



TRADE IN AGRICULTURE

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Agriculture and WTO

- ❖ Agriculture has been a sensitive topic in GATT / WTO:
 - ❖ Carefully crafted exceptions for agriculture under GATT

- ❖ **Uruguay Round** (1986-94) was effectively the first comprehensive round of trade negotiations targeting agriculture; it was possible some 40 years after the establishment of GATT

- ❖ **Agreement on Agriculture (AoA)** entered into force in 1995 after successful Uruguay Round: **AoA** disciplines encompass 3 broad areas or '**pillars**':
 - ❖ Market Access
 - ❖ Domestic Support
 - ❖ Export Competition

*Legal definition of agricultural products
(AoA Annex I)*

WTO Rules in the area of Agriculture

❖ Rule-based commitments

- ❖ Included in the **legal texts** (e.g. Agreement on Agriculture (AoA)); applicable to all Members
- ❖ Examples: prohibition on the use of QRs, rules on domestic support, export subsidies etc.

❖ Quantitative/numerical commitments:

- ❖ Member-specific: inscribed in individual **Schedules**
- ❖ Examples: market access concessions (e.g. tariff bindings, commitment on TRQs), commitments on agricultural subsidization (e.g. Total AMS) etc.



Agriculture negotiations during accessions

❖ Rule-based commitments

- ❖ Like for all Members, these rules are expected to be followed by the acceding governments upon successful conclusion of accession

❖ Quantitative/numerical commitments:

- ❖ These are the subject of negotiations during accession
- ❖ Agreed quantitative commitments (like **tariff** bindings, **TRQ** commitments, domestic support (Total **AMS**)) will be inscribed in the **Schedule**
- ❖ Modalities of negotiations may differ depending on the pillar/area: **market access**- bilateral request-offer track, **agricultural subsidization**: plurilateral/multilateral track

Agricultural Concessions and Commitments in the Schedule

- Agriculture-specific concessions and commitments are inscribed in two distinct parts (out of total four) of the Schedule:
- **Part I**, Most Favoured Nation Tariff
 - Section I.A – Agricultural tariffs
 - Section I.B – Agricultural tariff quotas
- **Part IV**, Commitments limiting subsidization
 - Section I – Domestic support (Total AMS)
 - Sections II & III – Export subsidies

