

FTA 與日本農業問題

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中文摘要

本文主旨首先在釐清世界貿易組織（WTO）規則中模糊的問題，如第 24 條以及 WTO 農業協定的非貿易關切（Non Trade Concerns，縮寫為 NTCs）；其次則試圖探尋經由滿足四個條件走出當前日本農業困境的途徑，即尋求不經由 WTO 協商而由 FTA 與 EPA 協商來解決此一困境。所謂四個條件為（1）FTA 簽約國有共同的貿易利益：即在不違反 1994 年 GATT 第 24 條的情況下共同維護本國利益。而此一共同的貿易利益在 WTO 多邊協商下難以妥協，但透過 FTA 複邊協商較易達成妥協。（2）當 FTA 簽約國能經由 FTA 協商獲致共識，然後共識的內容將可擴及其他 FTA 協商。

（3）FTA 共識原則並未與 WTO 原則相衝，尤其是 GATT 第 24 條。目前 WTO 會員國有一共同的默契，即所謂 90% 關稅減讓。也就是說 FTA 會員國幾乎 90% 的貨品都取消關稅。（4）FTA 規則並未減少其他 WTO 會員國的貿易利益。

在 2001 年 12 月 WTO 部長級會議宣言中將烏拉圭回合後新一輪 WTO 協商命名為杜哈發展議程。而在此之前，WTO 農業協商即已在 2000 年 3 月開始與服務業協商同時進行實質協商。農業協商包括出口競爭、國內支持與市場開放三大領域。

農業有兩大功能，即生產農業食品與非農業產出，前者為經濟功能，後者則為非經濟功能。非農業產出又包括農村和樂 (rural amenity)、食品安全 (food safety) 與食品安保 (food security)。日本全球最大食品進口國，就卡洛里基礎來看，其食品的自給自足率達 41%。1999-2004 年期間，農業平均約佔日本 GDP 的 2%。日本與南韓、瑞士挪威等國皆屬十國集團 (Group 10, 簡稱 G10)。此一集團強調農業的多功能 (multi-functionality)。多功能涉及食品安全與食品安保，似乎與國家主權有關連性。日本現行農業政策聚焦在農業的多功能、食品安保以及進口國與出口國的公平性。

最後，作者建議日本應該與那些與本身一樣都有農業利益的國家進行協商，而且應集中在與 WTO 規則一致的 FTA。日本的農業補貼應朝更符合 WTO 規則的方向前進，即 WTO 序文與農業協定第 20 條。

FTA and Japan's Agricultural Issues

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Key words : Japan ; FTA ; WTO ; agricultural subsidy

Abstract:

The purpose of my paper is *firstly* to clear the vague issues of WTO rules, for example, Article XXIV and Non Trade Concerns (NTCs) of Agricultural Agreement in WTO, and *secondly* to find a way out of the present Japanese agricultural difficulties through fulfilling four conditions, which are possibly satisfied not through WTO negotiation, but through FTA/EPA negotiations.

Japan² should negotiate with other countries, who have the same agricultural interests as Japan, and should focus on the FTA, which is WTO rule consistent. Japan should progressively make agricultural subsidy more WTO rule-oriented based on the preamble of WTO and Article XX of Agriculture Agreement.

Introduction

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² In my paper, "Japan" means *Japanese government*.

The preamble of WTO rules

The preamble of WTO says that WTO membership countries should have the optimal use of the world's resources in accordance with the objective of sustainable development, seeking protect and preserve the environment as follows:

The *Parties* to this Agreement,

Recognizing that their relations in the field of trade and economic endeavour should be conducted with a view to raising standards of living, ensuring full employment and a large and steadily growing volume of real income and effective demand, and expanding the production and trade in goods and services, while allowing for the optimal use of the world's resources in accordance with the objective of sustainable development, seeking both to protect and preserve the environment and to enhance the means for doing so in a manner consistent with their respective needs and concerns at different levels of economic development,

The preamble of WTO agreement is apparently affected partly by the Earth Summit on those days (1992).

