Walsh, 1999; Mitchell and Carson, 1995).

Fourth, we propose a causal link. This means that a WTO member that relies upon a specific NTC to justify subsidizing agriculture must demonstrate the causal link between the NTC and the domestic support program in question. This requirement is also designed to ensure that the NTC is not simply an excuse for protectionism.

Fifth is the relation between the NTCs “box” and the current three “boxes.” One of the problems with the concept of NTCs is that there is no explicit connection between NTCs and the “box” system of domestic support in the WTO Agreement on Agriculture. The “box” system makes no mention of NTCs. We believe this should be corrected by establishing an explicit relationship between NTCs and the current “boxes.”

We argue there should be an NTCs box that would substitute for a “development box” or a “food security box” as it would meet diverse needs of all developing countries as well as economically developed countries. In this way it would help reduce polarization of the so-called “North and South” countries. Failing that, we propose a hierarchical arrangement recognizing that the three existing boxes reflect different categories and specific kinds of domestic support. Green box subsidies are considered permissible as non-trade distorting. Blue box subsidy programs are permitted because they limit agricultural production. Amber box support is trade-distorting because it is related to production. We propose that a WTO member employing an amber box subsidy for the purpose of an NTC must carry the burden of showing that green or blue box subsidies are reasonably insufficient or ineffective in realizing the benefit of the NTC desired. This requirement will further discipline NTCs programs and differentiate them from protectionism.

WTO Rule making System

WTO rules are set by consensus, and failing that, by vote. A crucial element during negotiations is to convince other members that proposals for new rules, or changes in rules, have validity and show just cause. Negotiators espousing the above proposals or other ones, will have to build consensus among like-minded countries. One country, one vote can be

enough to prevent adoption of a rule although it is very awkward for one country to oppose a rule change that has strong backing by many countries as that nation is then accused of derailing a whole process, in this case one that might make or break the entire round of negotiations. Negotiators at WTO rounds need skill. But equally, or more important, is a feeling they are supported by the whole country they represent and the entire group of countries with which they have banded. Leadership is needed to change NTCs from what is now basically a defensive position to an offensive one in which equity and fairness rather than power and economic benefit are recognized as primordial. Why, we might ask, should those espousing social concerns be on the defensive?

Summary and Conclusions

Debates about rights to non-trade concerns are one thing; changing enacted trade rules is another. International organizations should be a forum for discussion about problems of all countries and peoples. There is neither a crisis nor a good reason why there must be substantial agricultural liberalization in this round of negotiations despite pronouncements by major food exporting countries to the contrary. The WTO should be a forum for fair and equitable trade no matter how long it takes. That is the mandate for the WTO, and for this Doha Development Agenda.

The NTCs debate is extremely important because, to a large measure, it will show the extent to which food and agriculture is recognized as somehow being different than manufactured commodities or services. There is little information provided by the media about NTCs, and it is instructive that our paper is the only one of two out of 115 presented at this conference that specifically targets NTCs. Nevertheless, there is great international support for inclusion of NTCs by both the public and officialdom as a way to balance growing globalization.

The debate on NTCs also serves as verification of whether a country, or union of countries such as the EU, or a trade bloc, can exhibit their rights to control the future of their beliefs about food safety, their own food systems and agricultural sectors, and whether consumer and national sovereignty have a place in neo-classical trade theory and paradigms. It is a litmus test of the extent to which food importing countries of all kinds, large and small, economically rich or poor, and exceptionally or poorly endowed for agricultural food production, have the right to decide how they want to organize their societies and use their resources.

Most of the joint products of agriculture are public goods because they cannot be sold or traded. It seems reasonable that all citizens can, and should, have an interest in assuring that they have an input into deciding how, and in what form, the public goods related to agriculture are used and maintained for future generations. That is one of every person's fundamental rights. Likewise, no nation can force an agreement on another nation in WTO rounds. So, the point is there can be no agreement, and the negotiations will fail, unless the NTCs issue is squarely faced. We have proposed criteria because this is the only way to save this round. Maybe there are better ideas, but the bottom line is the issue has to be faced, and in a fair and equitable way in which, unlike the Uruguay Round, the losers will be minimized.

