

**REFERENCE GUIDE FOR URUGUAY ROUND AND FUTURE MULTILATERAL  
TRADE NEGOTIATIONS ON AGRICULTURE**

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# **REFERENCE GUIDE FOR URUGUAY ROUND AND FUTURE MULTILATERAL TRADE NEGOTIATIONS ON AGRICULTURE**

## **INTRODUCTION**

The Uruguay Round Agreement on Agriculture provides for the continuation of the reform process in agriculture in Article 20 which states *inter alia* that members agree that negotiations for continuing the process will be initiated one year before the end of the implementation period, i.e. before 31 December 1999. In fact, the World Trade Organization's Third Ministerial Conference, scheduled to be held 30 November to 3 December 1999, in Seattle, Washington will launch the next round of multilateral trade negotiations due to start early in 2000.

Since the conclusion of the Uruguay Round (UR) FAO has undertaken a number of technical assistance activities including regional workshops and national training seminars related to the impact of the UR and the need for follow-up action. Bearing in mind that the new round is due to commence the FAO Secretariat has initiated an "Umbrella Programme for Training on Uruguay Round and Future Multilateral Trade Negotiations on Agriculture" which has so far involved the preparation of training modules examining the implications of the UR to date and indicating issues which may be likely to arise in the course of the "Millennium Round", particularly of concern to developing countries.

There are currently 13 modules covering most aspects relevant to the negotiations in agriculture. Three in particular, dealing with "Continuing the Reform Process in Agriculture: Article 20 Issues", with "Special and Differential Treatment" and with "Tariff Rate Quotas" are reproduced in full. These provide a broad overall view of major issues and summarize certain provisions which it is hoped will assist developing countries in identifying particular issues which may be most appropriate for special attention. For the other ten modules selected extracts are reproduced which highlight significant points of relevance to the forthcoming negotiations.

Copies of individual or of the full set of modules prepared to date may be obtained directly by contacting the Office of the Director, Commodities and Trade Division (ESC), FAO, Rome.

Finally, a glossary of most frequently used acronyms is included as well as an annex of tariff rates for sugar and Uruguay Round commitments in selected ACP countries.

## **Box 1. The basic principles of the GATT<sup>1/</sup>**

### **Most-Favoured-Nation (MFN) Treatment**

This is the fundamental principle of the GATT and it is not a coincidence that it appears in Article 1 of the GATT 1947. It states that each contracting party to the GATT is required to provide to all other contracting parties with the same conditions of trade as the most favourable terms it extends to any one of them, i.e., each contracting party is required to treat all contracting parties in the same way that it treats its "most-favoured-nation".

### **Reciprocity**

GATT advocates the principle of "rights" and "obligations". Each contracting party has a right, e.g. access to markets of other trading partners on a MFN basis, but also an obligation to reciprocate with trade concessions on a MFN basis. In a way, this is closely associated with the MFN principle.

### **Transparency**

Fundamental to a transparent system of trade is the need to harmonize the system of import protection, so that barriers to trade can then be reduced through the process of negotiations. The GATT therefore limited the use of quotas, except in some specific sectors as agriculture, and advocated import regimes that are based on a "tariff-only" regime. In addition, the GATT, and now the WTO, required many notifications from contracting parties on the agricultural and trade policies so that these can be examined by other parties for ensuring that these policies are GATT/WTO-compatible.

### **Tariff binding and reduction**

When GATT was established, tariffs were the main form of trade protection, and negotiations in the early years focused primarily upon tariff binding and reduction. The text of the 1947 GATT lays out the obligations of the contracting parties in this regard.

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<sup>1/</sup>Extracted from Training Module I-5: Agriculture in the GATT: a historical account

## CONTINUING THE REFORM PROCESS IN AGRICULTURE: ARTICLE 20 ISSUES<sup>1/</sup>

### PURPOSE

The objective of this module is to introduce Article 20 of the Agriculture Agreement and to discuss the various points made in that article for preparing for next round of negotiations on agriculture. It also explains how developing countries can prepare better and participate more effectively in the next round.

### WHAT YOU WILL LEARN

- Main elements of Article 20
- Why future negotiations on agriculture?
- Preparations envisaged under Article 20
- Technical assistance needs of the developing countries for participating effectively in the future negotiations

### STRUCTURE

- 1 *Introduction*
- 2 *Article 20*
- 3 *Why Future Negotiations on Agriculture?*
- 4 *Preparations Envisaged under Article 20*
- 5 *An Approach to Successful Reform*

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<sup>1/</sup> Training Module II-8

## 1 INTRODUCTION

The Uruguay Round Agreement on Agriculture provides for the continuation of the reform process in agriculture in Article 20. This article bears analysis in detail because it sets the framework for future multilateral negotiations on agriculture at the WTO. This module first discusses Article 20 itself before going on to deal with the question as to why we expect further negotiations on agriculture. Finally, there are sections on the preparations needed by countries in connection with future negotiations, and an outline of what is required for successful reform.

## 2 ARTICLE 20

Article 20 states,

*"Recognizing that the long-term objective of substantial progressive reductions in support and protection resulting in fundamental reform is an ongoing process, Members agree that negotiations for continuing the process will be initiated one year before the end of the implementation period, taking into account:*

- (a) the experience to that date from implementing the reduction commitments;*
- (b) the effects of the reduction commitments on world trade in agriculture;*
- (c) non-trade concerns, special and differential treatment to developing country Members, and the objective to establish a fair and market-oriented agricultural trading system, and the other objectives and concerns mentioned in the preamble to this Agreement; and*
- (d) what further commitments are necessary to achieve the above mentioned long-term objectives."*

Taking this text section by section we see first of all the preambular part notes that countries agree to carry on their efforts that were begun in the Uruguay Round in order to meet the long-term objective of "substantial progressive reductions in support and protection resulting in fundamental reform". All the terms of this objective are strong: "substantial reductions" and "fundamental reforms". While the objective remains the basic message, it is qualified by what follows below in (a) to (c). The next preambular phrase refers to the date of fresh negotiations. They will be initiated one year before the end of the implementation period...". This is defined in Article 1(f) to mean, "the six year period commencing in 1995". The year before the end of the implementation period is therefore 1999.

Now the points (a) to (d) are considerations that have to be taken into account in the "1999" negotiations. (a) is discussed in Section 8.4.1 below and (b) in Section 8.4.2. Article 20 (c) is of great significance and is rather complex. The "non-trade concerns" are referred to in the sixth paragraph of the Preamble to the Agreement on Agriculture (AoA), where non-trade concerns are noted to be "including food security and the need to protect the environment". These are discussed in 8.4.3 below. The "special and differential treatment to developing countries" of 20(c) is also referred to in the same sixth paragraph of the Preamble where it says special and differential treatment for developing countries, "is an integral element of the

negotiations". This is discussed in 8.4.4 below. Finally, paragraph 20(c) goes on to refer to the "other objectives and concerns mentioned in the preamble to this Agreement". This could include a number of points depending on which ones countries wish to emphasize. Thus, the second paragraph of the Preamble refers to "the objective to establish a fair and market oriented agricultural trading system". The fifth paragraph of the Preamble spells out how to take into account the particular needs and conditions of developing countries and the "possible negative effects of the implementation of the reform programme on least developed and net food importing developing countries".

One final consideration is that, although Article 20 sets out a rather long list of issues and objectives for the negotiations, it is not an exclusive list. The probability is that other matters will also be negotiated, which are not explicitly mentioned. So, before examining in depth the various considerations and issues discussed above, it is well to turn to some of the deeper questions of why countries feel they need to negotiate.

### **3 WHY FURTHER NEGOTIATIONS ON AGRICULTURE?**

The initiation of talks in "1999" does not by itself mean that serious reforms will be immediately negotiated - these could be simply the beginning of a process that could last years. Nor is it clear that there will be a "round" or not. A negotiating round implies an agenda and a timetable, whereas negotiations within the existing agreements of the WTO (e.g. Article 20) could cover several matters without involving a full round. Another consideration is whether, if there is a round, it would only cover "mandatory" subjects like agriculture, services and parts of intellectual property<sup>2/</sup>, or whether it would be extended to other sectors like all goods or new areas like competition policy.

Even if we shall not know the answers to these questions for a while yet, there is some point in examining what could encourage countries to negotiate on agriculture. For this it is useful to consider the position of different groups of countries on (i) the main legal reasons for being interested in negotiations and, (ii) the main substantive reasons for further negotiations.

The main legal reasons are that certain articles in the Agreement on Agriculture will require negotiations of some sort before too long. These are Article 20, Article 5.9, Article 13 and Annex 5.5 and 5.8 - 5.10. Taking these one at a time, there will be much more to be said about Article 20 below but, for the time being, it is clear that countries, in signing the Agreement on Agriculture, have bound themselves to a continuation of the reform process which has as its long-term objective, "substantial progressive reductions in support and protection resulting in fundamental reform", and that negotiations on this process should start next year and take into account a number of factors (on which more later). This text reflects the views of members of the WTO although they can clearly differ on such questions as to what is the "long term, how great is "substantial", and how much care is exercised in "taking into account a number of factors".

Turning to Article 5.9, which concerns the special safeguard provisions, this Article "shall remain in force for the duration of the reform process as determined under Article 20". This

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<sup>2/</sup> Article 20 of the Agreement on Agriculture; Article XIX of the General Agreement on Trade in Services and Article 27.3 of the Agreement on Trade Related Aspects of Intellectual Property Rights.

could be seen to mean that the SSG remains in force during the negotiations even if the latter are very protracted. Whether this would be terminated or extended would be decided during the negotiations of Article 20. Swinbank<sup>3/</sup> has argued that the SSG, “would lapse if the reform process provided for in Article 20 should falter”.

The most important Article that requires negotiation is Article 13 - the Peace Clause. This only lasts during the implementation period presumably until 2003/4. This clause is of considerable importance as it stops members from bringing challenges against export subsidies<sup>4/</sup>; Green Box <sup>5/</sup>; and Blue Box and *de minimis* payments<sup>6/</sup>. In other words, after this period<sup>7/</sup>, most of the subsidies that are allowable in the Agreement could become subject to challenge in the Disputes Settlement Mechanisms of the WTO if a member can show injury. This would surely be the reason why countries relying on the use of subsidies would have a strong interest in negotiating an extension of Article 13. On the other hand, countries that may be harmed by such subsidies would have a strong interest in insisting a termination of Article 13. This, therefore, provides a big subject for negotiation.

Annex 5 of the Agreement on Agriculture allows a few countries, notably Japan and the Republic of Korea, to avoid tariffication by offering higher market access commitments than otherwise. If these countries wish to extend this special derogation beyond the end of the implementation period this would need to be negotiated. However, it seems that Japan is now committed to tariffication of its border measures on rice so this particular concern is likely to be less important in the future.

Thus, as far as the legal requirements are concerned, a large number of countries have some interest in undertaking negotiations on agriculture, irrespective of negotiations on other sectors. This applies to most of the major countries where protection is still quite high. Two other groups of countries may be mentioned here. The Cairns Group has already made it plain that they wish negotiations to take place to further the reform process. On the other hand, a number of developing countries have argued in favour of completing the existing commitments before embarking on further negotiations (more on this below).

Turning to the substantive reasons for undertaking further negotiations, these can basically be said to relate to problems with the working of the existing agreement and the desire, or lack of it, for further trade liberalization.

First, there have been a number of problems, widely discussed, in the implementation of the existing agreement. These concern mainly the administration of the tariff quota system, export subsidy reductions, domestic support, the question of export credits, state trading and the Ministerial Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries. These subjects and, no doubt, others are virtually bound to arise as it is the “experience ... from implementing the reduction commitments” that members will have to review in

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<sup>3/</sup> See Swinbank (1998).

<sup>4/</sup> Under GATT Articles VI and XVI and the Subsidies Agreement (Part III and Articles 3, 5 and 6).

<sup>5/</sup> Articles II, VI, XVI and the Subsidies Agreement (part III and Part V).

<sup>6/</sup> Under GATT Articles II, VI and XVI and the subsidies Agreement (Part V and Articles 5 and 6).

<sup>7/</sup> Its status is not clear in the interim, i.e. during the negotiations (between 2004 and beginning of a new implementation period).

undertaking Article 20 negotiations. See also Section 8.4 below. It is, however, to be noted that a wide range of countries have interests in these questions - both importing and exporting countries. Several of these issues have figured in the Analysis and Information Exchange Process that is going on under the aegis of the WTO Committee on Agriculture.

Secondly, many countries have vital interests in expanding their agricultural exports, through further trade liberalization. Protection of agriculture remains very high in many countries, with all the attendant costs to governments and consumers; and as governmental budgeting disciplines are everywhere tightening up, it is likely that there will increasingly be voices urging reductions in farm support.

All in all, there are plenty of reasons to expect negotiations on agriculture to be undertaken seriously in the next few years and therefore it is important to explore the steps needed by countries to prepare for such negotiations. This will be the major focus of the rest of this paper.

## **4 PREPARATIONS ENVISAGED UNDER ARTICLE 20**

The UR Agricultural Agreement recognizes that to reach the long term objective of substantial and progressive reductions on agricultural support and protection there is a need to continue negotiations, taking into account: (a) the experience from implementing the reduction commitments; (b) the effects of the reduction commitments on world trade in agriculture; (c) non-trade concerns, special and differential treatment to developing country Members, and the objective to establish a fair and market-oriented agricultural trading system, and the other objectives and concerns mentioned in the preamble to the Agreement; and what further commitments are necessary to achieve the above mentioned long-term objectives.

### **4.1 Experience with the Implementation of the UR Reduction Commitments**

This presumably means that each member of the WTO should assess the implications for itself of the implementation of its commitments, as well as those of other members. Some of the difficulties faced have been due to country specific shortages of trained personnel but others would be due to inherent difficulties in adapting the particular agricultural policy system to the new rules. In FAO's experience with assisting member countries adjust to the UR, difficulties have often been faced in calculating aggregate protection measures and implicit subsidies/taxes derived from non-price measures, as needed for notification to the WTO. Common implementation difficulties experienced include calculating the Aggregate Measurement of Support, sector by sector; calculating effective protection, i.e., taking into account dis-protection to the output of one good by protection of its inputs; and calculating export subsidies resulting from special marketing arrangements.

The other implementation issue that each country should review is its experience with how other countries have managed their own implementation strategies. Countries can draw upon the reviews undertaken in the WTO Committee on Agriculture and/or examine the notifications posted by members of the WTO. The Committee on Agriculture has looked in particular into market access issues such as tariff-rate quota regimes, questions related to "green box", AMS calculations and export subsidy reductions. Basically it is to the interest of each country to review the policies of its major trading partners, i.e. what policies, what



market access conditions and what export subsidies affect its interests. The trader's experience with the working of UR policy reforms in other countries needs to be tapped so that negotiators can press for changes in schedules of tariffs of trading partners and/or define clearly when trading policies of other countries are harming the domestic agricultural sector.

