

Agricultural Trade and Foreign Policy

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Introduction

U.S. policy makers have struggled to maintain balance among international food aid, the use of trade sanctions, and the resolution of trade disputes with other countries. Since the United States' trade embargo of the Soviet Union in 1980, some U.S. agricultural interests have sought to separate agricultural trade from foreign policy decisions. Specifically, one objective has been to preclude the use of U.S. food supplies as a diplomatic tool or weapon. Although the United States is the world's largest donor of international food aid, it also has used trade embargoes and sanctions for both foreign policy and economic purposes, while at the same time filing numerous trade dispute petitions with the World Trade Organization and other institutions. This paper discusses U.S. involvement in trade disputes and the use of export sanctions targeting food.

Trade Disputes

Most recent U.S. disputes in agriculture have arisen under the rules of the WTO, the provisions of

NAFTA, or under the trade laws of the United States or its NAFTA partners. While the WTO has ruled in favor of the United States in the beef hormone and banana trade disputes with the European Union, in the view of some U.S. agricultural observers neither case reached a satisfactory resolution. While the United States is receiving compensation in the form of higher import duties on EU products, many U.S. producer interests believe that the compensation granted under the rules of WTO was well below the value of the actual damage caused by lost trade. The United States has also challenged Canada's milk TRQs in the WTO, and has requested that the WTO review Mexico's duties on high fructose corn syrup (HFCS).

Three types of disputes have characterized North American agricultural trade under NAFTA. Sanitary and phytosanitary (SPS) disagreements have accounted for a large share of the trade disputes filed. Antidumping petitions also are important and have increased in frequency in recent years. Other disputes involve the interpretation of specific provisions of NAFTA.

Under national trade laws, all three countries have investigated imports of their NAFTA partners. The United States, for example, in agreement with Mexico, has imposed minimum import prices of \$.21 per pound on tomatoes from Mexico. Investigations of cattle and beef imports from both Mexico and

Canada have also been conducted, but negative determinations were made and no antidumping duties were imposed. Canada has investigated and placed duties on U.S. apples, refined sugar, and potatoes. Mexico has investigated and placed duties on U.S. hogs, beef, edible offal, apples, and wheat, and on wheat from Canada. Canada is also investigating an antidumping complaint alleging that the U.S. marketing loan program is acting as an export subsidy on corn shipments to Canada.

Future trade disputes within NAFTA are likely to occur in sugar, wheat, and corn. U.S. sugar interests have requested that molasses imports from Canada be reclassified to come under the TRQ in order to account for sugar being extracted from stuffed molasses. The United States and Mexico also are in dispute over the terms of a sugar side letter requiring U.S. sugar imports from Mexico to be increased if Mexico attains certain levels of sugar production. U.S. corn exports to Canada were recently interrupted when Canadian customs imposed a \$1.58 per bushel duty on U.S. corn, nearly doubling the price. In September 2000, the North Dakota Wheat Commission filed a Section 301 petition with the U.S. International Trade Commission (ITC) to investigate U.S. mill purchases of durum wheat from the Canadian Wheat Board.

Interpretation disputes have centered on the implementation of NAFTA provisions. In 1995, the United States failed to implement NAFTA cross-border trucking provisions that would have allowed Mexican trucks full access to U.S. border states and U.S. trucks full access to Mexican border states. Mexico requested a NAFTA review panel to resolve the issues and the panel ruled in favor of Mexico. Further, Mexico has requested that full access to the U.S. market be granted since the deadline for that provision passed on January 1, 2000 without implementation. U.S. reticence to allow Mexican trucks access to U.S. roadways has centered on whether or not Mexican trucks can meet U.S. road safety standards. Other considerations involve weight and load restrictions, liability and collision insurance, and payment of road use fees and taxes.

NAFTA dispute settlements need not rely solely upon the formal process afforded to NAFTA parties. The formal process gives member countries the right

to request and establish a dispute settlement panel; guarantees a judicial process involving written submission, counter-submission, and hearings; gives time lines for governing panel operations; and provides an agreement that no party to a dispute panel can block the adoption of a report.

