
SUGAR AND THE WTO

Ms Cristina Schröder, Legal Counsel, Agriculture, World Trade Organization.

International trade in sugar is, as other products, regulated by the rules of the WTO, in particular the Agreement on Agriculture (AoA) negotiated in the Uruguay Round (UR). The AoA establishes rules in the area of market access, domestic support and export subsidies. Market access being access to another Member's market; domestic support being subsidies paid to the benefit of that Member's farmers; and export subsidies, as the name suggest, being subsidies to reduce the price of exports.

Since the end of the UR, work on the implementation of the reform-programme embodied in the AoA (the Agreement) has continued unabated on the basis of the terms of reference¹ and working procedures² drawn up in 1995. In accordance with its terms of reference, the Committee on Agriculture thus reviews the implementation of the AoA and provides Members with the opportunity of consulting on any question relating to the implementation of commitments, including rule-based commitments.

The working procedures of the Committee provide that the Committee meet at regular intervals to review progress in the implementation of the UR reform programme under Article 18, paragraphs 1 and 2 of the Agreement (the "review process") and generally to carry out such other tasks as are provided for in the Agreement, or which may be required to be dealt with. For this purpose, the Committee has been meeting four times a year.

The agenda for regular meetings and the work of the Committee itself are in two parts: Part I contains items relating to the review process; Part II comprises items relating to other matters within the scope of the Committee, as well as items relating to reports to be submitted by the Committee to other WTO bodies. Any Member may request the inclusion of items under Part I or II of the proposed agenda.

THE REVIEW PROCESS

The review process under Part I of regular meetings of the Committee is taking place on the basis of notifications which are circulated to the Members prior to the notice convening the meeting and which are listed in that notice. Regularly, Members give notice of particular questions they would like to raise at an upcoming meeting in relation to a particular notification by another Member. Such notifications are annotated accordingly in the proposed agenda. The purpose of this procedure is to enable the notifying Member to provide adequate responses to these points in the course of the review process. A Member raising a matter relevant to the implementation commitments under Article 18:6, may request the Member to which the matter in question relates, to provide specific information in writing, or an explanation of the relevant facts or circumstances, a possibility that is often used by Members. Such questions have been raised regularly with regard to sugar.

Also, as regards tariff quota commitments and other market access commitments specified in schedules, a Member may request another Member to provide information to the Committee on the functioning of a specific quota, including the quantity of imports effected or authorized under that quota. For instance, the United States was asked to explain the method by which it allocated country shares of its sugar quota. It was also requested to explain by which method the overall quota was determined. A number of other questions connected to sugar have been asked in the last few years. They can all be found in the reports of the Committee.

PART II OF REGULAR MEETINGS OF THE COMMITTEE

As alluded to earlier, the work of the Committee under Part II of the working procedures includes items relating to other matters within the terms of reference of the Committee, as well as items relating to reports to be submitted by the Committee to other WTO bodies.

Any regular meeting of the Committee provides the opportunity to raise any matter relating to the Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries. More particularly, the Committee monitors, at its November meetings, actions taken within the framework of the Decision pursuant to Article 16 of the Agreement on the basis of, *inter alia*, notifications submitted to the Committee. Eight countries are food aid donors under the Food Aid Convention, seven of which have so notified under this Decision. Three other countries have identified themselves as donors under this provision whereas another ten Members have notified the Committee that they did not provide food aid or technical/financial assistance under this provision or that the provision was not applicable.

IMPLEMENTATION OF COMMITMENTS

The Committee on Agriculture closely monitors the implementation of the commitments made on market access, domestic support and export subsidies. Seventy notifications, on average, are examined at each of the formal meetings of the Committee. In addition, Members frequently use their right under Article 18.6 of the Agreement to raise any matter relevant to the implementation of the reform programme. It could undoubtedly be claimed that the review process has been, and still is, operating efficiently.

Considering the complexity of the commitments undertaken by Members, implementation is progressing well, in particular when one considers that what is at stake. In addition to the rule-based commitments, there is a multitude of Member-specific

¹ WT/L/43

² G/AG/1

domestic support commitments, 430 individual export subsidy reduction commitments and some 1 370 tariff rate quotas, as well as the cut of tens of thousands of out-of-quota agricultural tariffs implemented as a matter of course. Members are on the whole on schedule in phasing in their commitments, while at the same time certain practices continue to be discussed with respect to the acceptability/legality of, for instance, auctioning of tariff quotas, the allocations of tariff quota-related import licenses to producer- or processor organizations, the treatment of preferential trade in the context of m.f.n. tariff quotas, classification of certain domestic support measures in the green box, etc.