#### **4.2 Effects of the UR Reduction Commitments on World Trade in Agriculture**

It must be understood that the very nature of this assessment is difficult to undertake because it is not clear what the situation would have been without the UR. It is particularly difficult to single out the net effect of the UR commitments vis-à-vis several other important developments that have impacted on world trade such as the currency adjustments and the financial crisis in East Asia. However, international agencies including FAO, UNCTAD, World Bank and OECD, as well as some national agencies, provide background analysis on such trends, even if they initially involve a lot of judgement. The types of information that can be sought concern: (i) changes in world markets for agricultural commodities; and (ii) changes in the individual country's trade performance.

Regarding changes in world agricultural markets, two types of information can be assembled. One refers to the effect on price stability, and the other on its level. First, there are numerous studies put out by FAO and other organizations on the estimated impact of the UR on agricultural markets. These suggest that prices of temperate zone products on world markets would tend to be higher than otherwise due to the UR, but the extent of the increase would be small. The effect on world price variability is unsure but an FAO Expert Consultation on Price Instability found that, in the next few years, until the effects of reform work their way through the system, world prices of cereals would remain unstable. Similar work has not been done for other commodities but the presumption is that similar arguments would hold for livestock products but less so for the more tropical products. Another way that international market effects of the UR can be judged is by examining the level of trade, prices, stocks, etc., before and after the UR, e.g., comparing the trends (based on data before 1995) with the actual levels after 1995 to see whether there was any evidence of a change in trends. The trouble with this approach is that it does not distinguish UR related changes from others but at least it has the virtue of being measurable.

This task was recently undertaken and discussed at FAO's Committee on Commodity Problems. The paper is annexed to this note and could be the subject of an in-depth analysis itself.

Regarding individual country trade performances, each country should have at hand the relevant data to distinguish between changes in trade flows due to internal factors (say due to weather-related production variations), and due to external factors such as a more competitive trading environment. Again, it would be appropriate to compare recent data on such as area under food crops, and the evolution of domestic prices vis-à-vis world prices since 1995 with previous trends. The private sector should also be asked to provide inputs to this review so that the specific improvements and emerging problems can be identified.

#### **4.3 Non-Trade Concerns**

Article 20 also refers to the need to take into account "non-trade concerns" which are elsewhere (in the preamble to the UR) defined to include food security and the need to protect the environment. While neither "food security" nor "environment" are explicitly defined in

the various agreements signed at Marrakech, countries should be prepared to discuss these matters in future negotiations.

Food security involves access to food, the adequate supply of food and stability in its supply. Access to food involves both physical and economic accesses. Physical access means that food is actually available to consumers, e.g., there are no impediments, legal or otherwise, to acquiring food. Economic access means that consumers have the resources - income, capital or credit - to purchase food. Food importing countries should certainly examine whether their recent experience has helped them with their access to food. Has there been any problem related to the trade reforms under the AoA, or due to other factors? Have their overall export earnings kept pace with their food import bills? Have existing facilities and credit arrangements been adequate to ensure that they would import adequate volume of food?

Food security also involves the stability of food supplies and countries may wish in this context to review the stability of food import prices and whether, in periods of particularly high prices such as 1995/96, they were able to maintain the required volume of food imports. They should review whether the trade safeguards open for this contingency are adequate. Related to this also, is that those countries classified as Least Developed and Net Food-Importing Developing Countries would also no doubt wish to review their experience with the *Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries*, which was meant to assist them if the reform process led to any adverse consequences on their ability to import food.

Finally, food security involves an adequate supply of food. In this connection, countries should examine whether food production has been assisted by the experience to-date with the UR or whether their commitments represent undue restraints. Is there adequate flexibility to support domestic producers?

In examining the possible relation of the reform process to food security, it should be recalled that the existing set of UR-compatible policies are perceived to give countries adequate opportunities to sustain their agricultural production by a judicious mix of tariffs, input subsidies and "green box" support, but that their domestic food consumption policies to ensure adequate nutrition to the poor is often constrained by a lack of resources. At the same time, price instability can be alleviated by a suitable mix of safeguards at the frontier and risk reducing financial mechanisms. A review of how these provisions have been used in practice and what has been the most effective response to the problems so far would help in this. Perhaps the key to an improved food security-trade linkage is through the generation of higher incomes by way of improved access for the export market, and in particular whether the products thereby assisted had a favourable effect on the incomes of the poor.

Finally, the inclusion of environmental concerns in Article 20 is foreshadowed by the establishment in the WTO of the Committee on Trade and Environment with its mandate to look into a wide variety of environment and trade linkages. Moreover, the SPS agreement addresses issues of food standards and the scope of measures to protect human health. As these matters are being covered in depth by these bodies, the main point to stress in this paper is for Ministries of Agriculture to keep abreast of developments there and be aware of how any eventual proposals would affect agriculture. The main areas of possible relevance for agriculture would be in the eventual expansion of the General Exceptions provision of the GATT 1994 (Article XX) to cover explicitly environment or more generally moves that

would justify restrictions on trade in agricultural products on environmental grounds while meeting the essential needs of protecting the environment.

#### **4.4 Special and Differential Treatment**

Other general concerns refer mainly to the need to take the special and differential treatment (S & D) of the developing countries into account. In the AoA there were several ways in which S & D treatment was addressed. They included smaller cuts and longer periods of adjustment (for implementation); the chance to offer tariff bindings rather than cut tariffs; special assistance under the *Decision* with food imports; technical assistance under the SPS agreement; and a special provision for the least developed countries<sup>8/</sup>. For the next negotiations, developing countries need to evaluate their experience with the S & D treatment and look into new S & D treatment areas such as improved safeguards (the Special Safeguards Clause benefits very few developing countries), the special issue of preferences (the value of which is eroded by multilateral trade liberalization), or deeper cuts in import tariffs of products of particular interest to this group of countries. Each of these issues will need careful preparation, including estimates of the costs and benefits to different groups of countries of the alternatives.

### **5 AN APPROACH TO SUCCESSFUL REFORM**

Most developing countries, especially the least-developed, have neither the capacity nor the resources to face all the challenges or take full advantage of the opportunities flowing from the UR while also preparing for the next round of multilateral trade negotiations. Recognizing this, the World Food Summit Plan of Action calls on FAO and other organizations to continue assisting developing countries in preparing for future multilateral trade negotiations so that they become “well informed” and equal partners in the negotiating process, thus enabling them to benefit fully from their participation and not be disadvantaged.

The most frequent problems confronted by developing countries in their efforts to keep pace with their MTN commitments and negotiations include:

- *the inadequate administrative/legal capacity* to meet the requirements of WTO membership, including preparation of notifications, defending interests of national agriculture in the WTO, assessing the impact on agriculture of policy changes agreed upon at WTO, and developing systems of plant varietal protection, as requested by the TRIPS agreement;
- *the insufficient national policy formulation capacity* in agricultural, forestry, and fisheries sectors and the inadequate analytical capacity to assess the impact of policy changes being proposed at WTO;
- *the limited scientific, administrative and infrastructure capability* to deal with food standards, plant and animal health inspection services and quality assurance requirements of developing countries' imports; and

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<sup>8/</sup> See WTO Secretariat (1999) and Module II-7 on “Special and Differential Treatment”

- *the lack of plant variety protection* and the necessity to rapidly develop such protection, by patents or *sui generis* legislation, or a mixture of both, by all WTO members, including developing countries with no prior experience; and
- *the lack of capacity to prepare and negotiate in MTN rounds*, including eventually the preparation /revision of national schedules of commitments to the WTO, requiring additional skills and a forward-looking capacity in their ministries.

What do countries need to do to participate effectively and realize their aims at the future negotiations on furthering the reform process?

First, there is the need to strengthen administrative arrangements in the countries themselves. Unfortunately, it seems to be a common experience that Ministries of Agriculture played a small role in the negotiations on agriculture during the UR. The very least that Ministries of Agriculture need to do is to be adequately involved in national preparations for future negotiations. This could involve inter-ministerial co-ordination as well as having units familiar with WTO matters to be established in Ministries of Agriculture, where these do not exist<sup>9/</sup>. It is also important to involve the private sector in the preparations as they will eventually have to make the new policies work and take advantage of market openings negotiated.

Second, countries need to seek allies among other countries to strengthen their hand at the negotiating table. Forming such alliances comes at some cost in terms of the loss of focus on special national interests but this should be offset by the greater negotiating weight of bigger groups. There are, of course, many possible candidate partners and so each possible line would need to be explored in identifying potential allies by identifying countries with broadly similar problems<sup>10/</sup>. The more similar the problems the less the difficulty over pooling of policy sovereignty and the greater the return from increased leverage. Nor need the searches for allies be limited to existing groups or be divided along traditional North/South lines. In fact the most active of such groups, Cairns Group, is a mix of both - new ones can arise as they did during the UR, such as the Group of Net Food Importing Countries or the Cairns Group.

Third, countries need to strengthen their information exchange capacity and their access to relevant studies by joining networks, commissioning their own studies, understanding the positions of the major actors, preparing fall-back positions against possible negative outcomes, seeking help from the international agencies, bringing in non-governmental experts and generally in raising awareness of the “1999” process. One good example of collaborative research/analysis in Africa is the series of thematic and country studies under the project *Africa and the World Trading System*, under the auspicious of African Economic Research Consortium (AERC).<sup>11/</sup>

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<sup>9/</sup> One institutional arrangement initiated by some developing countries is to set up a “UR Cell” at the Ministry of Commerce with sub-cells in other Ministries, including Agriculture. Besides government units, the cells are represented by academia/research institutes as well as private sector.

<sup>10/</sup> A recent study on Africa shows that by acting in concert, blocs of countries would have greater “negotiating rights”(based on “principal supplier” argument). This was shown to be particularly the case with two regional trading blocks, UEMOA and SADC. See Wang and Winters, 1997.

<sup>11/</sup> See T.A.Oyejide , 1998. The project contains eight country case studies (Cameroon, Côte d'Ivoire, Ghana, Kenya, Mauritius, Nigeria, South Africa and Uganda).

Fourth, countries should actively participate in ongoing preparatory work at the WTO in the analysis and information exchange (AIE) process at the Committee on Agriculture. Obviously, it is not possible for developing countries with small representations in Geneva to participate in all meetings. But considerable progress may be made through, for example: ensuring that all relevant information from WTO meetings flow to appropriate units in the capitals; identifying like-minded countries or groups with effective representation at the WTO in order to develop a process of consultation with them and thereby obtain some assurance that their interests are reflected in the debates; and strengthening the capability in the capitals to provide necessary technical backstopping to the Geneva representation. Moreover, countries that are not members of the WTO should actively explore the advantages of joining, as this is probably the most effective way of protecting national interests in an organization where already 131 countries are members and other 31 have applied to join.

Last but not the least, countries should take advantage of technical assistance provided by international organizations, such as World Bank, WTO, UNCTAD and FAO. Furthermore, it is important to stress that technical assistance programmes are most effective where individual countries themselves articulate their training needs, rather than the other way around. On this, one tested approach could be for individual countries to form homogenous groups based on a commonality of issues and training needs. This is also a cost-effective way of providing training, in view of the economies of scale involved in the various technical tasks involved.

FAO has published in 1997 a brochure on UR-related technical assistance activities of the Organization<sup>12/</sup>. It outlines specific areas in which the Organization provides technical assistance to developing countries, which include agriculture (including fisheries and forestry), SPS and TBT and TRIPS. Most recently, FAO has set up a site, called *Agricultural Trade*, within its Web site<sup>13/</sup>, with the aim of providing information on UR matters.

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<sup>12/</sup> See FAO, 1998.

<sup>13/</sup> <http://www.fao.org>

## SPECIAL AND DIFFERENTIAL TREATMENT<sup>1/</sup>

### PURPOSE

The objective of this Module is to summarise various SDT provisions in the Agriculture Agreement and other relevant agreements in order to assist developing countries in identifying the SDT provisions that are useful for them and which should be taken into account in the next round of negotiations.

### WHAT YOU WILL LEARN

- Description of various SDT provisions in the Agreement on Agriculture and other relevant agreements
- An assessment of their significance for the developing countries
- Some considerations for the next round of negotiations regarding SDT provisions

### STRUCTURE

- 1 *Introduction*
- 2 *The SDT Provisions in the Uruguay Round and their Significance*
- 3 *Some Considerations for the Next Round of Negotiations*

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<sup>1/</sup> Training Module II-7

## **1 INTRODUCTION**

The Uruguay Round Agreement sets as one of the overall goals the integration of developing countries into the global trading system. It recognises constraints faced by many developing countries in taking full advantage of the emerging trading opportunities due to structural problems, low level of industrialisation, limited access to advanced technologies and non-availability of adequate infrastructure. The provision of special and differential treatment (SDT) is a response to this recognition. The SDT is also recognized as an integral part of the Agreement.

Many Agreements, Understandings and Decisions of the Uruguay Round have SDT provisions. Broadly, these are provided for in the following five forms:

- those which recognise the interests of least-developed/developing countries in general;
- those that provide for a longer time frame for implementation;
- those that require fewer obligations;
- those that provide for fewer notification obligations; and
- those that provide for technical and financial assistance.

For the next round of multilateral trade negotiations, developing countries need to evaluate their experience with the SDT provisions, identifying those that have been found to be useful and those where improvements can be made, at the same time separating others that were not useful or are unlikely to be so.

In this context, this module first reviews various SDT provisions within the Agreement on Agriculture (AoA). It also highlights some others outside of the AoA but of significance for agricultural trade. This is followed by an assessment of their practical significance and usefulness. Section 7.3 of the paper summarizes some general observations and issues of importance in the context of the next round of negotiations.

## **2 THE SDT PROVISIONS IN THE URUGUAY ROUND AND THEIR SIGNIFICANCE**

### **2.1 The SDT Provisions in the Agreement on Agriculture**

Annex 1 summarises SDT provisions in the AoA, under the five categories listed above. It also includes some important SDTs which are not mentioned in the AoA but were contained in a document called *Modalities* which provided guidelines to the UR negotiators for preparing specific commitments. Annex 1 has three columns. The first describes the provisions that apply to developing countries. In order to see the difference, the various provisions here should be compared with those for the developed countries (column 3). The least-developed countries have specific provisions (column 2) in addition to provisions for the developing countries at large (column 1) which apply to them as well. In what follows, the SDT provisions are introduced and some comments made on their practical significance.