Most NAFTA trade issues, however, have been resolved through informal dispute settlement processes. NAFTA partners can choose to forego the formal dispute resolution process and, instead, develop resolutions through government-to-government negotiations, private industry negotiations, and technical working group assistance. This latter venue has been especially important in resolving SPS concerns between the United States and Mexico. Industry negotiations that resolved issues related to Mexican labeling regulations and negotiations within the cattle sector prevented the imposition of antidumping duties by Mexico. Hog cholera, Newcastle disease, avocado fruit fly, and karnal bunt issues were resolved under government negotiations between the United States and Mexico. Disputes over U.S.-Canadian animal health inspection regulations also were resolved between governments.

The development of a more streamlined dispute settlement process was one of the objectives of the Uruguay Round of GATT. Many contend that the Dispute Settlement Body (DSB) created by the URA, along with its dispute settlement process, is a marked improvement over the GATT system based on consensus and the use of veto power by single member nations. Since its inception in 1995, the new DSB has settled five important SPS and other agricultural cases: the EU hormone ban, the EU banana case, the EU-Brazil market access case, and the U.S. challenge of Japan's varietal testing requirements on fresh fruit. It is almost certain that both the hormone and banana cases would have been vetoed by the EU under earlier GATT procedures, and would have not been settled. Further, more agricultural cases have been adjudicated before the URA DSB of the WTO than during any previous similar period of time (USDA Economic Research Service, 1998).

One primary result of the URA DSB is that the dispute settlement process among contracting parties of the WTO is one of litigation rather than the

consensus-based process used under the GATT prior to 1994. Major changes in the process of the DSB are: 1) the automatic formation of a dispute settlement panel; 2) panel reports can no longer be vetoed by a single WTO member; 3) adoption of the report and its findings is now automatic unless an appeal is exercised; and 4) the panel is now explicitly directed to make an objective assessment and determination in each case.

While the DSB of WTO is much faster and more decisive than the dispute resolution procedures previously available under the GATT, several issues could be addressed that might improve the agricultural dispute settlement process.

Review Calculation of Damages

In both the hormone and the banana cases, the requested damages by the United States were reduced by one-half by the DSB. This substantial reduction has raised concern among some parties that the process of damage calculation should be reviewed to determine its objectivity and the extent to which it may be subject to manipulation. A more objective, transparent process could allay these fears and lead to a more credible perception of the process.

Address Seasonality and Perishability of Products

There is little evidence that the dispute settlement processes of NAFTA or the WTO account for either the seasonality or perishability of agricultural products. A faster preliminary ruling process would result in the expeditious return to normal trade and reduce the potential for shrinkage, spoilage, or the complete loss of food products due to delay in dispute resolution. Resolution of this issue could facilitate the flow of goods across borders and result in less potential for product loss. U.S. importers' costs could be reduced because transaction fees would be lower. Prices to consumers of imported goods could also decline as product movement becomes more efficient.

Enforcement, Compliance, and Credibility

Concerns have been raised about the ability of NAFTA and the WTO to monitor and enforce decisions to ensure that countries comply with DSB rulings. Both agreements established organizations of sovereign nations bound together by mutually accepted upon rules and standards. One alternative rests with each country in maintaining its capability to ensure that judgements in its favor are under compliance. Without this, then both institutions (but especially the WTO) may revert to a system of ineffective rulings, having little or no credibility.

Export Sanctions

The use of export sanctions and their impacts on trade continues to be perceived as important to the economic well being of U.S. agriculture and remains a politically controversial issue. Trade sanctions, often imposed as part of a broader foreign policy decision, are usually implemented unilaterally by the United States, though some sanctions have been supported by other nations (Rosson, Schweikhardt, Adcock, and Tothova).

Sanctions can be implemented on a unilateral or multilateral basis and can apply to specific products or all trade. Import duties, import quotas, export taxes, sanitary and phytosanitary barriers, and other non-tariff barriers typically are not classified as trade "sanctions."