NOTIFICATION REQUIREMENTS

There are, as you know, about 200 notification requirements in the WTO as a whole, taking into account all the various agreements constituting the WTO. Such notifications, although burdensome for Members, are needed to show compliance with the various commitments undertaken. In agriculture alone, notifications have to be done in five different areas, i.e. in market access (with respect to tariff and other quotas, and special safeguard provisions); domestic support (including the Current Total Aggregate Measurement of Support (AMS), and new or modified exempt measures); export subsidies (including notifications concerning anti-circumvention provisions); export prohibitions or restrictions; and with regard to the Follow-up to the Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries.

These requirements mean that Members will have to fill out more than 20 forms, including supporting tables, many of them on an annual basis. Others, however, are done on an *ad hoc* basis since their applicability depends on specific actions being taken by the Member concerned, such as the introduction of new green domestic support measures or changes in the administration of tariff quotas. In practice, this means that in many cases only a limited number of notification requirements will apply for a particular Member.

The efforts to improve compliance with notification requirements has had mixed results. In the area of tariff quota commitments and export subsidy reduction commitments, compliance could be considered rather satisfactory. However, the picture on the technically demanding domestic support side and, more generally, with respect to Members which have no reduction commitments, is less imposing.

TARIFF RATE QUOTAS

Thirty-six Members have a total of 1370 tariff quota commitments on agricultural products shown in their Schedules. Twenty-six of these Members are currently offering tariff rate quotas for sugar (see Annex 2) for an initial total amount of some 3,760,363 tonnes, increasing to some 3 960 722 tonnes at the end of the implementation period, i.e. an expansion of slightly less than 200 000 tonnes. In all, there are 41 tariff rate quotas for sugar, 51 if sugar confectionery is included. In 1995 and 1996, 17 of those Members notified their imports of sugar under tariff quotas. The following year 15 Members provided notifications whereas only five have done so to date for 1998. Most of the notifications indicate a near 100 per cent quota fill.

Of the 26 Members with tariff rate quotas for sugar, 13 have reserved the right to use the AoA's special safeguard (Article 5) (see Annexes 3 and 4). Another Member has no tariff quotas for sugar but has reserved the possibility of using special safeguards on its current access imports of sugar. The special safeguard for sugar covers 291 tariff items. Since implementation, the special safeguard for agricultural products have been used sparingly. As concerns sugar, only four Members appear to have had *recourse* to this mechanism on one or two occasions, respectively, since the start of the implementation. In all instances, it was the price-triggered safeguard that was used.

EXPORT SUBSIDIES

Of the 135 Members of the WTO, 25 have export subsidy reduction commitments for agricultural products. Of these, 10 Members have such commitments for an initial total quantity of some 6.5 million tonnes of sugar, decreasing by around 19 per cent to approximately 5.3 million tonnes by the end of the period (see Annex 7). Budgetary outlays will diminish by between 24 and 36 per cent in the same period. All ten relevant Members have made notifications concerning 1995, five of which notified that they had not used export subsidies for sugar in those years. In 1996, nine out of the ten relevant Members submitted notifications, five of which had not used export subsidies for sugar that year. Nine of the ten relevant Members have also notified for 1997 of which five countries noted that they had used export subsidies and four that they had not. In 1998, three of the five notifications received so far indicate sugar exported with the help of export subsidies in that year. We are still expecting notifications from the missing countries for 1997 and 1998.

It could be noted that none of the notifying countries used up its commitment levels for budgetary outlays and only one used export subsidies up to the maximum volume level. Most countries were far below their maximums both for volume and budgetary outlays in the years for which we have adequate information. It could also be noted that the level of total exports of sugar (including exports with subsidies) from the ten countries is far larger than the total annual commitment level (see Annex 7).

DOMESTIC SUPPORT

Although total supports have to be reduced or kept within *de minimis* limits, there are no fixed, product specific, domestic support reduction commitments although there are notification requirements concerning product specific subsidies. The choice of products which are supported may therefore change from one year to another. Notifications of domestic support for sugar have been filed by some 19 Members although a great many more have notified non-product specific domestic support both of a green, blue and amber kind. Six of these countries, however, have only notified such support for the base period but not since. It cannot be excluded, however, that some of the non-product specific support also benefits sugar. The product specific sugar notifications are mostly related to market price support and other product specific support such as production and marketing credits.

THE PROCESS OF ANALYSIS AND INFORMATION EXCHANGE

Following the Singapore Ministerial Conference, the process of Analysis and Information Exchange (AIE) was established by the Committee on Agriculture in March 1997. Under this process WTO members were able to submit papers to informal meetings of the Committee for discussion. No conclusions or recommendations were drawn from the discussions, although the Chair of the Committee did make a summary report to the formal Committee meetings which was included in the records of the meetings.