### *Provisions that recognize special interests generally*

The SDT provisions. Three of these in the AoA are notable:<sup>2/</sup> i) a general recognition that SDT is an integral part of the agreement; ii) that developed country members will provide greater market access for agricultural products of particular interest to developing countries; and iii) a consideration of the possible negative effects of the implementation of the reform programme, in the form of taking actions as outlined in the Marrakech Ministerial *Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries* (the *Decision*).

Practical significance The first of these simply states that SDT is an integral component of the trade negotiations - it has little practical significance for trade on its own - its utility has to be judged on the basis of specific provisions that follow this. As for the second, its significance depends upon the extent to which the Uruguay Round opened up developed country markets to developing country products. What is known from the Schedules is that tariffs on tropical products were reduced on average by 43 percent, compared with 37 percent for all agricultural products.<sup>3/</sup> Besides the tropical products, several other commodities are of export interest to the developing countries, e.g. sugar, fruit and vegetables, rice as well as other cereals, livestock products and so. For these, the reduction rates in several major markets were relatively low. Also, the bound tariffs on these products turned out to be relatively high (see Module II-2 on "Preparing for Negotiating Further Reductions of the Bound Tariffs"). Even in the case of tropical products, the practical significance of the 43 percent reduction may not be as significant as bulk of the imports were already duty free or subject to very low tariffs. As regards the third SDT above, the *Decision* has some elements of SDT that are considered to be useful for the two groups of countries mentioned there. However, it is being increasingly realized that its trigger mechanism, i.e. when and how to implement, is not as obvious in the practical sense (see Module II-9, "Decision on Measures Concerning The Possible Negative Effects on LDCs and NFIDCs"). Moreover, it is yet to be implemented in the real sense of the term.

### *Longer implementation period*

The SDT provision The developing countries are given a longer period (10 years, 1995-2004) for implementing various reduction provisions, compared to six years for the developed countries.

Practical significance This SDT was potentially of significance as it gives flexibility for phasing-in the reduction commitments gradually. However, in practice, this did not prove to be as useful for a majority of the developing countries because of the way they made their commitments. For example, for a majority of them there was very little to reduce over the implementation period (e.g. domestic support levels and export subsidies - see below). This provision was also not relevant for least-developed countries as they were not required to reduce anything.

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<sup>2/</sup> See WTO Secretariat, 1999a

<sup>3/</sup> op.cit.



### Lower reduction obligations

This SDT was in the form of lower reduction rates to be applied to fixed base period values of trade-distorting domestic supports (covered by Total Aggregate Measurement of Support or Total AMS), tariffs and export subsidies - which was two-thirds for the developing countries of the levels required for the developed countries in each of these three areas. No reductions were required for LDCs. The reduction rates are summarized in Table 1. The potential value of this provision is obviously a more gradual phasing-in of reductions. However, as said above, in practice, this provision was not as useful for a majority of the developing countries. Very few of them had positive Total AMS levels that had to be reduced. The same was the case with export subsidies. In the case of the tariffs, while all countries had to bind these, a majority of these countries did not have to reduce the tariffs as they chose the option of ceiling offers (see below). Thus, although potentially a useful SDT, very few developing countries used the provision. The least-developed countries were not required to reduce anything.

**Table 1: Reduction rates required in the Agriculture Agreement (%)**

Reform areas	Developed	Developing	Least-developed
<b>Market access</b>			
simple average tariff	36	24	0
minimum reduction per tariff line	15	10	0
<b>Domestic support</b>			
Total Aggregate Measurement of Support <sup>4/</sup> (AMS)	20	13.3	0
<b>Export subsidy</b>			
value of expenditure on subsidies	36	24	0
quantity of subsidies exports	21	14	0

On domestic support measures, there are additional SDT provisions besides the lower reduction rate for Total AMS. One is the *de minimis* threshold, which exempted from inclusion in the AMS calculations those trade-distorting support measures that accounted for 10 percent or less of the total value of production, as against a threshold of 5 percent for developed countries. During 1995 and 1996, some 26 percent of the developing countries mentioned having used this provision in their notifications to the WTO. For a majority of others, however, the provision was not useful because they claimed not to have trade-distorting support measures.

Another SDT for the developing countries is the exemption from reduction commitments of two types of support measures that are sometimes referred to as rural development measures: investment subsidies which are generally available to agriculture and agricultural input

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<sup>4/</sup> Total AMS = (product-specific AMS exceeding *de minimis* + non-product specific AMS exceeding *de minimis*)

subsidies generally available to low-income or resource-poor producers.<sup>5/</sup> These are important exemptions - 70 percent of the developing country notifications to the WTO for 1995 and 1996 show recourse to this provision.

On border protection, the option for the developing and LDCs to offer ceiling bindings (where these were not bound previously) was useful and most of these countries used this option rather than apply the tariffication formulae. This was an important concession because they did not have to undergo through the complicated procedure of computing tariff equivalents. Where they offered relatively high bound rates, these countries also retained an opportunity to review their tariffs more carefully as their level of understanding of the consequences of the tariff bindings increased, which is an advantage as they may have to set new, lower bound rates in the next round. An additional advantage of this option was that the minimum import access commitments were not required.

As regards export competition, the main SDT, in addition to lower reduction rates, was the exemption from reductions of subsidies given to marketing and internal transport and freight costs on the export of agricultural products. This provision is valid only during the implementation period. As most developing countries suffer from high costs of marketing and transport, this SDT could prove to be useful. Some 13 percent of export subsidy notifications of these countries mentioned using this provision in 1995 and 1996.

Also on export subsidies, Article 12, *Disciplines on Export Prohibitions and Restrictions*, exempts developing countries, other than a net-exporter of a specific foodstuff, from provisions contained therein on introducing export prohibitions and restrictions. However, no developing country has notified to the WTO having used this provision.

#### *Fewer notification obligations*

In a way, fewer notification obligations (i.e, the number as well as the frequency of notifications) is a form of SDT as the preparation of the notifications involves considerable resources. The difficulty faced here by the developing countries is already reflected in considerable delays in the submission of these notifications to the WTO. Fewer notifications also means that these countries would need to prepare fewer answers to questions raised by trading partners on these notifications.

## **2.2 Other selected SDT provisions**

*Agreement on the Application of Sanitary and Phytosanitary Measures (SPS)*: the main SDT provisions here address: a longer time frame for implementing the provisions related to measures affecting imports (until 2000 for LDCs and until 1997 for other developing countries), if justified based on technical expertise and resources; obligation for providing explanation by other WTO Members upon request why particular SPS measures exist; and technical assistance to developing countries to comply with SPS requirements. Of these, the provision of technical and financial assistance has attracted a significant amount of attention, as the developing countries feel that they would need considerable assistance to upgrade their

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<sup>5/</sup> A third measure in this category is support to producers to encourage diversification from growing illicit narcotic crops.

standards. As for other provisions, these are considered to be difficult for translating them into concrete action.

*Agreement on Technical Barriers to Trade (TBT):* The main SDT provisions are: due recognition of developing country needs; a longer time frame for the implementation of the agreement (*Articles 12.4;12.8*); and technical assistance (*Articles 10.6;11;12.7*). These provisions are similar to the above measures in the SPS Agreement. As above, technical and financial assistance holds some promise as it is difficult to translate other provisions into concrete action.

*Agreement on Subsidies and Countervailing Measures:* Article 13 of the AoA, *Due Restraint*, provides for certain derogation from the rules of the Agreement on Subsidies and Countervailing Measures for agricultural products, but only for the implementation period of the AoA. Thus, as and when this derogation expires <sup>6/</sup>, agricultural trade would also be subject to these general rules. This agreement has one section (part IV) devoted to developing countries. As a SDT, some developing countries <sup>7/</sup> are exempted from restrictions on export subsidies (*Article 27 (a)*) while others are given an eight-year transition period to phase out their export subsidies (*Article 27.3*). In general, these SDT provisions allow for a longer time frame and fewer obligations.

*Agreement on Safeguards:* Unlike with the case of Agreement on Subsidies and Countervailing Measures, Article 13 of AoA does not mention a derogation from the rules of the Agreement on Safeguards – which means that these rules should apply to agricultural products as well<sup>8/</sup>. The two main SDT provisions in the Safeguards Agreement are that imports originating from developing countries are exempt from safeguard measures under certain conditions<sup>9/</sup> (*Article 9.1*) and that these countries could extend the period for the application of safeguard and countervailing measures (*Article 9.2*).

### 3 SOME CONSIDERATIONS FOR THE NEXT ROUND OF NEGOTIATIONS

The “general recognition of interests” - these are found almost everywhere in the Uruguay Round Agreements, Decisions and Understandings, at times followed by some concrete, practical measures (e.g. lower reduction obligations) but often none. One question that may be asked at the outset is what is the practical value of these statements? How can these be improved, e.g. with concrete measures that can be implemented and their effectiveness monitored and assessed?

Monitoring the effectiveness of the SDT provisions - this is related to the above but needs some emphasis. The issue is where the provisions are of a "best endeavour" nature, as many of these are, should their implementation be monitored ? The implementation of some of the

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<sup>6/</sup> The discussion on Article 13 will take place during the future negotiations process. Its status is not clear in the interim, i.e. during the negotiations (between 2004 and beginning of a new implementation period).

<sup>7/</sup> As specified in Annex VII of the SCM agreement, it includes LDCs and 20 listed developing countries when their GNP per capita reaches 1000 \$ per annum.

<sup>8/</sup> See Low, 1997.

<sup>9/</sup> If (a) those imports' share of the member's total imports of the product concerned does not exceed 3 percent; and (b) total imports from those developing country members having less than a 3 percent individual import share do not account collectively for more than 9 percent of the total imports of that product.

SDT provisions (e.g. those in the *Decision*) lies within the competence of organizations and agencies other than WTO, as well as of individual developed countries. If the SDT provisions are to be effective as intended, effective indicators are required to measure the progress, not only for reviewing the implementation but also the impact.

Lower “reduction rate” as an SDT - in the Uruguay Round, the reduction rate for the developing countries was two-thirds of the levels required for the developed countries (and none for the LDCs). This provision was not as widely used in the Uruguay Round, but could be of value in the next round, e.g. in reducing the currently bound tariff rates. Although a small point, it is not clear why “two-thirds” was chosen for the Uruguay Round - this could not have reflected the gap between the two groups of countries in terms of indicators such as the level of development or per caput income or the global trader status. As this question may come up again in the next round, some analysis could be useful, especially on the criteria that would reflect the relative situation of the developing (and least-developed) countries in world trade and development.

SDT on domestic support measures - the main criterion for reviewing SDT provisions here should be policy “flexibility” for agricultural development, a legitimate food security concern for the developing countries. This requires a review of all WTO-compatible options in the light of a country's own commitments (see Module II-1 for details). Briefly, the Green Box measures are available for all WTO Members - there are just a few SDT which may be scrutinized if Green Box rules are tightened up. The two development measures (investment and input subsidies) are important exemptions for the developing countries. The situation with trade-distorting measures (the AMS) is not as clear. Here, the main points for review are: whether the 10 percent *de minimis* threshold for them is adequate or not, given the zero AMS commitments of many of them?; if not, what higher level would be needed?; Should they also negotiate for “credits” for negative AMS so that the overall limits become less binding?; if this does not become feasible, should they consider negotiating for new exemptions, e.g. on food security ground, which is a valid non-trade concern for the developing countries?

SDT in border protection - it is very probable that the currently bound tariffs are reduced further through negotiations in the next round. It is also very likely that the developing countries may obtain an SDT, perhaps something similar to the two-third level established in the Uruguay Round. As the current levels of the bound tariffs differ across countries, individual countries need to review their situation (see Module II-2, “Preparing for Negotiating Further Reductions of the Bound Tariffs”) and determine what type of the SDT provision suits them.

SDT for safeguards against import surges or depressed import prices - this is very important for most developing countries as the agricultural sector is generally weak to withstand these shocks, while, at the same time, the sector is critical for the livelihood of the majority of population. Where bound tariffs are not high relative to the fluctuations of world market prices of agricultural commodities, import duties fail to counter such shocks. Such shocks are not uncommon in agriculture - during 1998-99, within a period of five months, the world price of sugar fell from 12 to 8 cents per pound, which would require a tariff of 50 percent to

stabilize the domestic price <sup>10/</sup> if used to the limit i.e zero at the higher world price and 50 percent at the lower price. Although there are general safeguards accessible to all, notably anti-dumping and countervailing duties, in practical terms it would seem very difficult for a majority of developing countries to resort to these measures as these are very demanding in terms of analytical, institutional and legal resources. For them, a simpler alternative, as a SDT, may be something like the AoA's Special Safeguard Provision (the SSG), which is triggered automatically as imports surge and import prices collapse, beyond some agreed trigger levels. In case it is not feasible to negotiate such a safeguard for all commodities, an alternative could be to limit this to fewer commodities, e.g. those that are most sensitive from a food security point of view.

SDT in access to import markets of the developed countries - the preamble to the AoA has called upon the developed countries to provide greater market access for agricultural products of particular interest to developing countries. This was a recognition of general interest and not a binding measure, and the post-Uruguay Round tariff rates on several of these products are high. It is also technically difficult to consider lower tariffs for the developing countries as it would contradict one of the fundamental principles of the WTO rules, i.e. the MFN rule.<sup>11/</sup> Some forms of SDT may however be considered. One could take the form of sharp, unilateral tariff reductions by developed countries on agricultural products of export interest for the developing countries. The other could be in the form of some SDT measures that would lead to greater access to the Tariff Rate Quotas, but again these are supposed to be provided on an MFN basis.

SDT in export competition - as most developing countries did not report export subsidies for the base period, the SDT in the form of lower reduction rate was not widely used. There are, however, three other provisions that deserve a review for the next round. First, the exemption given to subsidies on marketing and transport costs has been used and in general seems promising for many; but the provision is valid only through the implementation period of the Uruguay Round. Second, it may be important to clarify whether they can take recourse to the exemptions on certain forms of export assistance schemes allowed for them under the Subsidies Agreement.<sup>12/</sup> Third, some net food-importing developing countries may find it useful to review their situation as regards the provision on “*Disciplines on Export Prohibitions and Restrictions*”. The issue is whether this exemption should also apply to countries that are net food-importers on the whole, but significant exporters of one or more basic foodstuffs (e.g. Pakistan with rice; Sudan with sorghum) because of substitution possibilities among different types of food.

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<sup>10/</sup> Assuming the simple expression,  $P_d = P_w * (1+t)$ , where  $P_d$  and  $P_w$  are domestic and world prices and  $t$  is the tariff rate. If  $P_d$  is to be maintained at 12 cents when  $P_w$  is 8 cents,  $t$  would have to be 50 percent.