The economic costs of sanctions include direct costs associated with lost exports sales due to the prohibition of exports, and higher consumer prices due to import prohibitions against the sanctioned country. These costs may vary widely with respect to their aggregate impacts and the distribution of those impacts. In addition, some other costs that are less easily quantified may also be incurred. These may include compliance costs associated with monitoring and enforcement of any trade sanctions, damage to the sanctioning country's reputation as a reliable supplier or import market, lost opportunities for forming critical business relationships or joint

ventures, and lost competitiveness as trade opportunities are taken up by firms from other countries (U.S. International Trade Commission, p. 4-1).

The countries subject to sanctions have included North Korea (imposed in 1950), Cuba (1963), Libya (1986), Iraq (1990), Serbia-Montenegro (1992), Iran (1995), and Sudan (1997). In July 1999, the sanctions on U.S. agricultural exports to Libya, Iran, and Sudan were lifted, permitting a resumption of exports to these nations. In general, the sanctions imposed on these countries have had very small impacts on aggregate U.S. agricultural exports, but have resulted in lost markets for some commodities. In 1996, these countries imported a total \$6.3 billion of agricultural products, accounting for 1.4 percent of worldwide agricultural imports. Libya and Iran accounted for two-thirds of the total. Imports by these countries accounted for 14 percent of world rice trade, 10 percent of world wheat imports, 4.8 percent of world vegetable oil imports, 5 percent of world barley imports, and 3 percent of corn imports (Jurenas).

Sanctions on Cuba and North Korea were imposed sufficiently long ago to render data on their trade history with the United States relatively meaningless in assessing the impact of sanctions on U.S. exports. However, data on other countries do provide some insight into the impact of sanctions:

- **Iraq:** In 1989, Iraq was the ninth largest market for U.S. agricultural exports, buying \$749 million in agricultural products. At that time, Iraq was the largest single market for U.S. rice exports, purchasing \$392 million of rice (the countries of the European Union purchased a total of \$498 million in rice during that year). Iraq was also the eighth largest importer of U.S. wheat (purchasing 1 million tons valued at \$170 million) and the fifth largest market for U.S. soybean meal exports (\$71 million) in 1989.
- **Iran:** Sanctions were imposed on Iran in 1995. In 1994, Iran was the fifth largest market for U.S. rice exports (purchasing \$73 million).
- **Sudan:** Sanctions were imposed on Sudan in 1997. In 1995, Sudan was the fourth largest

market for U.S. dried lentil exports (purchasing \$1.3 million).

An important aspect of any export sanction action is that the burden of that action tends to fall disproportionately on a relatively small segment of the agricultural sector because a country's imports tend to be concentrated in a relatively small number of products. The loss to U.S. producers of rice export markets in Iran and Iraq provide a good example of the disproportionate impact that trade sanctions can impose on a segment of U.S. agricultural producers. An additional issue is the impact of sanctions on U.S. imports from the sanctioned country.

Issues

Though the imposition of sanctions is a domestic policy decision, some issues in the upcoming round of WTO negotiations could affect the future use of sanctions. Given the progress on market opening that was accomplished in the Uruguay Round Agreements, some countries have expressed concern about the impact of further liberalization on food security. Their primary concern is that, once dependent on food imports, they would then be exposed to disruptions in supply that could arise if export sanctions were imposed at some future date. Some countries that would be required to open their markets may demand some form of guarantee that exporters' capacity to impose sanctions be limited. The form that such guarantees might take is unclear, but any such provisions would have to be consistent with WTO's existing rules of compliance.