Agricultural negotiation under WTO

In WTO ministerial declaration on December 2001, the WTO new round after Uruguay Round was named as "Doha Development Agenda"(DDA), which means the *development* of developing countries and Least Developed Countries (LDC). At first, the negotiation had been expected to be completed by January 1st of 2005, but after that, it was extended to the end of 2006³ because of some difficulties on agricultural negotiations.

Before starting DDA in 2001, WTO Agricultural negotiations had already started substantially in March 2000 along with Service negotiations. Agricultural negotiations consist of three sectors, so-called, *export competition*, *domestic support*, and *market access*. Among these sectors, the *export competition* is the most in progress. EU promised to phase out the export subsidies. The *domestic support* is related with the domestic policies of US, EU⁴ and Japan mainly.

³ "The WTO's Agriculture Agreement was negotiated in the 1986-94 Uruguay Round and is a significant first step towards fairer competition and a less distorted sector. It includes specific commitments by WTO member governments to improve market access and reduce trade-distorting subsidies in agriculture. These commitments are being implemented over a six year period (10 years for developing countries) that began in 1995. Participants have agreed to initiate negotiations for continuing the reform process one year before the end of the implementation period, i.e. by the end of 1999. These talks have now been incorporated into the broader negotiating agenda set at the 2001 Ministerial Conference in Doha, Qatar." Cited by WTO web site(2005).

⁴ "EU agricultural ministers might agree to radical cuts in subsidies paid to the sugar producers, which is one of the most trade-distorting farm support systems in the world. The subsidy has been making Europe one of the top three sugar producers in the world, with Brazil and India. the agreement would strengthen Europe's negotiating position in international trade talks as the biggest trading nations prepare to meet in Hong-Kong in mid-December." cited from "*International Herald Tribune*"(Wed.

In WTO, subsidies in general are identified by “boxes” which are given the colors of traffic lights:

Green is “permitted”, amber (that is yellow) is “slow down, i.e. be reduced” and red is “forbidden”⁵. These developed countries are the major players in reduction of domestic subsidies in the *amber box*. For these developed countries, a number of programs eligible for *green box*⁶ status have been shown to encourage production and distort international trade for them. On the other hand, for developing countries, it might be needed to introduce new provision to take account of the realities of them.

The *market access* is related with the issues of tariff reductions. EU and G10 (including Japan, Swiss and Norway) are advocating a more flexible formula for tariffs reduction, while the US and Cairns group (including Australia, New Zealand) insist on a more radical formula.

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⁵ <www.wto.org> agriculture Negotiation:Backgrounder

⁶ According to the draft of WTO ministerial Text (26 November 2005) of Green Box,” The review and clarification commitment has not resulted in any discernible convergence on operational outcomes. There is, on the one side, a firm rejection of anything that is seen as departing from the existing disciplines while there is, on the other, an enduring sense that more could be done to review the Green Box without undermining ongoing reform. Beyond that there is, however, some tangible openness to finding appropriate ways to ensure that the Green Box is more “development friendly” i.e. better tailored to meet the realities of developing country agriculture but in a way that respects the fundamental requirement of at most minimal trade distortion.” Cited from the text.

The WTO new round had been called DDA since 2001. The related countries including EU, US, Japan had submitted proposals for agricultural negotiations. Before it, Japan had already submitted a proposal in June 1999 and a supplementary paper in November 1999. Japan's proposal on the DDA was almost the same as the proposal in 1999.

Japan is a big foods importing country, whose food self-sufficiency rate is 41% in terms of calorie base, and Japanese farming accounts for about 2% of GDP on average (1990 – 2004)⁷. As a member of G10, which include Korea, Swiss, Norway, Japan emphasizes the *multi-functionality* of agriculture. The *multi-functionality* is related with food security and food safety⁸, which seem to be linked with national sovereignty.