Selected References

- Bishop, R. C., P.A. Champ and D.J. Mullarkey. "Contingent Valuation." In *Handbook of Environmental Economics*, ed. D.W. Bromley, Blackwell Publishers, Oxford, England, 1995, pp 629-654.
- Bishop, Richard. C. and Michael P. Walsh. "Contingent Valuation: Incorporating Nonmarket Values." In *Better Environmental Decisions: Strategies for governments, Businesses, and Communities*. Ed. Sexton, Ken, Alfred A. Marcus, K. William Easter, and Timothy D. Burkhardt. Island Press, Washington, D.C., 1999, pp177-194.
- Blandford, David and Richard N. Boisvert. "Multifunctional Agriculture and Domestic/International Policy Choice," *The Estey Centre Journal of International Law and Trade Policy*, Vol. 3, no.1, 2002a, pp106-118.
- Blandford, David and Richard N. Boisvert. "Non-trade Concerns and Domestic/International Policy Choice," IATRC Working Paper 02-1, January, 2002b. Available online at [Http://www.iatreweb.org](http://www.iatreweb.org).
- Bohman, Mary, et. Al., *The Use and Abuse of Multifunctionality*. Unpublished paper, USDA Economic Research Service, Washington, D. C. November, 1999.
- Bull, T. and I Roberts. *Agricultural Trade Policies in Japan: The Need for Reform*. ABARE Research Report 01.5, Canberra, 2001

- Burfisher, Mary E. (ed). *Agricultural Policy Reform in the WTO, The Road Ahead*. US Department of Agriculture, Washington, DC, ERS/AER 802, May 2001.
- Edmondson, W. Food and fiber system share of GDP remains robust. *Rural America* 2001, 16 (1), pp 56-57.
- Ito, Shoichi, Mark W. Rosegrant, and Mercedita C. Agcaoili-Sombilla. "Quality and Production cost Oriented Measurement of International Competitiveness—Is U.S. Rice Feasible in the Japanese Market?" Paper presented at the 1995 Southern Agricultural Economics Association meeting, January 30-February 1, 1995. Revised January 27, 1995.
- Landbruksdepartementet, Ministry of Agriculture, Norway. *Proceedings, International Conference on Non-Trade Concerns in Agriculture*, Ullensvang, Norway, 2-4 July 2000. Available on-line <http://odin.dep.no/ld/mf/Conferences/020061-990057/index-dok000-b-n-a.html>
- Latacz-Lohmann, Uwe and Ian Hodge. "Multifunctionality' and 'Free Trade': Conflict or Harmony?" *EuroChoices*, Spring 2001, pp 42-46.
- Matsushita, Mitsuo, Thomas J. Schoenbaum and Petros Mauroidis. *The World Trade Organization: Law and Practice*. Oxford University Press, London, January 2003.
- Mitchell, R.C. and R. T. Carson. *Using Surveys to Valued Public Goods: the Contingent Valuation Method*. Resources for the Future. Washington, D.C., 1989.
- OECD. *Multifunctionality: Towards and Analytical Framework*. Paris, 2001.
- Paarlberg, Philip L., Maury Bredahl and John G. Lee. "Implications of Multifunctionality for Developing Nations," paper presented at the International Agricultural Trade Research Consortium analytical symposium *The Developing Countries, Agricultural Trade, and the WTO*, June 16-17, 2002, Whistler, BC, Canada.
- Rodrik, Dani. *Has Globalization Gone Too Far?* Institute for International Economics, Washington, D.C., 1997.
- Rozell, Scott. "China: Market or Competitor of California in World Horticulture Trade." Paper presented at the 2003 Annual meeting of WCC-101 *China as a Market and Competitor* Portland Oregon, April 17 and 18, 2003. Available online <http://www.china.wsu/>