The first session of the AIE process was held in May 1997. Since then there has been another ten AIE meetings, usually preceding meetings of the Agriculture Committee. At this time, there are no more AIE meetings scheduled.

Between the initiation of the AIE process and the end of November 1999, Members presented 74 papers on issues such as tariff quotas, special safeguards and export subsidy commitments. At the request of the Members, the Secretariat prepared 13 factual background papers on various subjects, based on information provided by the Members in notifications, such as on domestic support, on *ad valorem*, specific and other tariffs, tariff rate quotas, safeguards and on special and differential treatment. (A list of Members' and Secretariat contributions to the AIE process is annexed.)

In addition, the Secretariat prepared a number of background notes on issues like tariff quota administration and tariff quota fill, the use of export subsidies and special safeguards and the trade performance of developing countries. These papers were also discussed during the informal AIE meetings and Members sometimes submitted their own papers commenting on the factual Secretariat reports (see complete list of documents in Annex 1).

Although there were no conclusions from the discussions, the process did help Members to identify issues other countries considered important; to highlight perceived problems with implementing the current rules; and to put forward their own suggestions for the up-coming negotiations.

THE 1999 MINISTERIAL CONFERENCE

The Geneva Ministerial Conference in April 1998 established the procedure by which Members would prepare for the next Ministerial in Seattle in the United States in November/December 1999.

The main issues which had to be determined were the scope, modalities and timeframe for the next round of trade negotiations. "Scope" means the number of areas which will be subject to negotiations. While negotiations were mandated for agriculture and services already as a result of the Uruguay Round, many Members would like to see a broad based round which would also cover such areas as goods, intellectual property, technical barriers to trade and so on. Although the majority of Members favour a general round, there is a significant number of developing countries that would prefer to restrict the areas discussed.

The second issue, "modalities", is the way in which the next round will be conducted. A number of different matters had to be decided under this heading such as the type and structure of the committees overseeing negotiations, the selection of chairmen, the presentation of submissions etc. The third question was that of the timeframe for negotiations. For agriculture most Members still favour a relatively quick round with the scheduled end of the peace clause, 2003, as the deadline.

THE PREPARATORY PROCESS IN THE GENERAL COUNCIL

To assist the WTO in preparing for the 1999 Ministerial, the 1998 Geneva Ministerial Declaration states that the General Council should meet in special sessions to allow Members to submit lists of subjects they would like to see covered in the new round. The first of these sessions took place in September 1998 and continued at regular intervals right up to the Ministerial Conference in Seattle.

In these special sessions, Members raised a number of agriculture related issues, many of which had already been raised in the AIE process. These included non-trade concerns associated with agriculture, special and differential treatment for developing countries as well as the need for further reform. There were also a great many suggestions and proposals concerning not only agriculture and services, the 'mandated' issues, but also a panoply of other issues such as anti-dumping, customs valuation, regional trade agreements, rules of origin, the subsidies agreement and the agreement on textiles and clothing. There were also a number of suggestions and proposals concerning "new" issues such as trade and investment, trade and competition policy, trade facilitation and electronic commerce.

As concerns agriculture, more than twenty countries or groups of countries have made written proposals in agriculture since the beginning of the year. Most, if not all, of the proposals tabled so far use the concepts now familiar from the Agreement on Agriculture such as market access, domestic support and export subsidies. Others are new to the Agreement such as "multi-functionality", "development box" or "biotechnology". The proposals also cover the whole range from continuing the reform process started with the Uruguay results by further reduction in support levels and tariff rates as well as increases in the level of tariff rate quotas to more radical proposals such as rapidly eliminating support and other measures restricting trade in agricultural products and putting agricultural rapidly on the same footing as non-agricultural products, i.e. making farm products responsive to the general rules of the WTO without exceptions. There are also various proposals concerning the treatment of developing and least developed countries, the interests of which, everybody seems to agree, need to be taken into account in the next round.

THE SEATTLE MINISTERIAL CONFERENCE

It cannot have escaped anyone that the latest WTO ministerial conference took place last week in Seattle. This conference was from the start intended to start a new negotiating round. at least in the subjects already mandated at the end of the UR

and in particular in agriculture. Indeed, Article 20 of the AoA provides for the continuation of the reform process started in 1995. Such negotiations shall be initiated one year before the end of the implementation period which terminates at the end of year 2000.

Article 20 also provides that such negotiations shall take into account: the experience to date from implementing the various reduction commitments; the effects of the reduction commitments on world trade in agriculture; 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, finally what further commitments are necessary to achieve the long-term objectives mentioned.

The text of the Ministerial Declaration will be provided separately.