<sup>11/</sup> The concern here is with the MFN tariffs. There are some preferential access arrangements for developing countries, e.g. the GSP but this is non-contractual.

<sup>12/</sup> The Subsidies Agreement seems to permit a group of export subsidies that are not explicitly referred to by the AoA, notably various incentive schemes aimed at export-oriented agricultural enterprises. However, the position is not as clear. While Article 8 of the AoA clearly states that subsidies not specified in a country's Schedule are not permitted and its Article 10(1) prohibits all forms of subsidies other than those listed in Article 9, it does not say whether everything else is prohibited. On the other hand, various export incentive schemes listed in Annex 1 of the Subsidies Agreement seem to be allowed. Thus, the question is whether it is correct or not in the first place to refer to Subsidies Agreement when it comes to these forms of export assistance to agricultural products that are not explicitly mentioned by the AoA?

SDT for new acceding developing country Members - it should be noted that the negotiating modalities of the Uruguay Round do not apply to newly acceding countries, which must negotiate specific commitments with members, under Article XII of the WTO Agreement. In practice, existing SDTs are not automatically applicable to newly acceding developing countries. For instance, the required rates of reduction and the implementation period may not be the same as for the Uruguay Round Agreements signatories.

Technical and financial assistance provisions - unlike several other agreements ( i.e. SPS and TBT), the AoA does not have specific provisions for technical and financial assistance to developing countries, with one exception of some measures contained in the *Decision*. Recent experience has shown that many developing countries faced difficulties in complying with their commitments under the AoA, one notable area being the preparation of notification to the WTO. Some form of a technical assistance provision may be needed in this area.

Finally, the definition of a developing country - this may turn out to be an important issue in the next round as the definition of a developing country for the purpose of the SDT is not clearly defined in the WTO (unlike the case of the LDCs, where the UN definition is widely followed). In the WTO system, the practice has been “self-designation“ - i.e., it is up to a country to designate whether it chooses to be classified as a developing country (subject to agreements by other Members). The problem is that this seems to be specific to particular agreements. For example, while “net food-import position“ is used as a criterion for the *Decision*, “global trader status” is used in the Subsidies Agreement for the purpose of SDT. In recent debates in various international fora, some experts have even advocated “food insecurity position” as a criterion for the Agriculture Agreement. A potential problem here is that as the various Agreements are inter-related, there is a risk that having several criteria may result into conflicting interpretation of these Agreements.

## Annex 1

### Special and Differential Treatment provisions (SDT) in the Agreement on Agriculture

	Applicable to developing countries as well as least-developed countries	Additional SDT provisions applicable to least-developed countries only	Applicable to Developed Countries only
<b>1. Recognition of Interests and Needs</b>	Improve Market access in Developed countries for <b>products of interest to developing countries</b> . ( <i>Preamble, para.5; and Modalities for the Establishment of specific Binding Commitments, para.17</i> )		
	Recognition of SDT as an integral element of the negotiations ( <i>Preamble, Paragraph 6 , Paragraph, 15.1, Modalities for the Establishment of Specific Binding Commitments, para.13</i> )		
<b>2.Implementation period</b>	Implementation of reduction commitments over a period of up to 10 years ( <i>Article 15.2</i> )	No reduction commitments ( <i>Article 15.2; Modalities for the Establishment of Specific Binding Commitments Para 16</i> )	Implementation of reduction commitments over a period of up to 6 years.
<b>3. Fewer obligations</b>			
<b>3.1 Lower rate of reduction</b>	Two third of developed countries in market access, domestic support and export subsidy	No reduction commitment in market access, domestic support and export subsidy	
<b>3.2. Market Access</b>		No reduction commitment ( <i>Article 15.2; Modalities for the Establishment of Specific Binding Commitments Para 16</i> )	
	Possibility of setting up ceiling bindings for products subject to unbound ordinary customs duties ( <i>Modalities for the Establishment of Specific Binding Commitments, Para 14</i> )		Tariffication through tariff equivalent only.
	24 percent reduction on simple average basis , with a minimum of 10 percent reduction per tariff line ( <i>Article 15.1; Modalities for the Establishment of Specific Binding Commitments, Para. 15</i> )		Same percentages are respectively 36 and 15.
<b>3.3 Domestic Support</b>		No reduction commitment ( <i>Article 15.2; Modalities for the Establishment of Specific Binding Commitments Para 16</i> )	
	Investment subsidies and agricultural input subsidies to encourage agricultural and rural development are exempted. ( <b>most useful</b> ) ( <i>Article 6.2</i> )		
	<i>De minimis</i> of 10 percent for total AMS ( <i>Article 6.4(b); Modalities for the Establishment of Specific Binding Commitments Para. 19</i> )		<i>de minimis</i> of 5 % for Total AMS
	Possible use of subsidised stocks of products for food security purposes. ( <i>Annex 2 para. 3, footnote 5</i> ).		
	Provision of foodstuffs at subsidised prices to meet food needs of poor population ( <i>Annex 2, para. 4, footnotes 5&amp;6</i> )		
	13.3 percent reduction of total AMS by the year 2004 compared to the base Total AMS of the years 86-88. ( <i>Para.15</i> )		Reduction of 20% in developed countries by the year 2000.
<b>3.4. Export Subsidy</b>		No reduction commitment ( <i>Article 15.2; Modalities for the Establishment of Specific Binding Commitments Para 16</i> )	
	No reduction in export subsidies for costs of marketing exports of agricultural products and <b>internal transport and freight charges</b> ( <i>Article 9.4; Para20</i> )		reduction for the same export subsidies categories
	Use of para.2 of Article XI of GATT 1994 without restriction ( <i>Article 12.2</i> )		Restrictions on the use of Article XI of GATT 1994 on export prohibitions or restrictions temporarily.
	14 percent reduction of subsidies exports quantities and 24 percent reduction of the value ( <i>Para. 18, Article 9.2(b) (iv)</i> )		Same percentages are respectively 21 and 36
<b>4. Notification obligations</b>	Possibility to postpone the report of tables DS:1 to DS:3.under request ( <i>Notification Requirements And Formats (G/AG/2), Current total aggregate measurement of support (p11): paragraph ii</i> )	Supporting Tables DS:1 to DS:3 submission every two years (instant of annually) ( <i>Notification Requirements And Formats (G/AG/2), Current total aggregate measurement of support (p11): paragraph ii</i> )	Submission of the quoted Tables every year.

## DOMESTIC SUPPORT MEASURES<sup>1/</sup>

### PURPOSE

The objective of this Module is to provide a brief overview of the basic provisions of the Agriculture Agreement on domestic support and commitments undertaken by developing countries in this area, in order to assist them in identifying issues of concern in the upcoming negotiations on agriculture.

### WHAT YOU WILL LEARN

- Rules and provisions on domestic support
- Major features of the commitments made by developing countries
- Scope for developing countries to support their agriculture given their commitments
- Some issues arising from implementation of domestic support commitments

### STRUCTURE

- 1 *Introduction*
- 2 *Provisions in the Agreement on Domestic Support*
- 3 *General Observations on Commitments Made by Developing Countries*
- 4 *Scope for Developing Countries to Support Agriculture under the Domestic Support Commitments*
- 5 *Some Issues Arising from Implementation of Domestic Support Commitments*
- 6 *Conclusions*

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<sup>1/</sup> Training Module II-1



## 2.1 Exempt measures

Support measures which are exempt from reduction commitments are classified in a number of categories as shown below.

### *The Green Box*

"Green Box" measures are listed in Annex 2 of the Agreement. The fundamental requirement for the exclusion of such policies from reduction commitments is that they have no, or at most minimal, trade distorting effects or effects on production. They must be provided through publicly-funded government programmes (including government revenue foregone) not involving transfers from consumers and must not have the effect of providing price support to producers. The outlays on these exempt measures can even be increased without any limitation under the WTO. The Green Box applies to both developed and developing country Members.

The list of measures included in the Green Box includes the following:

- general services, including research, pest and disease control, training, extension, inspection, marketing and promotion services, and infrastructural services;
- food security stocks;
- domestic food aid; and
- direct payments to producers, including decoupled income support, income insurance and safety-net programmes, disaster relief, producer or resource retirement schemes, investment aids, environmental programmes, and regional assistance programmes.

### *Developmental measures (Special and Differential Treatment for Developing Countries 'SDT')*

Article 6 of the Agreement excludes from the reduction commitment some support measures that fit into the developmental category, whether direct or indirect, designed to encourage agricultural and rural development and that are an integral part of the development programmes of developing countries. They include:

- investment subsidies which are generally available to agriculture in developing countries;
- agricultural input subsidies generally available to low-income or resource-poor producers in developing countries; and
- domestic support to producers in developing countries to encourage diversification from growing illicit narcotic crops.

### *The Blue Box*

Direct payments under production limiting programmes (often referred to as "Blue Box" measures) are exempt from the reduction commitments if:

- such payments are based on fixed area and yield; or
- such payments are made on 85 percent or less of the base level of production; or
- livestock payments are made on a fixed-number of head.

### *De minimis exemptions*

All domestic support measures in favour of agricultural producers that do not fit into any of the above exempt categories are subject to reduction commitments. The *de minimis* exemptions allow any support for a particular product to be excluded from the reduction commitment if that support is not greater than 5 percent of the total value of production of the agricultural product in question. In addition, non-product-specific support which is less than 5 percent of the value of total agricultural production is also exempt from reduction. The 5 percent threshold applies to developed countries whereas in the case of developing countries the *de minimis* ceiling is 10 percent.

## **2.2 Non-exempt measures: Total AMS and reduction commitments**

Support provided under non-exempted policies is subject to reduction commitments. The reduction commitments are expressed in terms of a "Total Aggregate Measurement of Support or Total AMS" which is the sum of expenditures on non-exempted domestic support, aggregated across all commodities and policies. For evaluating the level of support that is provided to the agricultural sector, the Agreement refers to four different measures of support, as follows:

- **Product-specific AMS:** the total level of support provided for each basic agricultural product (e.g. price support, direct payment, etc.).
- **Non-product-specific AMS:** the total level of support provided by policies that are directed at the agricultural sector as a whole, excluding product-specific support.
- **Equivalent Measurement of Support (EMS):** product-specific support for which it is impractical to use the AMS methodology.
  - **Total AMS:** this is the total value of all non-exempt domestic support provided to agricultural producers, and is the sum of the product-specific AMS for each commodity, the non-product-specific AMS and the Equivalent Measurement of Support.

The methodology for preparing domestic support commitments were contained in a document called Modalities, parts of which are included in Annexes 3 and 4 of the Agreement. The Modalities require a 20 percent (13.3 percent for developing countries and none for least developed countries) reduction in the Base Total AMS, to take place in equal annual instalments over the implementation period. This planned annual reduction

commitments are included in country Schedules, which are legal documents. For each year of the implementation period, Members compute Current Total AMS which should not exceed the level committed in Schedules. *It is worth noting that the negotiating modalities of the UR, in terms of for instance, the implementation period and reduction commitments, do not apply to newly acceding countries; for specific commitments must be negotiated with Members, under Article XII of the WTO Agreement.*

Other related provisions on AMS include:

- reduction commitments refer to the Total AMS, i.e. there are no commodity- or policy-specific reduction commitments;
- any modification to domestic support measures, or introduction of new measures that do not satisfy the criteria for exemption, shall be included in the calculation of the Current AMS (Article 7); and
- least developed countries do not have to make any reductions to their AMS but cannot exceed their Base AMS.

### **2.3 Calculation of Aggregate Measurement of Support (AMS)**

The methodology for the calculation of the AMS was outlined in the Modalities, and also reproduced in Annexes 3 and 4 of the Agreement. The AMS is calculated for the base period, 1986-88 (and called Base AMS) and for every year during the implementation of the Agreement (and called Current AMS). In calculating AMS, budgetary outlays as well as revenue forgone should be taken into account. Annex 3 of the Agreement mentions four categories of support for inclusion in the AMS:

- market price support;
- non-exempt direct payments dependent on a price gap;
- non-exempt direct payments based on factors other than price; and
- other non-exempt measures, including input subsidies;

Market price support is measured by multiplying the gap between the applied administered price and a specified fixed external reference price ("world market price") by the quantity of production eligible to receive the administered price. For each product, the implicit subsidy of price support measures is added to other product-specific subsidies (e.g. a product-specific input) and direct payments which are not dependent on price gap to arrive at a product-specific AMS, which is then evaluated against the relevant *de minimis* level.

All non-product-specific subsidies are calculated separately and are added together to get the non-product-specific AMS, which should be included in the Current Total AMS only if it exceeds the relevant *de minimis* level. Box 1 illustrates procedures for calculating AMS following the guidelines on Modalities, while Box 2 provides a hypothetical example of Total AMS for a developing country.

***Box 1. Measurement of Total AMS***

Market price support for a product = (administered price at the farm gate - fixed external reference price) x eligible production

Where,

fixed external reference price = c.i.f. unit value for 1986-88

eligible production = quantity of production receiving the administered price.

Market price support for an input (service) = (administered price at the farm gate – market price) x quantity of input (service) receiving subsidy

Product-specific AMS = sum of all positive support to a basic product (market price support + other types of support not dependent on price gap)

Product-specific AMS should be included in Total AMS only if it exceeds the *de minimis* level, i.e. if (product-specific AMS/market value of total output of the product) x 100 is greater than 5 (or 10 in the case of developing countries)

Non-product-specific AMS = sum of all positive non-product specific AMS

Non-product specific AMS should be included in Total AMS only if it exceeds the *de minimis* level (5% for developed countries or 10% for developing countries), i.e. if (non-product specific AMS/market value of total output of the product) x 100 is greater than 5 or 10 respectively.

Total AMS = (product-specific AMS exceeding *de minimis* + non-product specific AMS exceeding *de minimis*)

**Box 2. AMS Calculation: hypothetical example of a developing country**

**A. Product-specific AMS**

Item		Wheat	Cotton	Potatoes	
Intervention price	(£P //MT)	2 700	6 400	3 300	
Fixed external reference price (1986-88)	(£P /MT)	2 100	7 500	3 000	
Total production	000 MT	1 890	400	360	
Eligible production	000 MT	950	400	300	
Market price support	mill £P	570	- 440	90	
Subsidies for inputs specific to the product	mill £P		125	0.0	0.0
Direct payments not dependent on price gap	mill £P		0.0	0.0	10
<b>Total product-specific AMS</b>	<b>mill £P</b>	<b>695</b>	<b>- 440</b>	<b>100</b>	
Value of output	mill £P	5 103	2560	1 260	
Share in total value of output	%	13.5	-17.2	7.9	

**B. Non-product specific AMS**

	AMS (mill £P)
Non-exempt agricultural inputs:	
- Tractors	900
- Diesel	500
Agricultural services:	
- Irrigation water	600
- Agricultural credit	900
<b>Total Non product-specific AMS</b>	<b>2 900</b>
Total value of agricultural output	23 200
Non product-specific AMS as % of total agricultural value	12.5%

**C. Total AMS = 695+ 2900 = mill £P 3 595**

(note that the product-specific AMS for cotton and potatoes were excluded since they are below the *de minimis* for a developing country).