Japan emphasized three points : multi-functionality of agriculture, food security, and impartiality between importing and exporting countries. In particular, Japan insisted on the multi-functionality of agriculture as the following functions:

- (a) land conservation including soil erosion, landslides and flood prevention,
- (b) fostering of water resources, (c) preservation of the natural environment including management of organic waste, resolution and removal of polluted substances, air purification, and maintenance of bio-diversity and preservation of wildlife habit, (d) formation of a scenic landscape, (e) transmitting culture, (f) rural amenity, (g) maintaining and revitalizing the rural community, and (h) food security.

⁷ Only 12% of Japan's land is arable, compared with 19% in the US, and 13% in China.

⁸ Food security is related with FAO. On the other hand, Food safety is related with WHO.

The vagueness of Article XXIV of GATT1994

According to the Article XXIV of GATT1994, “*duties and other restrictive regulations of commerce (except, where necessary, those permitted under Articles XI, XII, XIII, XIV, XV and XX) are eliminated with respect to substantially all the trade between the constituent territories of the union or at least with respect to substantially all the trade in products originating in such territories.*”⁹

When WTO membership countries form a FTA consistent with WTO, they have considered the terms of “substantially all” as be just vague, because it is not clear whether all tariff of tradable goods should be abolished or not. Until recently, WTO membership countries have discussed on the vagueness of this terms. The present recognitions among WTO membership countries being converging into a tacit consensus, so-called, “90 % tariff reductions”. That is as long as FTA membership countries abolishes almost 90 % of goods in the FTA.

The FTA seems to be consistent with WTO rules, in terms of the Article XXIV of GATT 1994. This is not an agreement/regulations by multi-lateral negotiations among WTO members, but a tacit consensus among them. Until now, there are not any trade disputes caused from the “90 % tariff reductions”, that is, no appealed to WTO/DSB¹⁰ by WTO membership countries.

90% tariff reductions

“90 % tariff reduction” is not perfectly fixed, but flexibly dependant on the inside consensus of the FTA /CECA

⁹ Article XXIV Territorial Application of GATT 1994.

¹⁰ Dispute Settlement Body

membership countries of their own¹¹. For example, at June 29th 2005 of the FTA/CECA between Singapore and India, Singapore promised to abolish all import tariffs on goods from India at the same day of 2005. On the other hand, India promised to abolish or reduce the import tariff of about 75% goods from Singapore by 2009.

From above, it is clear that, when WTO membership countries have some vague and complicated issues among themselves, they might be able to go together into the same goal, through FTA/CECA or EPA, for their national interests, on the conditions of so sharing their domestic interests as not to violate Article 24th of GATT 1994.

When some vague trade-issues seem to be difficult to settle through WTO multilateral- negotiations, it is desirable to be settled by the plurilateral- negotiations of FTA/CECA or EPA, provided that the following *four conditions* are satisfied.

Firstly, among FTA membership countries, they are common trade interests, which are difficult to reconciled through WTO multilateral- negotiation, but easy to reconcile through FTA plurilateral-negotiations.

Secondly, when the FTA membership countries could get consensus through their own FTA negotiations, then the contents of consensus tend to spread out into other FTAs negotiations.

Thirdly, the FTA rules by consensus are not in conflict with WTO principles, particularly Article XXIV of GATT 1994. For example, if Japan-Korea FTA could succeed in having consensus of

¹¹ :CECA :Comprehensive Economic Cooperation Agreement.

agricultural subsidy, which are consistent with WTO rules, then the FTA's idea/policy might be spread out into other FTAs.

Fourthly, the FTA rules like *agricultural subsidy* by some WTO members, do not decrease the trade interests of all the other WTO membership countries.

As long as the above four conditions are satisfied, the FTA formation might break the deadlock of any WTO negotiations among all WTO membership countries. Based on these four conditions, I would like to clear that the issues of "non-trade concerns"(NTCs), which have been obscured among WTO negotiations.

The vagueness of Non Trade Concerns

Agriculture has two functions: producing *agricultural foods* and *non-agricultural outputs*. The former is called as an economical function and the latter is as a non-economical function. And latter's outputs include rural amenity, food safety, and food security¹².