- Sakuyama, T. "Multifunctionality of Agriculture in Comparative Perspective: Priorities and Policy Instruments in Developed World," *Journal of Rural Planning Association*, Vol. 122 (1), 2003 (forthcoming).
- Simpson, James R. and Ou Li. "Long-term Projections of China's Supply and Demand of Animal Feedstuffs." Paper presented at the IARTC 2001 Analytic Symposium, Auckland, New Zealand, 18-19, January 2001.
- Simpson, James R.
(Is Today's Food Situation Good for Japan? Warning From an American Researcher). Tokyo, Ienohikari Publishing Co. 2002. (in Japanese). English draft available by email attachment through simpson@world.ryukoku.ac.jp.
- Steiner, Henry J. and Philip Alston. *International Human Rights in Context*. Oxford University Press, New York and Oxford, England, 2nd edition, 2000.
- Swinbank, Alan. "Multifunctionality: The Concept, and its International Acceptability," *Journal of the Royal Agricultural Society of England*, Vol. 163, 2002, pp141-148.
- Swinbank, Alan. "Multifunctionality: A European Euphemism for Protection?" *Proceedings, FWAG Conference*, Stoneleigh, November 29, 2001.

Appendix I. Japan's Non-Trade Concerns: Legitimate or Protectionist?

Japan is in a tight spot regarding food and its agricultural sector, for several reasons. One is that its food self-sufficiency rate (as measured on a caloric basis) is now down to 40 percent, compared with 56 percent in 1985. The purpose of this case study is for you, the reader, to ask yourself what you would do if you were a Japanese faced with international trade negotiations that could easily result in the food self-sufficiency rate falling to 20 percent or lower. It is difficult, but to place this enigma in perspective, you might think of how you and others in your country would react considering historical issues with source countries of your imports, food security, and escalating seriousness of interruptions due to disease, crop reductions due to effects of global warming, etc. You are asked, in particular, to avoid confusing the term food self-sufficiency (meaning 100 percent or near it) with *food self-sufficiency rate* (meaning the proportion of net calories consumed that are derived from domestic production).

A Short Primer on Japanese Agriculture and Food

Japanese farming, as in most developed countries, accounts for about 2 percent of GDP. It is relatively mechanized, but rather than being large-scale, is extremely small scale (2 ha per household on average), and in many respects resembles other Asian nations. Continual agricultural restructuring is taking place, but despite Japanese government pronouncements to the contrary, and regardless how much funding the government drops into agriculture (which it can't anyway due to the massive national debt), the nation's geography, population density, and agricultural structure preclude sufficient cost reductions for it to compete in practically any agricultural commodity unless there are adequate tariffs or other trade barriers.

Only 12 percent of Japan's land is arable, compared with 19 percent in the United States and 13 percent in China. The population density is 23 persons per Ha of arable land in Japan, 0.7 in the USA and 2.3 in China. Rice accounts for about 25 percent of all Japan's agricultural output (value basis) and utilizes about 40 percent of its arable land area. There are 3.1 million farm households of which only 14 percent are full time, another 11 percent are part-time mainly engaged in farming and the rest are mainly engaged in other jobs. At least 80 percent of the 3.1 million Japanese "farm" households produce at least some rice, but only 42 percent sell it. About 55 percent of Japanese farmers are statistically considered as commercial rice producers. But in practicality the term "commercial" overstates the number for it only means they have a parcel equivalent to at least 30 X 100 meters and meet very minimal sales standards.

Per capita consumption of rice has been declining while yields have been increasing. As a result, rice surpluses are such a chronic problem that enforcement of rice production reducing policies is one of the Ministry of Agriculture's greatest headaches. The changes have been significant. For example, in 1985 there were 2.3 million ha planted to rice. By 2000 it had declined 24 percent to 1.8 million ha. Production declined 17 percent over that period to 9.5 million tons in 2000.

Production-limiting rice diversion programs (the shifting of land use to other crops) are used to counter the effects of declining production and land use but even they are not sufficient to stem loss of land from agriculture. The decline is not due to technical inability to produce enough food. Rather, it is because the cost of production and marketing in Japan is very high due to a variety of geographic, population density, climatic and agricultural system

reasons. The root cause for the falling rate is market opening concessions on beef and citrus in the 1980s, and others resulting from Uruguay Round agreements effective from 1994.