## 2.4 Notification Obligations

All Members must notify the WTO's Committee on Agriculture (CoA) the extent of their domestic support measures. This requires a listing of all measures that fit into the exempt categories: the Green Box, the SDT, direct payments under production-limiting programmes and *de minimis* levels of support. Scheduled domestic support reduction commitments and the Current AMS must also be notified. In addition, all Members must notify any modifications to existing, or any introduction of new, measures in the exempt categories. All notifications are examined by the CoA on a regular basis.

The periodicity of notification is annual, except in the case of least-developed country Members which are only required to notify every other year. The details are available in the WTO Handbook on Notification Requirements (WT/TC/NOTIF/AG/1 Sep. 1996).

## PREPARING FOR NEGOTIATING FURTHER REDUCTIONS OF THE BOUND TARIFFS<sup>1/</sup>

### PURPOSE

The objective of this Module is to summarise key issues that need to be taken into account by the countries in reviewing their bound tariff levels, in the context of the possibility that they may have to reduce these rates further in the next round of negotiations.

### WHAT YOU WILL LEARN

- How tariffs were bound in the UR.
- An overview of the post-UR bound tariff structure of developing countries.
- A summary of various ideas for reducing bound rates.
- Some considerations for further reducing the bound tariffs.

### STRUCTURE

- 1 *Introduction*
- 2 *How were Tariffs Bound in the Uruguay Round?*
- 3 *An Overview of the Post-UR Tariff Structure of the Developing Countries*
- 4 *Possible Approaches to Reduce the Bound Tariffs in the Uruguay Round*
- 5 *Some Considerations for Setting New Set of Bound Tariffs*

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<sup>1/</sup> Training Module II-2

**Box 1: Article 4 of the Agreement on Agriculture of the Uruguay Round**  
Market Access

**1. Market access concessions contained in Schedules relate to bindings and reductions of tariffs, and to other market access commitments as specified therein.**

**2. Members shall not maintain, resort to, or revert to any measures of the kind which have been required to be converted into ordinary customs duties<sup>1/</sup>, except as otherwise provided for in Article 5 and Annex 5.**

<sup>1/</sup> These measures include quantitative restrictions, variable import levies, minimum import prices, discretionary import licensing, non-tariff measures maintained through state-trading enterprises, voluntary export restraints, and similar border measures other than ordinary customs duties, whether or not the measures are maintained under country-specific derogation from other provisions of GATT 1994, but not measures maintained under balance-of payments provisions or under other general, non-agriculture-specific provisions of GATT 1994 or other Multilateral Trade Agreements in Annex 1A to the WTO Agreement.

**Table 1: Guidelines for preparing tariff offers and bindings in agriculture**

Country status	Binding status	Method for determining base tariffs for reduction purpose
Developed	Previously bound	<ul style="list-style-type: none"> <li>if no NTB, use current bound rate</li> <li>if NTB, eliminate the NTB or apply tariffication formula</li> </ul>
	Previously unbound	<ul style="list-style-type: none"> <li>if no NTB, use the rate applied in September 1986</li> <li>if NTB, apply tariffication formula</li> </ul>
Developing and Least-developed	Previously bound	<ul style="list-style-type: none"> <li>if no NTB, same as for a developed country</li> </ul>
	Previously unbound	<ul style="list-style-type: none"> <li>if no NTB, same as for a developed country or offer ceiling binding</li> <li>if NTB, same as for a developed country or offer ceiling binding</li> </ul>

**Explanatory notes:** (see next page)

**Table 1 (continued)**

**Explanatory notes**

Binding – maximum tariff rate that can be applied at any time, notified to the GATT.

Ceiling binding offer – an offer, i.e. not necessarily derived from a computation of the tariff equivalent, of maximum tariff rates that can be applied at any time

Previously bound or unbound tariffs – prior to the UR, 60 percent of all agricultural tariff lines (covering roughly 80 percent of trade) were bound at the GATT by developed countries; developing countries had bound 18 percent of the tariff lines.

Existence or not of a NTB – what constitutes a NTB was defined in the footnote to Article 4 of the AoA (see Box 1 above). It was up to a country to notify to GATT whether there was or not a NTB.

Tariffication formula – tariffication referred to the conversion to an ordinary tariff rate of the full extent of protection given to a product through both tariff and NTBs. The Modality prescribed the use of price gap method to measure tariff equivalents, as follows:

$$T = (P_d - P_w) / P_w * 100,$$

Where,

T = ad valorem tariff equivalent

P<sub>d</sub> = domestic price (e.g. wholesale price)

P<sub>w</sub> = world reference price (import or export parity price)

Base year – the average of three years, 1986, 1987 and 1988.

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## EXPORT SUBSIDIES<sup>1/</sup>

### PURPOSE

The objective of this Module is to provide basic information concerning the provisions on export subsidies under the GATT and the Agreement on Agriculture and to summarise the experience so far in this area. This Module also discusses related issues in the context of the next round from the standpoint of the developing countries, particularly net food importers.

### WHAT YOU WILL LEARN

- How export subsidies affect the world markets and groups of countries
- Provisions on export subsidies in the GATT and the Agreement on Agriculture
- Experience with the use of export subsidies
- Issues for the next round of negotiations

### STRUCTURE

- 1 *Introduction*
- 2 *Economic Consequences of Export Subsidization*
- 3 *GATT Rules on Export Subsidies*
- 4 *Export Subsidies in the Agreement on Agriculture*
- 5 *Experience with the Use of Export Subsidies*
- 6 *Issues for the Next Round of Negotiations*

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<sup>1/</sup> Training Module II-3

**Box 1: Types of export subsidies subject to reduction commitments**

- (a) the provision by governments or their agencies of direct payments-in-kind, to a firm, to an industry, to producers of an agricultural product, to a co-operative or other association of such producers, or to a marketing board, contingent on export performance;
- (b) the sale or disposal for export by governments or their agencies of non-commercial stocks of agricultural products at a price lower than the comparable price charged for a like product to buyers in the domestic market;
- (c) payments on the export of an agricultural product that are financed by virtue of governmental action, whether or not a charge on the public account is involved, including payments that are financed from the proceeds of a levy imposed on the agricultural product concerned, or on an agricultural product from which the exported product is derived;
- (d) the provision of subsidies to reduce the costs of marketing exports of agricultural products (other than widely available export promotions and advisory services) including handling, upgrading and other processing costs, and the costs of international transport and freight;
- (e) internal transport and freight charges on export shipments, provided or mandated by governments, on terms more favourable than for domestic shipments;
- (f) subsidies on agricultural products contingent on their incorporation in exported products.

Source: Article 9.1 of the Agreement on Agriculture

**Table 1: The main provisions of the Agreement on Agriculture on export competition**

AoA Provisions	<i>Countries</i>		
	<b>Developing</b>	<b>Least Developed</b>	<b>Developed</b>
Base Period	1986-90	1986-90	1986-90
Implementation Period	1995-2004	1995-2004	1995-2000
Proportionate reductions in:			
value of expenditure on subsidies	24%	0%	36%
quantity of subsidised exports	14%	0%	21%
Exemptions	<ul style="list-style-type: none"> <li>• marketing costs of exported products</li> <li>• internal transport and freight charges</li> </ul>		None
Other provisions	<ul style="list-style-type: none"> <li>• prohibition of subsidies not submitted in Part VI of the country Schedules</li> <li>• prohibition of future export subsidies where none are used in the base-period</li> <li>• food aid must be provided according to established protocols</li> <li>• an undertaking to work towards agreed disciplines regarding the provision of export credits</li> </ul>		

**Table 2: Subsidized export reduction commitments by product**

Product	Permitted subsidized exports ('000 tons)			Change from (%)		Final quantity as % of 1992 world trade
	Base 1986-90	1991-92, if above base	Final	Base 1986-90	Higher base	
Wheat and flour	49 612	61 452	40 360	-19	-34	34
Coarse grains	20 581	21 236	16 260	-21	-23	15
Rice	604	874	503	-17	-42	3
Butter and butter oil	618	644	490	-21	-24	38
Skim milk powder	578	609	457	-21	-25	42
Other milk products	3 326	3 396	2 744	-17	-19	n.a.
Cheese	543	602	430	-21	-29	49
Beef	1 583	1 753	1 270	-20	-28	28
Pig meat	612	617	484	-21	-22	30
Poultry meat	726	828	583	-20	-30	24
Sheep meat	30	30	25	-17	-17	4
Vegetable oils	1 585	2 138	1 370	-14	-36	5
Oilseeds	2 508	2 508	1 982	-21	-21	5
Oilcakes	30	30	25	-17	-17	...
Sugar	6 304	6 304	5 070	-20	-20	16
Fruit and vegetables	9 268	9 435	7 582	-18	-20	n.a.

Source: The first five columns are from WTO (1999), Table III.4. The last column is computed.

**Table 3: WTO export subsidy commitments and actual outcomes, 1995 and 1996**

Commodities	Quantity (000 tons)		Quantity (000 tons)	
	WTO limit	Used 1995 (as % of the limit)	WTO limit	Used 1996 (as % of the limit)
Wheat and flour	58 059	6	3 169	0
Coarse grains	26 920	27	3 234	0
Rice	784	13	53	0
Butter and butter oil	631	25	85	3
Skim milk powder	754	53	243	8
Other milk products	1 536	83	285	37
Cheese	554	80	105	18
Beef	1 526	67	421	0
Pig meat	567	67	24	3
Poultry meat	658	67	186	0
Sheep meat	26	6	23	1
Live animals	33	46	32	33
Vegetable oils	1 821	11	959	0
Oilseeds	2 712	0	432	0
Oilcakes	360	0	74	0
Sugar	5 941	15	2 823	6
Fruits and vegetables	6 616	24	4 422	19

Source: WTO 1997, *Export Subsidies: Background paper by the Secretariat*. November 1997. The table is based on notifications received by the Secretariat up to 27 October 1997. It takes into account only those export subsidy reduction commitments for which a notification has been received for that year. The 1996 results are based on far fewer number of notifications - hence, the annual commitment levels are much lower. Note that the quantities reported in Table 2 refer to all commitments irrespective of whether or not a notification was made by November 1997.

**Annex Table 1: Outlays on export subsidies and reduction rates by Country (US\$million)**

	Export subsidies			Product composition of export subsidies
	Base	Final	Change	
<b>European Union</b>	13,274	8,496	-36	Bovine meat (19%), wheat (17%), coarse grains (13%), butter (13%), other milk products (10%)
<b>Austria</b>	1,235	790	-36	Live animals (45%), wheat (14%), bovine meat (13%), cheese (12%)
<b>United States</b>	929	594	-36	Wheat (61%), skim milk powder (14%)
<b>Poland</b>	774	493	-36	Meat preparations (39%), fruits and vegetables (21%)
<b>Mexico</b>	748	553	-26	Sugar (76%), cereal preparations (21%)
<b>Finland</b>	708	453	-36	Butter (25%), coarse grains (22%), other milk products (13%)
<b>Sweden</b>	572	366	-36	Pigmeat (21%), wheat (21%), coarse grains (17%)
<b>Canada</b>	567	363	-36	Wheat (47%), coarse grains (18%)
<b>Switzerland</b>	487	312	-36	Other dairy products (65%)
<b>Colombia</b>	371	287	-23	Rice (32%), cotton (20%), fruits and vegetables (23%)
<b>South Africa</b>	319	204	-36	Fruits and vegetables (24%), cereal preparations (14%), wheat (13%), sugar (10%)
<b>Hungary</b>	312	200	-36	Poultry meat (30%), pigmeat (26%), wheat (11%), fruits and vegetables (19%)
<b>Czech Rep.</b>	164	105	-36	Other milk products (38%), fruits and vegetables (10%)
<b>Turkey</b>	157	98	-37	Fruits and vegetables (36%), wheat (23%)
<b>New Zealand</b>	133	0	-100	Not available
<b>Norway</b>	112	72	-36	Cheese (54%), pigmeat (19%), butter (12%)
<b>Australia</b>	107	69	-36	Other milk products (32%), skim milk powder (27%), cheese (25%), butter (16%)
<b>Brazil</b>	96	73	-24	Sugar (56%), fruits and vegetables (30%)
<b>Slovak Rep.</b>	76	49	-36	Other dairy products (19%), cereal preparations (13%), bovine meat (13%)
<b>Romania</b>	59	45	-24	Cereal preparations (22%), sugar (19%), bovine meat (18%), fruits and vegetables (11%)
<b>Israel</b>	56	43	-24	Fruits and vegetables (59%), plants (22%), cotton (17%)
<b>Indonesia</b>	28	22	-24	Rice (100%)
<b>Iceland</b>	25	16	-36	Sheepmeat (78%), other dairy products (22%)
<b>Cyprus</b>	19	14	-24	Fruits and vegetables (67%), alcohol (16%)
<b>Uruguay</b>	2	1	-23	Rice (83%), butter (12%)

## MARKET ACCESS I: TARIFFS AND OTHER ACCESS TERMS<sup>1/</sup>

### PURPOSE

The purpose of this Module is to describe the post-UR market access situation for agricultural exports from the developing countries and to discuss issues that merit further attention in the next round of negotiations.

### WHAT YOU WILL LEARN

- Market access rules of the Uruguay Round
- Post-Uruguay Round market access situation
- Issues of concerns on market access area for the next round of negotiations

### STRUCTURE

- 1 *Introduction*
- 2 *Market Access Rules of the Uruguay Round*
- 3 *Post-Uruguay Round Market Access Situation*
- 4 *Some Considerations in the Context of the Next Round of Negotiations*

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<sup>1/</sup> Training Module II-4

### Box 1. General provisions on market access

- **Base period:** 1986-1988
- **Implementation period:** 1995-2000 (1995-2004 for developing countries)
- **Tariffication of non-tariff barriers:**
  - ⇒ Conversion of all non-tariff measures into tariffs (through the tariffication process or by offering “ceiling bindings” for the developing countries where tariffs were not bound previously)
  - ⇒ Special treatment clause: no tariffication of non-tariff barriers (NTBs) allowed under strict conditions - valid during the implementation period (and only applied in a very limited number of cases)
  - ⇒ Special Safeguard provisions: for tariffied products only, where indicated - valid during the implementation period.
- **Reduction of agricultural tariffs:** (including those resulting from tariffication) on a simple average basis by 36 percent with minimum reduction of 15 per cent per tariff line to be implemented in *equal* annual instalments (two-thirds of these rates for developing countries, no reduction for least-developed countries).
- **Minimum access commitments:** 3 per cent of domestic consumption in the first year, rising to 5 per cent by end of the implementation period (for tariffied products)
- **Current access guarantee:** maintenance of current access opportunities (i.e. the quantity of imports in the 1986-1988 period) which exceed the minimum access (for tariffied products)

## MARKET ACCESS II: TARIFF RATE QUOTAS<sup>1/</sup>

### PURPOSE

The purpose of this Module is to provide background information on TRQs-how they came about, what commitments were made and the experience with utilisation and administration of TRQs during 1995-1997. It also discusses some issues that need to be considered in the next round for improving market access.

