The objective of this paper is to examine the WTO’s record on food safety and quality issues in order to ascertain its strengths and weaknesses, particularly with respect to the primary objective of the Doha Agenda, which is helping developing countries. The paper begins by examining the performance of the SPS Agreement to date in reducing barriers to trade and mitigating disputes. Next, the challenges ahead for the global trading system arising from two trends in the international food system are considered: First, the rapidly evolving regulation of food safety, animal, and plant health in developed countries. Second, the rapid growth of non-traditional agricultural exports from less developed countries to developed countries, particularly of fresh and minimally processed products. The last item considered in this paper is the potential for the current negotiating proposal regarding changes to the SPS under the Doha Agenda to mitigate barriers to trade.

Despite the intent in the Uruguay Round to provide a durable multilateral framework to discipline the use of food safety and quality regulations, proposals submitted by countries both leading up to and following the Doha Ministerial Conference in November 2001 indicate that a remarkable divergence of views has emerged about this framework since the conclusion of the last trade talks. Developing country proposals signal frustration with the increasingly exigent standards faced by their exports, the new obligations to justify their own regulatory regimes, or both. Their concern is that without more progress on meeting these challenges, their participation in international trade will be further marginalized, regardless of the progress made in reducing other trade barriers in the Doha Round. The proposal of some developed countries, however, would likely increase the challenges faced by developing countries.

The Doha Declaration calls for negotiations on issues directly and indirectly related to food regulation in a number of different venues. Some negotiations were concluded at the Ministerial Conference itself, where countries agreed to initiatives related to implementation of the SPS and TBT Agreements to further the integration of developing countries into the global food system. While no country has formally proposed re-opening these agreements, the WTO will be immersed in issues during the Doha round such as “non-trade concerns” of food safety, labeling, animal welfare and environmental agreement, to name but a few. These issues will further define the principles for global food regulatory governance.

The authors examine the performance of the agreement with respect to each of its major principles: Transparency, Scientific Risk Assessment, Equivalence, and Harmonization. They find that the SPS agreement has facilitated trade through increased transparency and application of scientific risk assessment to SPS measures. Many disputes have been resolved, but disagreements remain regarding the role of science, precaution, and “other legitimate factors” in setting standards. These disagreements set the stage for continued disputes among developed countries. Little progress has been made in the areas of equivalency or harmonization, both of which would likely facilitate trade from less developed countries.

The dynamic nature of food trade, evolving consumer demands, the identification and understanding of new hazards, and differences in regulatory approach and capacity provide potential for new and continued disputes over differing food safety standards. Perhaps most challenging for the future is the growing number of process standards and the continued differences regarding the role of science in regulatory decision making. These two trends converge in the issue of GMOs, which may be particularly problematic for resolution in the WTO. The developing countries will be adversely affected by a lack of agreement among developed countries about these issues, as they will face varying standards in different markets and may not have the capacity to segregate production.

Much progress has been made since 1995 on the successful resolution of SPS issues, particularly those arising from new hazards or standards. The SPS Agreement is in many ways a remarkable achievement, but it may or may not be adequate to address challenges arising from the current regulatory and trade environment. The GMO controversy promises to provide a major new challenge to the global trading system, because it challenges several principles that are not yet well-defined, such as the potential role of precaution or consumer perceptions in setting standards. At the same time, the substantial costs facing some LDCs in meeting SPS standards in high income markets reduces their potential gains from trade. Accommodating these two challenges will require both compromise as well as clarity regarding the longer run benefits from a more open global market for food.