There is a lot of media hype about the importance of Japanese farmers in national politics, and how their lobby is responsible for Japan's agriculture being "protected" from the rest of the world. It is true that farmers and their organizations have fought hard to preserve Japanese agriculture. However, the 776,000 full time and part-time households that mainly are devoted to farming only constitute 1.6 percent of all Japan's households. Whatever "evil" strength they might have, their tiny proportion is certainly too small to influence politicians into "coddling" farmers regardless of how Japan's legislative representation is set up. The remainder of Japan's 3.1 million households classified as "farmers" is a diverse group, substantial proportions of which are more influenced by factors other than agriculture when they vote for their representatives. What this means is that decisions about Japan's food really lie in the hands of consumers (or more realistically in the hands of elected politicians and even more realistically in the hands of bureaucrats), and not farmers and their organizations.

Japan's Trade

Total trade

Japan's total imports have continued to grow, from \$235 billion in 1990, to \$380 billion in 2000. It has had a substantial trade surplus running from 18 to 50 percent over that period. This surplus is a continual bone of contention in trade circles for the implication is that it's only fair that Japan reduce it by opening its borders further.

The opposite side of the coin is that Japan has a huge trade deficit in agricultural products, continuously at about 95 percent. Agricultural commodities account for about 10-13 percent of all imports, and Japan is the largest importer of agricultural commodities in the world.

United States

One reason the United States is at the forefront of efforts to open Japan's markets further is the large trade deficit it has with Japan, running between 35 and 70 billion dollars, depending on the year. The U.S. is worried about the continual trade deficit, as they well might be, and rice is a target. Agricultural imports constitute 15-18 percent of Japan's total import value from the U.S. so that a logical question is the extent to which additional market opening would help mitigate this chronic problem. It turns out that if ALL of Japan's rice

were imported, and ALL from the US, it would only amount to about 5-6 percent of the total deficit. Conclusion: Rice is simply not a big-ticket item in solving U.S./Japan trade friction.

Trade negotiations are about tradeoffs. So how about cars in the trade deficit equation? The value of one exported car is about equal to the international market value of rice production by 10 farmers. So, which has a higher value to society, both domestic and international, *in the long term*? This is the kind of question that should be considered in NTCs related to agriculture.

China

The trade issue related to China is vastly more complicated than that of the U.S. largely because of its food security aspects. For one thing, there has been relatively little change in total trade between the U.S. and Japan. In contrast, total Japanese imports from China have grown from \$12 billion in 1990, to \$55 billion in 2000. Again, in contrast, China runs a net surplus, that has grown from \$6 billion in 1990 to \$25 billion in 2000.

Japan is what might be considered a “mature market” from the US perspective in agricultural trade but it has great potential for China, from which Japan’s imports have grown from \$1.9 billion to \$5.7 billion between 1990 and 2000. The proportion of food sourced from that nation is growing very rapidly, having doubled from 7 percent of all Japan’s food imports in 1990 (in U.S. dollar terms) to 14 percent in 2000. Looking at it another way, although China has industrialized quickly, and Japan’s imports of manufactured goods from it have grown dramatically, food still accounted for 10 percent of all types of Japanese imports from China in 2000.

A very few commodities, such as rice, have very high tariffs in Japan and even a moderate reduction in them would lead to a tidal wave of imports, particularly from China, which has considerable production capacity and cost advantages in vegetables, fruits and other specialized commodities—and rice (e.g. Ito, Rosegrant and Agcaoili-Sombilla, 1995; Rozell, 2003; Simpson and Li, 2001).