### WHAT YOU WILL LEARN

- The concepts of current and minimum access and Tariff Rate Quotas (TRQ).
- Experience with the implementation of TRQs during 1995-1997
- Issues on the administration of TRQs.
- Issues of concern for the next round of negotiations.

### STRUCTURE

- 1 *Introduction*
- 2 *Market Access in Agriculture through TRQS*
- 3 *Various Methods Used to Administer the Tariff Quotas*
- 4 *Some Issues on TRQS*



## 1 INTRODUCTION

One of the fundamental changes brought about by the Uruguay Round in agricultural trade was the tariffication of non-tariff barriers to trade. While this was being done, there was also a concern that the replacement of non-tariff barriers by their tariff equivalents could result in high bound tariffs, which if applied could be prohibitive for any trade to take place. This gave rise to the concept of “minimum market access” which is to be facilitated through the system of “tariff rate quotas” or TRQs. Presumably reflecting the value of these quotas for additional market access, this subject has attracted considerable attention in the WTO Committee on Agriculture over the past four years.

## 2 MARKET ACCESS IN AGRICULTURE THROUGH TRQS

### 2.1 The concepts – minimum and current access and TRQs

As part of the tariffication package, WTO Members were required to maintain for tariffied products current import access opportunities at levels corresponding to those existing during the 1986-88 base period. Where such "current" access had been less than 5 percent of domestic consumption of the product in question in the base period, an (additional) minimum access opportunity had to be opened on a most-favoured-nation basis. This was to ensure that in 1995, current and minimum access opportunities combined represented at least 3 percent of base-period consumption and that they were progressively expanded to reach 5 percent of that consumption in the year 2000 (developed country Members) or 2004 (developing country Members), respectively.

The procedures for establishing these access commitments were outlined in a document called *Modalities*, which served as a guideline for countries to prepare various offers during the Uruguay Round negotiations. With the signing of the Agreement, the only binding access commitments are those specified in individual country Schedules but the *Modalities* have a value in the interpretation of what was intended and have frequently been cited in the discussion on the implementation of TRQs. These Schedules specify an initial TRQ and a final TRQ for each product concerned. Trade up to the quota limits is to take place at minimal or low tariff rates (below the MFN rates) while the MFN rate applies to trade above that level. Hence the term tariff rate quotas or TRQs, with the term “rate” indicating the duty applied to the trade up to the tariff quota or the TQ level.

Access commitments were designed not only to encourage the development of trade where previously none or very little existed, but also to ensure that existing access arrangements were maintained. A considerable volume of trade was undertaken through bilateral arrangements at preferential tariff rates, not only between the developed and developing countries (e.g. sugar) but also between the developed countries (e.g. meat). The Agreement legitimized this trade, where included in the Schedules, in the form of current access commitments.

The vast majority of tariff quotas in agriculture originated through the Uruguay Round “tariffication” process (current and minimum access). But there were also other sources, which included quotas established by some countries during their accession as well as autonomously as part of their import policy. In some cases, some countries converted the

trade previously falling under voluntary export restraints (VERs) to the TRQ regime, as current access commitments with the quotas allocated to the same beneficiary countries.

Finally, one fundamental difference in rules between the minimum and current access provisions was that the importing country was not required to offer the current access quotas on a MFN basis. On the other hand, the minimum access quotas should be allocated on a MFN basis, i.e. open to all interested exporters at the same rate.

## 2.2 Who offered the tariff quotas and how much new access opportunities were created?

Thirty-six WTO Members have tariff quota commitments in their Schedules with a total of 1 370 individual quotas (Table 1). Although 19 of these 36 countries are developing country Members, the developed countries accounted for bulk (67 percent) of the TRQs, with Norway alone accounting for 17 percent of the total.

**Table 1. Number of tariff quotas by WTO Member**

Member	number of tariff quotas	Member	Number of tariff quotas
Australia	2	Malaysia	19
Barbados	36	Mexico	11
Brazil	2	Morocco	16
Bulgaria	73	New Zealand	3
Canada	21	Nicaragua	9
Colombia	67	Norway	232
Costa Rica	29	Panama	19
Czech Republic	24	Philippines	14
Ecuador	17	Poland	109
El Salvador	11	Romania	12
European Comm.	85	Slovak Rep.	24
Guatemala	22	Slovenia	20
Hungary	70	South Africa	53
Iceland	90	Switzerland	28
Indonesia	2	Thailand	23
Israel	12	Tunisia	13
Japan	20	United States	54
Korea, Rep.	67	Venezuela	61

Total for all 36 Members - 1 370 tariff quotas

Source: Table 2 in WTO (1998).

The total volume of the TRQ in 1995 as a percentage of the world trade in that product typically ranges between 3 to 7 percent. Only for some commodities, e.g. dairy, meat products and sugar, this level exceeds 10 percent. Perhaps a more revealing information would have been a breakdown of the total access levels in terms of current and minimum access volumes, as the latter would have to be accessible to all exporters on a MFN basis

while the former is largely allocated to specified suppliers. This is not available. What is known is the level of the additional access commitments – the difference between the final quota level (in 2000 or 2004) and the initial quota level (in 1995). The data show that new access opportunities are typically small, mostly less than 3 percent of the total world trade, with the exception of dairy products at 17 percent (Table 2).

**Table 2: Number of tariff quotas and estimated increase in access – selected major commodities**

Commodity	Tariff quotas numbers	Increase in access	
		000 tons	as percent of 1995 world trade
Cereals	215	3 640	1.8
Wheat	-	807	0.9
Rice	-	1 076	6.0
Coarse Grains	-	1 757	2.0
Dairy Products	183	729	17.3
Meat Products	249	421	3.0
Fruit and Vegetables	350	485	0.9
Fruits	-	130	0.4
Vegetables	-	355	2.1
Oilseed Products	124	236	0.4
Oilcakes and oilseeds	-	126	0.4
Vegetable oils	-	110	0.4
Sugar and products	50	292	0.8

*Source:* Carson (1998), Josling (1998) and WTO (1998) based on WTO Notifications

### 5.2.3 How much of the tariff quotas were utilized?

Table 3 shows tariff quota fill-rates, i.e. the actual volume of import through TRQs relative to the committed TRQ levels.<sup>2/</sup> These were just over 60 percent for both 1995 and 1996 for all agricultural products for which the TRQs were opened, and less than 50 percent for 1997 – but this could be due to the fact that the TRQ notifications for 1997 were far fewer (see footnote to Table 3). There is a wide variation in these rates for individual product groups. This being the main quantifiable indicator of market penetration under this regime, the fill rate has obviously drawn considerable attention in the WTO Committee on Agriculture and various explanations have been given for the shortfall.

<sup>2/</sup> The fill rates are simple averages – they give equal weight to trade irrespective of its volume or value. Also, no account has also been taken of the “over-fill”, i.e. where imports exceed 100 percent of the TRQ.

**Table 3: Tariff quotas – simple average fill rates by product category, 1995-97**

	Simple average fill rate ( percent) <sup>1/</sup>		
	1995	1996	1997
Cereals	64	63	43
Oil seeds products	65	63	30
Sugar and sugar products	76	71	55
Dairy products	64	63	49
Meat products	60	56	62
Eggs and egg products	41	44	36
Beverages	57	66	37
Fruit and vegetables	72	69	46
Tobacco	85	76	72
Agricultural fibres	45	72	n.a.
Coffee, tea, spices and processed agricultural products from mixed ingredients	61	57	40
Other agricultural products	68	53	30
Average for all products	65	63	46

<sup>1/</sup> Out of a total of roughly 1 370 tariff quota lines, the simple averages were calculated based on 996 lines for 1995, 989 lines for 1996 and 163 lines for 1997.

Source: WTO, Tariff and Other Quotas, Background paper by the Secretariat, May 1998.

### 3 VARIOUS METHODS USED TO ADMINISTER THE TARIFF QUOTAS

The AoA itself does not specify any particular rule for the administration of the TRQs; rather, these are covered by Article XIII of GATT 1994 – *non-discriminatory administration of quantitative restrictions*.<sup>3/</sup> This Article provides the overall guideline as follows: “in applying import restrictions to any product, Members shall aim at a distribution of trade in such product approaching as closely as possible the shares which the various Members might be expected to obtain in the absence of such restrictions ...”. In practice, however, it may be impossible to predict such a share and so this provision mainly serves as a general guideline, while subsequent paragraphs of this Article permit a fairly wide discretion to administer the quotas. Not surprisingly, several methods have been used to allocate the TRQs.

<sup>3/</sup> As many methods for allocating the TRQs involve licensing in one form or other, the provisions of the *Agreement on Import Licensing Provisions* are also relevant here.

Table 4 documents various categories of the principal methods while Table 5 shows some additional conditions used by some countries.<sup>4/</sup> The tables also show the number of tariff quotas applying to the particular methods. What follows is a short commentary on some of these methods.

**Table 4: Categories of the principal methods used for the administration of the TRQs**

Description of the method	number of tariff quotas	
	1995	1996
<u>Applied tariffs</u> – no shares are allocated to importers. Imports are allowed in unlimited quantities at the in-quota tariff rate or below	649	646
<u>First-come, first-served</u> – no shares are allocated to importers. Imports are permitted entry at the in-quota rate until such a time as the tariff quota is filled; then the higher tariff automatically applies. The physical importation of the good determines the order and hence the applicable tariff.	102	104
<u>Licenses on demand</u> – importers' shares are generally allocated, or licenses issued, in relation to quantities demanded and often prior to the commencement of the period during which the physical importation is to take place. This includes methods involving licenses issued on a first-come, first-served basis and those systems where license requests are reduced <i>pro rata</i> where they exceed available quantities.	306	314
<u>Auctioning</u> – importers' shares are allocated, or licenses issued, largely on the basis of an auctioning or competitive bid system.	32	30
<u>Historical importers</u> - importers' shares are allocated, or licenses issued, principally in relation to past imports of the product concerned.	65	76
<u>Imports undertaken by state trading entities</u> – import shares are allocated entirely or mainly to a state trading entity which imports (or has direct control of imports undertaken by intermediaries) the product concerned.	22	22
<u>Producer groups or associations</u> – import shares are allocated entirely or mainly to a producer group or association which imports (or has direct control of imports undertaken by members) the product concerned.	8	8
<u>Other</u> – administrations which do not clearly fall within any of the above categories.	20	21
<u>Mixed allocation methods</u> – administrations involving a combination of the methods as set out above with no one method being dominant.	46	47

<sup>4/</sup> These two tables are entirely from a paper by the WTO Secretariat describing the various methods used during 1995-97. See WTO 1997, *Tariff Quota Administration Methods and Tariff Quota Fill*, Background Paper by the Secretariat, November 1997.

<u>Non-specified</u> – tariff quotas for which no administration method has been notified.	11	10
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Source: WTO 1997. Tables 1 and 3.

**Table 5: Categories of additional conditions for the administration of the TRQs**

Description of the additional conditions	number of tariff quotas	
	1995	1996
Domestic purchase requirements – an additional condition requiring the purchase or absorption of domestic production of the product concerned in order to be eligible to secure a share of the tariff quota	39	39
Limits on tariff quota shares per allocation - an additional condition involving the specification of a maximum share or quantity of the tariff quota for each importer or shipment.	102	111
Export certificates – an additional condition requiring the submission of an export certificate or license issued by the exporting country concerned in order to be eligible to secure a share of the tariff quota.	25	25
Past trading performance - an additional condition limiting eligibility to secure a share of the tariff quota to established importers of the product concerned although allocations are not made in proportion to past trade shares.	58	58
No other conditions – none of the above were identified.	3	3

Source: WTO 1997, Tables 2 and 4

As said above, Article XIII provides a broad guideline for allocating quotas and gives a good deal of discretion to countries on methods. Since each method has its own advantages and disadvantages, this subject has attracted a considerable amount of debate. Such discussions have used one or more of the following criteria to judge the methods:

- the non-discriminatory qualities of the method, i.e. fairness in accessibility to all potential exporters;
- the transparency, predictability and security of the mechanism;
- the experience with the fill-rates and reasons for under/over-fill;
- the administrative ease and expenses associated with its implementation; and
- the potential for contributing to competitiveness in trade.

Although almost 50 percent of all quotas were administered on the basis of **applied tariffs** (Table 4), this is obviously the case of a simple tariff-only regime. That this method was followed in so many cases may simply mean that while the importing countries had specified quota levels in their Schedules, they chose to allow an unlimited amount of import at the in-quota rate. As such, there is hardly any issue here.

The advantages of the **first come, first-served** or **FCFS** method include its simplicity and potentially non-discriminatory nature. The latter is particularly important as this allows new exporters (and countries) to compete on equal terms with past suppliers. As a result, quota rents would be distributed more evenly than in the case of the allocations based on historical precedent. The disadvantages are mainly in practical difficulties to operate the system. Thus, for example, where the amount of the TRQ is small and demand is strong, there could be a frantic rush to import as soon as the TRQs are opened, contributing to import surges, market disruptions and probably increased storage costs. The successful operation of this method also requires a timely flow of information to all potential exporters on the quotas, i.e. when opened, what amount and so on. From the standpoint of an importing country with several customs posts, it would also require a good information system so that the customs authorities would know when exactly the quotas have been filled.

The method of allocating quotas based on **historical precedent** has the advantage that it reinforces the maintenance and strengthening of trading relationships previously established – a relevant consideration for products where marketing and advertising are important. This mechanism may also be necessary to maintain current access arrangements, which is also an advantage if this is an objective of the Agriculture Agreement. For many developing countries, country-specific allocations based on historical precedent may be critical for the continuation of the access to developed country markets, as is the case with preferential access schemes. The main disadvantage of this method is its discriminatory nature: allocating quotas according to historical shares or on grounds of past precedent prevent other potential exporters from competing and accessing the quotas on an equal footing. Over time, the resulting trade pattern becomes inefficient and distorted, and thus goes against the principal of Article XIII.