¹² Rural amenity and food safety are related with economic externality except for food security.

On food security and NTCs, Japanese government insist on three points as follows:

First, on food security, which is one of the most fundamental objectives of each government's agricultural policy to ensure a sufficient food supply for its population.

Second, food security should be ensured through the optimum combination of domestic production, importation and stockholding. The cost of food security should be at its lowest, taking into account the elements of risk, as well as external effects and characteristics of public goods of food security. In other words, a country may solely rely on either importation or domestic production to achieve food security. And each country has a right to pursue this optimum combination in order to ensure its food security.

Third, when examining the cost-efficiency of domestic production, we must duly take into account the multifunctional characteristics of agriculture.

The meaning of the non-economical function is very similar to NTCs which is specifically in the preamble and Article XX of Agricultural Agreement.

According to the preamble of Agricultural Agreement of WTO, the membership countries should have regard to non-trade concerns(NTCs), including food security and the need to protect the environment.¹³But it is not enough for definition of NTCs. For example, EU includes animal welfare into NTCs. India insists that food security should be included into NTCs. Some developing countries insist the rural employment as NTCs. As each WTO membership country insists differentially on the definition and contents of NTCs, it is difficult to make a consensus under the WTO Agriculture negotiations(see Table-1).

On the other hand, many countries including Japan, Korea and EU recognize that the consideration of NTCs is directly good for preserving of global environment.

Agriculture, beyond its primary function of producing food, is essential to food security, to social and economic development, to employment, the maintenance of the countryside and the conservation of land and natural resources, and also helps sustain rural life and land.

These characteristics, manifested jointly with agricultural production activities, can be more correctly analyzed as economic externalities and public goods. Thus it is clear that the market mechanism alone cannot lead to an optimum solution. Reference from *WTO* "G/AG/NG/W/36" *Non-Trade Concerns*.

¹³ In the preamble of **AGREEMENT ON AGRICULTURE**, we see "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, and taking into account the possible negative effects of the implementation of the reform programme on least-developed and net food-importing developing countries;"

Table-1 NTCs for WTO membership countries

	Japan	Korea	EU	India	Ireland	Fiji	Mon-golia	Indonesia
Food security	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Environment	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Food safety	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Landscape	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Animal welfare	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Biological diversity	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rural development	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rural employment	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Poverty reduction	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

(Notes): Fiji means “The Republic of Fiji Islands”.

NTC and Multi-functionality

The issues of harmonizing considerations for non-trade concerns (NTCs) with agricultural trade liberalization has been intensely discussed for the past decade. The NTCs remains as one of the most controversial issues in the ongoing agriculture negotiations in the World Trade Organization (WTO). The main issues are in Agricultural negotiation with “market access”, “domestic support”, and “export subsidies”. As there are some complex interests around these three sectors, it seems to be impossible to reach consensus among all WTO

membership countries by developed countries, developing countries and least developed countries(LDCs).

FTA for Japan and Korea

1) multi-functionality for both countries

Japan and Korea have been negotiating about FTA since December 2004. Both countries have been the same member of G 10, so called “friends of multi-functionality” They advocate that an agriculture has not only **an economic function** which produce commodity(foods) outputs, but also an **non-economic functions** which produces non-commodity outputs, so-called. “economic externality”. On the other hand, the Cairns Group¹⁴ has just an opposite stance against the friends of multi-functionality. They insist that, the agriculture trade shall be free trade-oriented based on a free trade market as the same as industrial sectors.

2) FTA and Organic Agriculture

Recently, in the world, among the consumers of the same income countries as Japan, the “food safety” or “preservation of environment” has a priority over the price or convenience of agricultural foods.