Japan’s imports of vegetables and fruits from China grew from \$0.5 billion in 1990, to \$2.0 billion in 2000 (Figure 1). Fresh and chilled vegetables accounted for 47 percent of all kinds of vegetable and fruit imports in 2000, up from 36 percent in 1990, a 14 percent annual rate of growth. This is a fast growing food category, and has been the major source of contention about trade between China and Japan since late 2000 because of the substantial negative impact it is having on Japanese producers. By 2000, China accounted for 44 percent of all Japan’s fresh vegetable imports, and 32 percent of all types of fruit and vegetable

imports. Twenty percent of Japan's vegetable consumption is now imported, and it can easily reach 30 percent or more in a few years.

Safety of food imported from such a large exporter is of equal importance to Japanese consumers as is dependency on a huge neighboring country. It is true that great strides have been made in improving safety standards in China, but there is still lack of ability to monitor much of the food chain. For example, widespread lack of farmer compliance with use of agricultural chemicals is a reason for serious unease among Japanese consumers.

Trade theory teaches that competitive advantage is the driving force of international trade. It is, and in most cases it is a sufficient condition for arguments on opening markets further. But Japanese have reason to believe that they could become a trade prisoner of sorts if they have an overwhelming dominance on imports of one food group from one country. This is a potentially serious regional problem given long-term animosity that still lingers toward Japan as evidenced by the fierce backlash when Japan invoked its safeguard on 3 very minor commodities (shiitake mushrooms, stone leeks and rushes for tatami mats) in April 2001. A formal closure was reached in December, but the issue has never really been resolved as WTO regulations on safeguards prohibits two countries from making an agreement on market access—as the Japanese and Chinese would like to do in order to foster good relationships. Should all of this matter in deciding on WTO trade rules? The answer by most of those who follow East Asian politics, and are concerned about stability in the region, is a resounding yes.

Welfare: Benefits—and—Costs

It is true that food prices to consumers would decline somewhat with further liberalization, as pointed out in studies on welfare benefits from expanded agricultural trade liberalization. Proponents of further Japanese agriculture market access allege that substantial market opening would lead to great welfare benefits for all Japanese. How accurate is that assertion?

Consumer Welfare Studies

An Australian study by Bull titled *Agricultural Trade Policies in Japan: The Need For Reform* released in May, 2001 contains estimates that Japan would derive \$US9 billion in direct and indirect annual welfare benefits if its food and agricultural tariffs were cut in half, and that would be enough to really help stimulate the ailing Japanese economy. But, just how

much is \$US9 billion, anyway? The answer is just \$US71 per person, only 0.2 percent of GDP per capita, and unlikely to have much net positive impact on the economy.

A May 2001 report from the United States Department of Agriculture (USDA) edited by Burfisher titled *Agriculture Policy Reform in the WTO: The Road Ahead*, revealed that if all agricultural tariffs and subsidies were eliminated (which translates to the demise of Japan's agriculture and most of its food processing industry), welfare benefits to Japan and Korea together would be \$US6.2 billion. That translates to \$US36 per person. The two studies use different approaches to the calculations. Nevertheless, they are reasonably close and most important; the "welfare" benefits are small.

Validity of Assumptions

One of the major assumptions in welfare studies is that farmers, food processors and allied businesses really have viable, rewarding alternatives for their land, labor and capital. Unfortunately, that assumption is not valid in Japan considering demographic aspects of farmers, small farm size and production practices. This is a fundamental issue since the agricultural sector includes many economic activities beyond the farm gate such as input supply, wholesaling, processing and retailing. For example, Edmondson (2001, as cited in Blandford and Boisvert, 2002b) calculates that in the United States the expanded agriculture and food sector contributed about 12 percent of national income in 1999, in addition to 17 percent of total employment. Japan is likely similar.

The deepening recession and declining land prices are other variables. It is widely accepted that high costs are a major reason Japanese manufacturing sector companies are relocating to other East Asian countries, especially China. That structural readjustment, which is a natural phenomenon in economic development, is widely expected to accelerate if tariffs on agricultural commodities are increased so that food imports increase substantially. In effect, the outcome of deliberations in this round of negotiations might be a deciding factor on whether Japan's agriculture and related industries survive or not.