Allocating quotas through some form of **lottery** is yet another mechanism. While this avoids the rigidities of historical precedent and the administrative difficulties of FCFS, it is potentially non-transparent and therefore open to discriminatory practices. It may also attract the interest of speculators and create a parallel market and associated rents.

The strengths and weaknesses of **auctioning** tariff quotas are similar to those of the lottery mechanism, except that the economic rents earned are transparent and accrue to the government as the price paid for the license to import. Where the process is truly transparent, it avoids the opportunity for vested interests to capture any rents as well as associated rent-seeking activities. In addition, given that there is a cost associated with obtaining the license, auctions are likely to attract traders who are keen to fulfil the opportunity to import (or export) and create a context where quotas are more likely to be filled.

The drawback of the auctions, as with FCFS and lotteries, includes the potential loss of historical trading relationships. They may also be open to manipulation by producer groups and other vested interests. Although auctioning has never been challenged in the WTO, a fundamental problem with the method is its questionable legality within the WTO rules. Where an importer includes in the price of the imported product the cost of the auction fee, as would normally be expected, and the resulting domestic price exceeds a level that would result from applying the maximum bound tariff, this would be a breach of GATT Article II – i.e. a case where the de facto duty exceeds the bound rate.

Allocation to **state trading enterprises** (STEs) – where the decision to import is administrative and not based on commercial consideration - may lead to the under-utilization of the quotas. Although this practice has been criticised, it is difficult to establish whether the under-utilization, where it occurs, was merely due to the fact that the quotas were given to the STEs, or other factors were also at play. Other mechanisms of a related nature that may lead to low quota-fill include the allocation of licenses to **producer organizations**. These organizations by their very nature would have little incentive to import the product. Finally, in some cases, licenses have also been given to **processors**, or required that the product imported under the TRQ be destined for further processing – in both cases it is very likely that there would be little incentive to import value-added products.

#### 4 SOME ISSUES ON TRQS

As said above, this topic has attracted a great deal of attention in both the formal and informal fora of the WTO Committee on Agriculture, which presumably reflects the high value attached to the TRQs, as well as the difficulties faced in implementing the measure. As a result, many issues have been raised, as discussed above. What follows summarizes some additional issues.

The role of the TRQ system in the coming years – one question of a fundamental nature is whether to treat this market access provision only as a “transitional measure”, something that may have been essential during the UR in order to maintain trade following the tariffication process, and so to be phased out, for example, in the next round? If so, how should this be done? Gradually or abruptly? For the latter, one approach would be to expand the TRQ levels to the extent that most trade takes place at the in-quota tariff rate which then becomes a *de facto* MFN rate. The other way is to sharply lower the current MFN “tariff peaks” on products subject to the TRQs, in which case the TRQ system ceases to be effective in practice. The practical reality is that many countries may have a vested interest in the TRQ system – which would include those exporters that currently enjoy easier access to the quotas (and quota rents) but also probably some importing countries that would prefer this trade instrument to regulate trade at levels that they desire. Obviously, some others, e.g. competitive exporters currently experiencing difficulties in accessing the quotas, would like to see the system phased out. In preparing for the next round, individual countries may need to review their experience with, and expectations from, the system of TRQs, perhaps in comparison with the alternative of a tariff-only trade regime on a fully MFN basis.

Issues on the administration of the TRQs – as discussed in the previous section, each method of allocating the TRQs has its own advantages and disadvantages, and the choice of a particular method or methods by individual countries reflects these factors. With over four years of experience with the system, a good deal of information is at hand for an analysis of the effectiveness of the various methods of quota allocation, using some criteria as listed in the previous section. This, however, is yet to be done. As a preparation for the next round, individual countries need to undertake this review based on their own experience. In particular, they may wish to examine whether they favour market-based ways of allocationg TRQs (e.g. through auctions) or administrative ways (e.g. allocation based on historical shares).

The “under-fill” of the TRQs and its reasons – this is yet another topic that has attracted considerable attention. Depending on how one sees it, the overall average fill rate of about 60 percent during 1995-97 may be considered satisfactory, or low. Perhaps, the problems are



elsewhere - with individual commodity groups and products with low fill rates, e.g. below 50 percent. Many explanations have been given for the low fill rates. Most of these have to do with the way the quotas were allocated - e.g. timeliness of information, the period of time allowed to fill the quotas, the size of consignments, licensing systems, the smaller volume of the MFN quotas relative to the total, allocation to domestic producer groups having no interest to import, product grouping, higher in-quota tariff rates and so on. In addition, weak import demand itself was also stated to be a factor for the low fill rate in several cases. Under current rules, countries are not obliged to fill the TRQs - they are only required to provide the access opportunity. While the problem at hand is simple - i.e. how to fully utilize the tariff quotas - it is far less clear what improvements in the rules and procedures would lead to that.

Some issues of particular concern for the developing countries - one issue to weigh is the potential gains from the TRQ system against an alternative where these are phased out. An obvious direct consequence of the phase-out is the loss of the market access and quota rents for countries that have the access currently. But the phase-out, at least in theory, should bring about an increase the overall size of the world market, accessible to all countries including the developing countries, and higher world market prices, especially so for the quota-restrained commodities. A second area for consideration could be improving the current administrative methods for allocating the quotas. Some methods could be less complex and cumbersome for the developing countries, given their state of administrative capability. A third point to consider is whether the developing countries should consider some form of Special and Differential Treatment (SDT), e.g. a greater access for them to the TRQs.

## **SAFEGUARD MEASURES<sup>1/</sup>**

### **PURPOSE**

The purpose of this Module is to describe various safeguard measures in the WTO agreements and to discuss problems and issues facing the developing countries in the area of safeguards for agricultural products.

### **WHAT YOU WILL LEARN**

- Various safeguard measures in the WTO framework
- Developing country concerns with safeguards for agriculture
- Some issues for the next round

### **STRUCTURE**

- 1 Introduction*
- 2 Basic Features of Four Selected Safeguard Provisions*
- 3 Some Issues for the Developing Countries*

## 1 INTRODUCTION

A contingency measure or a safeguard refers to additional duties or import regulations that may be imposed when a country is faced with a sudden surge in imports and/or unusual decline in import prices that hurt or threaten to hurt a domestic import-competing sector. More formally within the WTO legal framework, the safeguard rules permit an importing country to temporarily suspend its WTO obligations in the event of such situations as mentioned above.

Prior to the Uruguay Round, safeguard provisions were relatively unimportant for trade in agricultural products as this escaped many of the GATT disciplines. For example, most agricultural tariffs were unbound and various exemptions made it easier to apply quantitative restrictions. Although the Agreement on Agriculture (AoA) of the Uruguay Round (UR) devised a special safeguard measure for agricultural trade (but limited to selected products and countries, see below), this provision is valid only for the duration of the yet-to-be-defined “reform process”. Afterwards, general safeguards would also apply to agricultural trade.<sup>2/</sup> It is for this reason that it is important to be acquainted with these measures.

There are several GATT safeguard provisions that allow for the temporary suspension of obligations (some also allow for permanent suspension). These are presented in Box 1 along with the specific safeguard provision of the AoA. Space does not allow a discussion of all these provisions – for this, the best reference is the *Uruguay Round Legal Texts* itself. This Module, therefore, introduces the specific safeguard to agriculture and three more prominent general GATT safeguards (anti-dumping, countervailing and emergency safeguards).

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<sup>2/</sup> General GATT safeguards are available for all countries and all products, including agricultural products.

### Box 1: List of GATT/WTO Safeguards

Anti-dumping: measures to deal with dumping – pricing of exports by a private firm below what is charged in the home market – that materially injures a domestic industry (GATT Article VI and Agreement on Implementation of Article VI of GATT 1994).

Countervailing duties: measures to offset the effect of subsidization by the government of the exporting country that causes or threatens material injury to a domestic industry (GATT Articles VI and XVI and Agreement on Subsidies and Countervailing Measures).

Emergency protection: temporary protection in cases where imports of a product causes or threaten serious injury to domestic producers of directly competitive products (Article XIX).

Special Safeguards Provisions – provisioned by the Agreement on Agriculture (Article 5) and limited to only those agricultural products which underwent tariffication in the Uruguay Round and for which the right to use this safeguard is reserved in country Schedules by designating the symbol SSG. The provision remains in force for the duration of the “reform process” to be determined under Article 20 of this Agreement.

Balance of payments: restrictions on imports to safeguard a country’s external financial position (Articles XII).

Infant industries: government assistance for economic development, allowing import restrictions to protect infant industries (Articles XVIII:a and XVIII:c).

General waivers: allowing Members to ask for permission not to be bound by an obligation (Article XXV and WTO Agreement). In contrast to other mechanisms, this requires formal approval by the WTO Council.

Provisions allowing for permanent exceptions from the obligations

General exceptions: measures to safeguard public morals, health, laws and natural resources, subject to the requirement that such measures are non-discriminatory and are not a disguised restriction on trade (Article XX).

Modification of Schedules and Tariff renegotiations: allowing for the withdrawal of certain concessions (i.e. raising the bound tariffs) subject to compensation to affected Members (Article XXVIII and Article XXVIII bis).

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*Source*: As compiled by Hoekman and Kostecki (1996), Chapter 7 – Safeguards

### 3 SOME ISSUES FOR THE DEVELOPING COUNTRIES

**The challenge facing the developing countries** – there is no experience to draw upon on the use of GATT contingency protection measures by developing countries in agricultural trade, as until recently most agricultural tariffs were unbound and other options were available to regulate trade. This situation has changed. The challenge facing these countries in the coming years may be stated in three steps as follows.

First, agricultural sectors do require some safeguards as agricultural commodity markets are by nature volatile. As an example, the world market price of raw sugar fell from 12.3 US cents per pound in December 1997 to 7.2 US cents per pound in September 1998. This would have required a tariff rate of 70% if a country wished to stabilize the domestic market price at the level of December 1997 if the initial tariff was zero (or a tariff of 105% if the initial tariff was already 20%).<sup>3/</sup> The issue here is not so much of a secular decline in world prices and adapting domestic prices to this trend over a medium-term, which makes an economic sense, but one of stabilizing domestic prices in the face of short-term swings.

Second, although price instability on world markets is felt identically by all countries, the consequences can be much greater for developing countries, for two reasons: i) the agricultural sector is generally more vulnerable to external shocks of this nature; and ii) the sector plays an overriding role in the economy, including in terms of the livelihood of a large segment of the population. Moreover, very few developing countries have in place insurance mechanisms (e.g. crop insurance schemes, access to risk management instruments) for responding to the shocks, nor can many afford one. In this situation, the damage could be considerable – both in terms of increased transitory food insecurity and some dislocation of the sector with effects felt for some years.

Third, the use of the three general GATT safeguard measures, even on a provisional basis, is subject to extensive procedural requirements and conditions – perhaps by design in order to ensure that they are not misused. It is difficult to imagine that many developing countries, in their current state of socio-economic development, would have the necessary level of institutional and legal capability, as well as finance, to utilize these provisions.<sup>4/</sup> Although emergency safeguards appear relatively less demanding in terms of procedural requirements, they require compensation to be paid, which is unlikely to be feasible for most of them.

Given this situation, what are the options for them? Obviously, one of these is to improve their capability to use the general safeguards, but this will take time, effort and resources. In the meantime, what may be done?

**Provide to the developing countries a safeguard similar to the agricultural SSG** – as said earlier, the agricultural SSG is the simplest of all WTO safeguards. The right to use this is currently reserved by 36 countries only and for a limited number of commodities; moreover, this provision is said to lapse at the end of the “reform process”. In view of the above-noted difficulties facing the developing countries to use the general safeguards, there may be a good justification for pursuing for a SSG-type safeguard within the framework of Special and Differential Treatment. Obviously, some improvements may be necessary on trigger mechanisms etc. in order to ensure that the provision is not misused. Also, it may be desirable that the mechanism does not fully insulate domestic markets from changes in import prices.

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<sup>3/</sup> Assuming the simple expression,  $P_d = P_w * (1+t)$ , where  $P_d$  and  $P_w$  are domestic and world prices and  $t$  is the tariff rate. If  $P_d$  is to be maintained at 12.3 cents when  $P_w$  is 7.2 cents,  $t$  would have to be 71%. But if tariff was initially at 20%, the initial  $P_d$  would be 14.8 cents – to stabilize  $P_d$  at this level when  $P_w$  drops to 7.2 cents would require a tariff of 105%.

<sup>4/</sup> Another constraint in the use of general safeguards by the developing countries is lack of national legislation on safeguards, as WTO rules in this area are implemented through Members' national legislation.

**Limit the SSG for food security-related products only** – this option is similar to the above except that the SSGs are limited to a selected list of products that are critical for food security. These could be basic foods and/or some other commodities that are “sensitive” from the standpoint of food security (some criteria can be set to select and limit the number of commodities). Perhaps, this could be one way to “take into account” the food security concern in the reform process, as called upon in Article 20 of the AoA.

**Carefully approach the reduction of the bound tariffs** – high bound tariffs can obviate the need for a safeguard as, providing the intention is not to use the full bound rate all the time, tariffs can be raised to the level required to offset a falling world price. With the tariffs now bound and facing further reductions in the next round, those countries that find it difficult to use one or more of the general GATT safeguards may need to approach tariff reductions carefully. Viewed in this way, there is a some kind of trade-off between the level of the bound tariff and accessibility to safeguards. Individual developing countries need to review their situation on this matter.

**Strengthen institutional capability to use general GATT safeguards** – it is in the spirit of the WTO system that all derogations and exemptions are ultimately eliminated, thus bringing all trade within the general GATT rules. The SSG, or its another variant, may thus be viewed as, at best, a temporary provision. Ultimately, the developing countries need to strengthen their capability to use the general safeguards. This process could be moved faster through some concrete measures for technical and financial assistance, in line with similar other provisions in the current WTO agreements. At the same time, some form of independent legal assistance at the international level may be considered necessary to assist these countries in procedural matters in the use the general safeguards as and when required.

## **DISPUTE SETTLEMENT<sup>1/</sup>**

### **PURPOSE**

The purpose of this Module is to provide a basic understanding of the rules and procedures governing the initiation and conduct of the dispute settlement.

### **WHAT YOU WILL LEARN**

- An introduction to the Dispute Settlement Understanding (DSU).
- Highlights of recent disputes involving agricultural products.
- Assistance provisions to the developing countries to enhance their participation in the system.