Organic agriculture are not only for food safety-oriented consumer, but also for environmental reservation-oriented and for global environment. if “subsidy for organic agriculture” is

¹⁴ <http://www.cairnsgroup.org/index.html>

approved as a Japan-Korea FTA rule consistent, then, it might be spread out among other FTAs, and finally all WTO membership countries might be able to recognize that these agricultural subsidy might be reasonable for the present WTO negotiations. This process might be similar to “90% tariff reduction” of Article XXIV of GATT 1994. And these agricultural subsidies might be approved substantially as a WTO rule-oriented measure¹⁵

3) Organic subsidy¹⁶

The subsidy like above type is essential for farmers to produce organic foods under these expanding standards or regulations for organic agriculture¹⁷.

¹⁵ Japan has designated rice, wheat and four other products as politically **sensitive farm items** that it believes must be protected with high tariffs, in unofficial bilateral talks under the World Trade Organization, government sources said Monday. The four other items are dairy products including butter and powdered skim milk, starch, sugar and barley, the sources told Kyodo News.

¹⁶ **ANNEX 5** “SPECIAL TREATMENT WITH RESPECT TO PARAGRAPH 2 OF ARTICLE 4” (*Section A, article 1.*) says that, “The provisions of paragraph 2 of Article 4 shall not apply with effect from the entry into force of the WTO Agreement to any primary agricultural product and its worked and/or prepared products (“designated products”) in respect of which the following conditions are complied with (hereinafter referred to as “special treatment”):.....(d) such products are designated with the symbol “ST-Annex 5” in Section I-B of Part I of a Member’s Schedule annexed to the Marrakesh Protocol, as being subject to special treatment reflecting factors of non-trade concerns, such as food security and environmental protection;.....”

¹⁷ **ANNEX 2** “DOMESTIC SUPPORT: THE BASIS FOR EXEMPTION FROM THE REDUCTION COMMITMENTS” says that, “Domestic support measures for which exemption from the reduction commitments is claimed

Until recently, Japan has been protecting domestic agricultural sectors from importing by mainly import tariffs, not by domestic subsidy.

Japanese government hesitate d to introduce those subsidy for organic agriculture because of the lack of national consensus and the possibility of trade distortions by the subsidy, which might increase output of agricultural foods, except for export.

The production effects of organic subsidy must be very small in terms of domestic total agriculture foods (organic & non-organic) productions. Even if the production effects had been positive, then the increasing of production of organic agriculture foods should be the same as the reduction of the non-organic agriculture foods. Therefore Japanese of organic and non-domestic production in total, might be the same as usual.

Therefore, even if Japan and Korea form a FTA including an organic subsidy, this agricultural trade with other countries might be not effected. In addition, organic subsidy is consistent for the purpose of WTO, which is called as “sustainable development” on the preamble of WTO agreements , as seem above.

shall meet the fundamental requirement that they have no, or at most minimal, trade-distorting effects or effects on production. Accordingly, all measures for which exemption is claimed shall conform to the following basic criteria:.....

Already, the local governments of Japan and Korea have been planning to pay some direct payment to farmers who have organic farming for preservation of the local environment. In Japan, since 2000, in addition to introduce direct payment for unconditional hill-land farmers, environmental direct payment has been introduced as a tentative measures in some local governments.

According to the experience of the Japanese local governments, the local consumers prefer organic crops rather than non-organic foods. So, if the direct payment increased the outputs of organic crops ,and lead to total increasing of the items ,which are composed of organic and no-organic crops, then the payment is likely to be inconsistent to WTO rules. EU had reported to WTO that the direct payment for organic agriculture farming should be consistent with WTO rules, specifically with Agricultural Agreement.

Conclusions

Organic agricultural subsidy of Japan-Korea FTA is a breakthrough against confrontation among WTO countries, which have been arguing over the meaning of non-trade concerns(NTCs).

If the similar FTA , which include organic agricultural subsidy consistent with WTO rules, is becoming extended, then other WTO membership countries should consider of forming the same type of FTA as the Japan-Korea FTA.

Anyway when WTO membership countries come up against some issues of trade measures, which is obscured in terms of WTO rules and under discussion among WTO negotiations, then those issues might be put in order by FTA negotiations.