So, why not just write off agriculture, simply depend on what is left of the manufacturing and services sectors, and concentrate on signing free trade agreements (FTAs)? Why not just let the 3 million small, mainly part-time farmers, and a host of food chain industries and just turn the job over to large-scale, low cost producers in the resource endowed countries as strongly argued by the Cairns Group? That leads to a question about the benefits to the exporting countries from essentially decimating Japan's agriculture. The USDA study is particularly instructive on this point. It turns out that New Zealand and

Australia would gain \$US158 per person. The United States would gain the equivalent of \$US49 per person. So, where does this really leave Japanese and their \$US36?

There is a major social issues related to Japanese farmers, as nearly half are 65 years and older, and another one fourth are 55-64 years of age. If Japan is forced to reduce its tariffs on rice substantially, half of them could easily be forced to abandon rice production. Most would be the aged, who, like their younger counterparts, realistically have very few viable alternatives for their land, equipment and labor. The national pension for aged people is low, which means they have deep concerns about how to pay taxes, health costs, and so forth. They, like farm families all over the world think about quality of life in their older age and most want to be able to continue in food production. Nowadays in Japan there is much discussion about ways in which older urban people can continue to work, and there are even ideas being projected about make-work plans by the government. Well, why not keep farmers, even part-time ones, in agriculture?

There are, of course, other benefits to Japan keeping its farming workforce beyond those espoused in multifunctional aspects of agriculture if one wishes to focus on cold, hard economics. One is tourism, another big topic as bureaucrats try to lure more foreign visitors. Japan has relatively few natural areas that lend itself to foreign tourism, and consequently much of the hype is about viewing the idyllic traditional farming villages. If a substantial amount of rice is imported the more marginal land, most of which is in the most scenic areas, will be the first to be taken out of production.

Why Not Ask Consumers What They Want?

The assumption in consumer welfare studies is mainly that consumers will be better off by being recipients of cheaper food. But how about asking them? Why not ask their views about greater market access by providing facts on benefits and costs. Take rice for example. They would get a clear view by understanding that if just 40 percent of Japan's rice were imported (compared to 5 percent today) it would mean that one million average size commercial rice-producing farm households would be forced out of business. As another way of looking at the tradeoffs, if the retail price of rice were to be cut in half due to significantly expanded imports, it would be equivalent to a savings of about \$75 per household annually. That may seem like a lot, but is only about \$0.20 per day per household, or \$0.08 per person. Is that worth one million farmers and associated industries? How many Japanese would feel comfortable under this scenario? Even absent this kind of information

simple opinion polls clearly reveal that Japanese want some basic level of domestic food production, and they would like that level to be even higher than it is at present.

Our proposals in the main text argue for use of conjoint analysis or other methods to be used to determine consumer preferences in countries requesting citizen empowerment under NTCs. We argue that such interviewees should be provided with information on costs as well as benefits, and tradeoffs from alternative decisions. The sad fact is that under the rules agreed to by Japan in the Uruguay Round, and what now constitute the core of WTO regulations about agricultural trade, Japan has no way to set some minimum level of food security from domestic production even its citizens overwhelmingly want it. This is because, while countries do have a right to pursue domestic agricultural policy objectives, and WTO cannot pass judgments on them, the WTO “box system” does restrict countries’ agricultural and trade policies based on the instruments (in effect the methods, procedures or rules) they use to achieve these objectives. The cold hard fact is that Japanese are caught in a “black box” from which there is no escape apart from rule changes in WTO law under the rubric of Non-Trade Concerns—as we have proposed.

The reality is that Japan is in a very unique situation as it is an economically developed nation, and as such is exhorted to help developing nations achieve a higher level of food security and income by opening its borders wider. The big question the international community should be asking is whether it is in national, regional and world interests to make Japanese sacrificial lambs by decimating their agriculture sector. There has never been a discussion about the extent to which Japan’s food self-sufficiency rate should be pushed down, or even if its citizens have a right to decide the level for themselves. We believe food is somehow different than other commodities, and that these topics hark back to the original concepts of economics as “political economy” rather just cost reduction as epitomized in contemporary trade theory.