### **STRUCTURE**

- 1 Introduction*
- 2 The WTO Dispute Settlement Mechanism*
- 3 Highlights of Recent Disputes Involving Agricultural Products*
- 4 Provisions for Enhancing Developing Countries Participation in the System*

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<sup>1/</sup> Training Module I-6

## **Box 2: Selected WTO disputes involving agricultural products**

European Communities - Regime for the Importation, Sale and Distribution of Bananas, complaints by Ecuador, Guatemala, Honduras, Mexico and the United States. The complainants allege that the EC's regime for importation, sale and distribution of bananas is inconsistent with GATT Articles I, II, III, X, XI and XIII as well as provisions of the Import Licensing Agreement, the Agreement on Agriculture, the TRIMs Agreement and the GATS. A panel was established on 8 May 1996. The Panel found that the EC's banana import regime, and the licensing procedures for the importation of bananas in this regime, are inconsistent with the GATT. The Panel further found that the Lomé waiver waives the inconsistency with GATT Article XIII, but not inconsistencies arising from the licensing system. Following an appeal by the EC, the Appellate Body mostly upheld the Panel's findings, but reversed the Panel's findings that the inconsistency with GATT Article XIII is waived by the Lomé waiver, and that certain aspects of the licensing regime violated Article X of GATT and the Import Licensing Agreement. In September 1997, the Appellate Body report and the modified Panel report were adopted by the DSB. Subsequently, the Arbitrator settlement the reasonable period for implementation to be the period from 25 September 1997 to 1 January 1999.

The dispute entered another phase when the complainants questioned the WTO-consistency of the measures introduced by the EC. On 15 December 1998, the EC requested the establishment of a panel to determine that its implementing measures must be presumed to conform to WTO rules unless challenged. About the same time, Ecuador also requested the re-establishment of the original panel to examine whether the EC measures are WTO-consistent. The DSB agreed on 12 January 1999 to reconvene the original panel to examine both Ecuador's and the EC's requests. concessions to the EC in an amount of US\$520 million, which the EC disagreed. At the same time, the original panel determined that the EC bananas regime was still not fully WTO-compatible. On the question of concessions, the arbitrators determined the level of nullification suffered by the United States to be \$191.4 million, which was authorized by the DSB on 19 April 1999.

India - Quantitative Restrictions on Imports of Agricultural, Textile and Industrial Products, complaint by the United States. The US contended that quantitative restrictions maintained by India on importation of a large number of agricultural, textile and industrial products, including over 2,700 agricultural and industrial product tariff lines notified to the WTO, are inconsistent with India's obligations under Articles XI:1 and XVIII:11 of GATT 1994, Article 4.2 of the Agreement on Agriculture, and Article 3 of the Agreement on Import Licensing Procedures. The panel, established on 18 November 1997, found that the measures at issue were inconsistent with India's obligations under Articles XI and XVIII:11 of GATT 1994, and to the extent that the measures apply to products subject to the Agreement on Agriculture, are inconsistent with Article 4.2 of the Agreement on Agriculture. India has appealed the case.

Canada - Measures Affecting the Importation of Milk and the Exportation of Dairy Products, complaint by the United States. The US contended that export subsidies allegedly granted by Canada on dairy products and the administration by Canada of the tariff-rate quota on milk distort markets for dairy products and adversely affect US sales of dairy products. The US alleges violations of Article II, X and XI of GATT 1994, Articles 3, 4, 8, 9 and 10 of the Agreement on Agriculture, Article 3 of the Subsidies Agreement, and Articles 1, 2 and 3 of the Import Licensing Agreement. A panel was established on 25 March 1998. The Panel found that the measures complained against were inconsistent with Canada's obligations under Article II:1(b) of GATT 1994, and Articles 9.1(a) and (c) of the Agreement on Agriculture. The panel report has been circulated on 17 May 1999.

Canada - Measures Affecting Dairy Products, complaint by New Zealand in respect of an alleged dairy export subsidy scheme commonly referred to as the "special milk classes" scheme. New Zealand contended that the Canadian "special milk classes" scheme is inconsistent with Article XI of GATT, and Articles 3, 8, 9 and 10 of the Agreement on Agriculture. In 25 March 1998, it was decided that the same panel established above (Canada ... dairy products) should also examine this dispute.

*(continued)*



Republic of Korea – Measures Affecting Imports of Fresh, Chilled, and Frozen Beef, complaint by the United States. This dispute, dated February 1999, is in respect of an alleged Korean regulatory scheme that discriminates against imported beef by *inter alia*, confining sales of imported beef to specialised stores, limiting the manner of its display, and otherwise constraining the opportunities for the sale of imported beef. It was also alleged that Rep. of Korea imposes a markup on sales of imported beef, limits import authority to certain so-called "super-groups" and the Livestock Producers Marketing Organization ("LPMO"), and provides domestic support to the cattle industry in amounts which cause to exceed the aggregate measure of support as reflected in the country Schedule. The United States contended that these restrictions apply only to imported beef, thereby denying national treatment to beef imports, and that the support to the domestic industry amounts to domestic subsidies that contravene the Agreement on Agriculture. The United States alleges violations of Articles II, III, XI, and XVII of GATT 1994; Articles 3, 4, 6, and 7 of the Agreement on Agriculture; and Articles 1 and 3 of the Import Licensing Agreement. A panel was established in May 1999. Australia, Canada and New Zealand reserved their third-party rights.

Philippines - Measures Affecting Pork and Poultry, complaint by the United States. The US contended that the Philippines' implementation of its tariff-rate quotas for pork and poultry, in particular the delays in permitting access to the in-quota quantities and the licensing system used to administer access to the in-quota quantities, appears to be inconsistent with the obligations of the Philippines under Articles III, X, and XI of GATT 1994, Article 4 of the Agreement on Agriculture, Articles 1 and 3 of the Agreement on Import Licensing Procedures, and Articles 2 and 5 of TRIMs. The US further contended that these measures appear to nullify or impair benefits accruing to it directly or indirectly under cited agreements. On 12 March 1998, the parties communicated a mutually agreed solution to their dispute.

Hungary - Export Subsidies in Respect of Agricultural Products, complaint by Argentina, Australia, Canada, New Zealand, Thailand and the United States in March 1996 claimed that Hungary violated the Agreement on Agriculture (Article 3.3 and Part V) by providing export subsidies in respect of agricultural products not specified in its Schedule, as well as by providing agricultural export subsidies in excess of its commitment levels. A panel was established in February 1997, but in July 1997, Australia, on behalf of all the complainants, notified the DSB that the parties to the dispute had reached a mutually agreed solution, which required Hungary to seek a waiver of certain of its WTO obligations. Pending adoption of the waiver, the complaint was not formally withdrawn.

*Source: WTO web site: Overview of the-state-of-play of WTO disputes, updated 27 May 1999.*

## DECISION ON MEASURES CONCERNING THE POSSIBLE NEGATIVE EFFECTS ON LDCs AND NFIDCs<sup>1/</sup>

### PURPOSE

The objective of this Module is to describe various provisions of the Marrakech ‘‘*Decision*’’ and to highlight difficulties faced in its implementation, so that these elements can be taken into account in the next round.

### WHAT YOU WILL LEARN

- Main provisions of the *Decision*
- The food situation in the least-developed and net food-importing developing countries
- What is happening with implementation of the *Decision*
- How can the *Decision* be made more effective

### STRUCTURE

- 1 *Introduction*
- 2 *Main Provisions of the Decision*
- 3 *The Food Situation in the Least-Developed and Net Food Importing Developing Countries*
- 4 *What is Happening with Implementation of the Decision*
- 5 *How Can the Decision be Made More Effective*

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<sup>1/</sup> Training Module II-9

## **TRADE AND FOOD SECURITY: OPTIONS FOR DEVELOPING COUNTRIES<sup>1/</sup>**

### **PURPOSE**

The purpose of this Module is to address food security issues in the context of international trade and particularly within the WTO Agreement in Agriculture in order to assist countries in understanding the limits and flexibilities within the Agreement for pursuing food security policies.

### **WHAT YOU WILL LEARN**

- How is international trade related to food security
- What constraints and options are there in the Agriculture Agreement to pursue food security policies
- How can food security concerns be treated in the next round of negotiations

### **STRUCTURE**

- 1 Introduction*
- 2 Food Security and International Trade*
- 3 Food Security Policy Options under the WTO*
- 4 Some Issues for the Future*

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<sup>1/</sup> Training Module II-10

# TRADE AND THE ENVIRONMENT<sup>1/</sup>

## PURPOSE

The purpose of this Module is to summarise issues related to environment and international trade, and particularly in the context of the Agreement on Agriculture. This should assist countries in articulating their issues and concerns related to environment and trade in the next round.

## WHAT YOU WILL LEARN

- Main provisions of the GATT/WTO Agreement and Ministerial Decisions regarding trade and the environment
- Developing countries experiences and unresolved issues
- Some issues for developing countries

## STRUCTURE

- 1 *Introduction*
- 2 *Main Provisions of the GATT/WTO Agreement and Ministerial Decisions Regarding Trade and the Environment*
- 3 *Developing Country Experiences and Unresolved Issues*
- 4 *Some Issues for Developing Countries*

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<sup>1/</sup> Training Module II-11

#### IV. GLOSSARY OF SELECTED ACRONYMS

### Sugar Workshop REFERENCE HANDBOOK

#### *Glossary of Acronyms*

<b>AERC:</b>	African Economic Research Council
<b>AMS:</b>	Aggregate Measure of Support
<b>AOA:</b>	Agreement on Agriculture
<b>Blue box:</b>	Direct payments under production limiting programmes exempt from reduction commitments.
<b>CAP:</b>	Common Agricultural Policy
<b>CITES:</b>	Convention on International Trade in Endangered Species
<b>COA:</b>	Committee on Agriculture
<b>CTE:</b>	Committee on Trade and Environment
<b>De Minimus Exemptions:</b>	These allow support for a particular product to be excluded from reduction commitments.
<b>DSB:</b>	Dispute Settlement Body
<b>DSU:</b>	Dispute Settlement Understanding
<b>Eco-Labeling:</b>	Labels to indicate if product conforms to certain environmental standards.
<b>FAC:</b>	Food Aid Convention
<b>GATS:</b>	General Agreement on Trade in Services
<b>GATT:</b>	General Agreement on Tariffs and Trade
<b>GSP:</b>	Generalized System of Preferences
<b>Green box:</b>	Support measures exempt from reduction commitments - as having no or at most minimal trade distorting effects on production. They must be provided through publicly-funded government programmes (including government revenue foregone) not involving transfers from consumers and must not have the effect of providing price support to producers.
<b>IMF:</b>	International Monetary Fund
<b>LDC:</b>	Least Developed Country
<b>MEA:</b>	Multi-Environmental Agreement
<b>MFN:</b>	Most Favoured Nation
<b>NFIDC:</b>	Net Food Importing Developing Country
<b>NTB:</b>	Non-Tariff Barrier
<b>PPMS:</b>	Production and Processing Methods
<b>SACU:</b>	Southern African Customs Union
<b>SDT:</b>	Special and Differential Treatment for Developing Countries
<b>SPS:</b>	Agreement on Sanitary and Phytosanitary Measures
<b>SSA:</b>	Sub-Saharan Africa
<b>SSG:</b>	Special Safeguard Measure
<b>STE:</b>	State Trading Enterprise
<b>TBT:</b>	Agreement on Technical Barriers to Trade
<b>TRIPS:</b>	Agreement on Trade Related Aspects of Intellectual Property Rights
<b>TRQ:</b>	Tariff Quota
<b>UR:</b>	Uruguay Round
<b>WTO:</b>	World Trade Organization

## V. ANNEX - TARIFF RATES FOR SUGAR AND URUGUAY ROUND COMMITMENTS

Importing countries	Tariff line (HS code) 1701.11 = cane sugar		
	U.R. base rates of duty	U.R. bound rates of duty	Presently applied rates
Barbados (Caricom CET Tariff 1998)	no base rate indicated in the schedule <sup>1</sup>	100% ceiling binding	40%
Belize (Caricom CET Tariff 1998)	see above	100% ceiling binding <sup>2</sup>	40% - see above
Congo Dem. Rep.	see above	55% ceiling binding (+ 0.1% of the amount of the declared value)	20% (1997 national tariff)
Côte d'Ivoire (1994 national tariff)	see above	15% (+ 200% - other duties and charges)	0.5% (+ fiscal duty 10% + VAT 11%) = cumulative rate = 30.42%
Fiji (1992 national tariff)	see above	40% ceiling binding	Import duty = fiscal duty: 25% + VAT: 10%
Guyana (Caricom CET tariff 1998)	see above	100% (+ 40% - other duties and charges)	40% - see above
Jamaica (Caricom CET tariff 1998)	see above	100% without prejudice to the concessions granted previously at a lower level (+ 15% - other duties and charges)	40% - see above
Kenya (1992 national tariff)	see above	100% ceiling binding	Free or variable duty rate
Madagascar (1996-1997 national tariff)	see above	30% (+ 250% - other duties and charges)	15% (+ VAT: 20% + Fiscal duty :5% - 15%)
Malawi (1996 national tariff)	see above	125% ceiling binding without prejudice to existing concessions which are under Art. XXVIII renegotiations	10%
Mauritius (1997 national tariff)	see above	122% (+ 17% - other duties and charges)	80%
St. Kitts and Nevis (Caricom CET tariff 1998)	170% (for 1701)	130% (+ 18% - other duties and charges)	40% - see above
Swaziland (SACU) same as South African national tariff 1997)	124% (170100)	105% + SSG (Special Safeguard) <sup>3</sup>	75.6c/kg
Tanzania	see above	120% (+ 120% - other duties and charges)	no information available in the Secretariat
Trinidad and Tobago (Caricom CET tariff 1998)	see above	100% ceiling binding without prejudice to the products listed in its schedule	40% - see above
Uganda	see above	80% (+ 10% - other duties and charges)	
Zambia	see above	125% ceiling binding	
Zimbabwe	see above	150% applicable without prejudice to concessions of Schedule LIV of Zimbabwe (+ 15% - other duties and charges)	

1. When there is no base rate in the table it means that the product was unbound before the UR negotiations and at the moment of the binding of the product in 1995 the developing country in question was not obliged to present a reduction in their rates for the products concerned
2. Belize maintains a general ceiling of 106%. This rate is actually applied to H.S. 2203 001 and 2203 002. Belize is committed to provide details of levels applied to other products in its list and to clarify this matter during the six months allowed in accordance with paragraph 7 of the UNDERSTANDING on the interpretation of Article II:1(b) of the GATT 1994.

3. Please note that by indicating "SSG" in its Schedule, Swaziland reserved its right to invoke the Special Agricultural Safeguard (Article 5 of the Agreement on Agriculture). This measure is designed to provide some temporary relief from surges of imports on tariffied products by imposing an additional duty when the conditions of Article 5 of the Agreement are fulfilled