One form of compliance might permit an importing country to retaliate against an exporting country that imposes sanctions by imposing tariffs on imports of non-agricultural goods exported from the country imposing the sanctions. Such an arrangement would be comparable to existing WTO rules that permit an exporting country to impose retaliatory tariffs when another country has violated the rules governing import access. The imposition of tariffs by the U.S. on products from the European Union following the recent banana and beef decisions are

examples of the use of these rules. While feasible in those cases where export restrictions are imposed for economic reasons (e.g., exports are restricted in response to higher prices), this would be ineffective where comprehensive sanctions prevent exports of both agricultural and non-agricultural products to the target country, since the complete termination of trade between the two countries would leave the importing country with no targets for retaliatory tariffs.

The impact of sanctions on U.S. imports from the sanctioned country is also an important issue. Among the nations still facing sanctions, Cuba has the largest capacity to export agricultural products to the United States if sanctions are lifted. Sugar, tobacco, citrus fruit and products, and winter vegetables might be among the products that would be imported by the United States (U.S. International Trade Commission, pp. 3-5 to 3-7).

Policy Alternatives and Consequences

Inequitable Distribution of Burden on U.S. Producers

While the United States may prohibit exports to a particular country, those sanctions will only affect producers of those products that are traditionally exported to the targeted country. For instance, Iraq was the largest single market for U.S. rice exports. Losing this market had a significant negative impact on U.S. rice producers and has allowed other rice producing countries to increase their share of the market. One alternative is to ensure that food and other agricultural products are not adversely impacted by sanctions. This would result in more orderly marketing and less disruption to normal trade flows, and would maintain export volumes, enhance the perception of the United States as a reliable food supplier, and maintain producer prices.

Foreign Food Security

Some countries have expressed concern about the impact of further trade liberalization on food security. A primary concern of these countries is that once they become dependent on food imports, they may become exposed to disruptions in food supply that could arise as a result of export sanctions imposed at some future date. Therefore, some countries may require some form of guarantee that limits food exporters' capacity to impose sanction in return for reducing import barriers and allowing greater market access.

Retaliation by Importing Countries

A country that is the target of sanctions on non-agricultural products may retaliate by imposing tariffs on imports on goods not subject to the sanction. For example, even though the United States placed sanctions on Burma in 1997 prohibiting new investment by U.S. citizens and companies, Burma (Myanmar) could retaliate by implementing tariffs or other import restrictions on U.S. agricultural products. Retaliation against U.S. agricultural products would most likely result in some short-term impacts such as reduced demand, lower market prices, and restricted volumes of trade. Over the longer term, however, markets adjust to shocks. When other export competitors supply markets previously serviced by the United States, more demand is likely to occur in other countries. U.S. exporters and producers would be positioned to respond to these market demands. Trade volumes would increase and prices would return to more normal market levels. Over time, however, markets would adjust and there may not likely be any permanent long term adverse consequences in aggregate but individual agribusinesses and manufacturers can suffer substantial damages in the short term.

Impacts on Agricultural Imports

Some countries that are the target of U.S. trade sanctions might increase their exports to the United States if export sanctions that prevent such imports are eliminated. In such cases, the lifting of trade

sanctions could result in increased import competition for some U.S. producers. While opening U.S. markets would increase trade volumes, it is also likely that prices would decline and returns to producers would fall. Consumers, however, would benefit from lower market prices and additional product selection.

Summary

Agricultural trade and U.S. foreign policy are interrelated. U.S. export credit guarantees, sanctions policy, and trade disputes in national and international bodies all impact trade and U.S. agriculture either directly or indirectly. Global food security is of critical concern to many countries. The credibility of the dispute settlement process in WTO also has come into question as several major cases have gone in favor of the United States, but markets have not yet opened to U.S. products. Finally, U.S. trade sanctions have reduced the size of some export markets and contributed, at least partially, to lower prices and returns to U.S. producers in the near term. While some of these policies have been reversed, others have not, leading to political pressure for legislation to remove all export limitations and preclude export sanctions that single out food products in the future. In some cases, such as Cuba for example, the total removal of trade sanctions will certainly lead to more competition for some U.S. producers, while opening markets for others. These issues will surface during the debate of new U.S. farm legislation, with strong arguments being made on both sides.

References and Suggested Readings

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