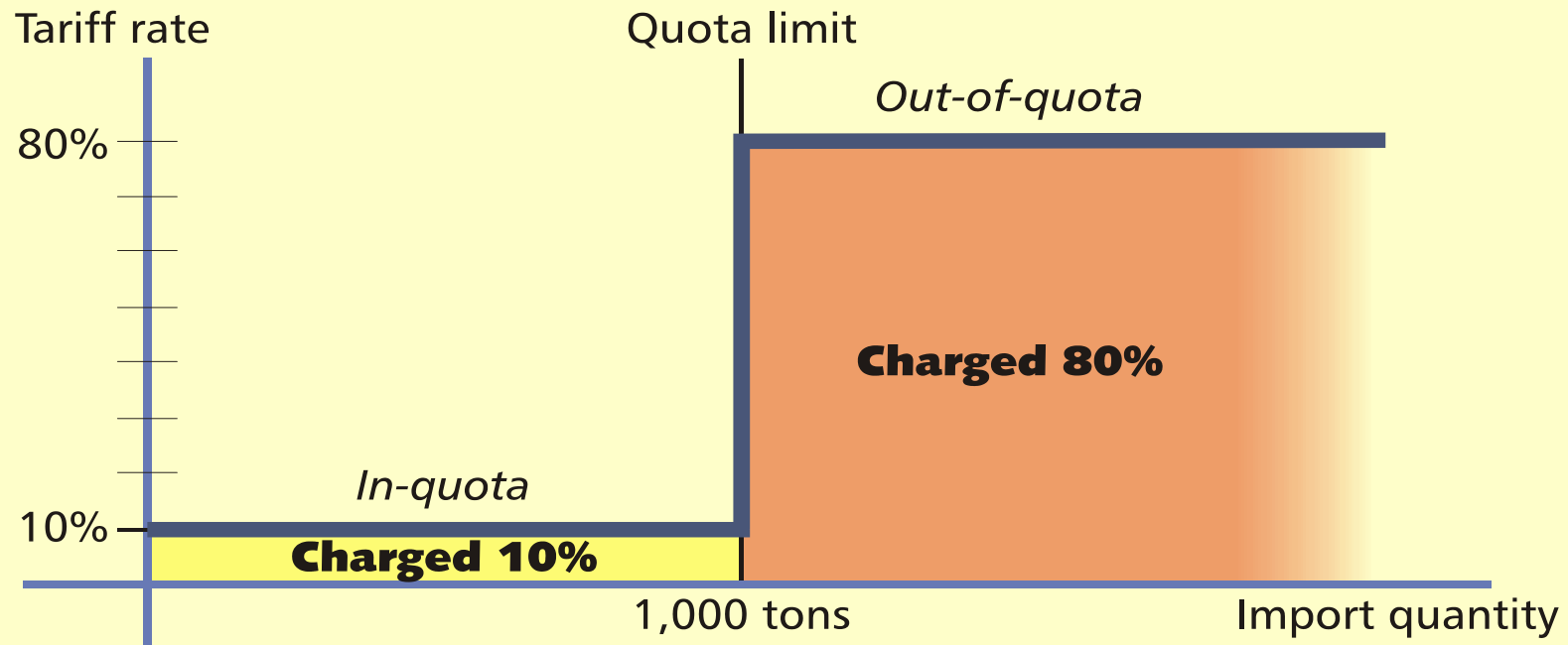
AoA Market Access rules

- ❖ Comprehensive product scope: bindings on **all** agricultural products (level of tariff bindings to be negotiated and included in the **Schedule**)
- ❖ Protection to be offered **only** through **tariffs** (tariff-only regime)
 - ❖ The then existing non-tariff border measures converted into tariff equivalents* (*tariffication*) which after required reduction were then bound in the **Schedule**
 - ❖ To ensure that there is no recourse to such measures in future; **AoA Article 4.2** prohibits Members to maintain, resort to or revert to such measures (illustrative list of such prohibited measures like quantitative restrictions(QRs) included in the legal text)

Tariff Rate Quotas (TRQs)

- Two-tier tariff on a product:
 - A higher tariff [**out-of-quota** tariff]; and
 - A lower tariff [**in-quota** tariff] associated with a **quantitative** limit on imports

A tariff quota This is what a tariff quota might look like



Tariff Rate Quotas (TRQs); contd.

- In contrast to quantitative restrictions (QRs), where imports are prohibited beyond the quota limit, under a TRQ, import market is always open at the higher out-of-quota tariffs: **TRQs are lawful under the WTO rules.**
- Extensive use of TRQs in Uruguay Round in the context of tariffication & the resulting high out-of-quota tariffs
- Also resulted in some **accession** negotiations (**request-offer**):
 - Suppose a tariff of 15% is requested in the negotiations on sugar (but deemed difficult); offer could be a two-tier tariff: **50%** generally applicable out-of-quota tariff along with **5%** in-quota tariff for a limited quantity (**100,000 t**).

Schedule CLXII - Ukraine

PART I - MOST-FAVOURED-NATION TARIFF

SECTION I - B Tariff Quotas

Note:

For information on quota administration and allocation, see paragraph 136 of the Working Party Report.

Description of products	Tariff item number	Initial quota quantity and in-quota tariff rate	Final quota quantity and in-quota tariff rate	Implementation period	Initial negotiating right	Other terms and conditions
Raw cane sugar	1701.11	260,000 tonne/2%	267,800 tonne/2%	2010	AU, BR, CO, CU	Staging of TRQ quantity: 263,900 tonnes in 2009 and 267,800 tonnes in 2010

Schedule CLXII - Ukraine

This Schedule is authentic only in the English language

PART I - MOST-FAVOURED-NATION TARIFF

SECTION I - Agricultural Products

SECTION I - A Tariffs

HS	Description	Bound rate at date of accession	Final Bound rate	Implementation	Present concession established	INR	Concession first incorporated in a GATT Schedule	Earlier INRs	ODCs
1701	Cane or beet sugar and chemically pure sucrose, in solid form: - Raw sugar not containing added flavouring or colouring matter:								
1701 11	-- Cane sugar:								
1701 11 10 00	--- For refining	50				AU, BR, CE15, CO, CU, DO, GT, HN, IN, KG, PY, SV			0
1701 11 90 00	--- Other	50				AU, BR, CE15, CO, CU, DO, GT, HN, IN, KG, PY, SV			0



TRQs are legal but generally not preferred!

- Presence of “quantity” component in a TRQ introduces the possibility of **governmental intervention** in the market
- How to administer a TRQ? Two main aspects of TRQ administration:
 1. Allocation of TRQ importing rights domestically
 2. TRQ access among supplying countries
- Allocation of TRQ importing rights domestically:
 - Least-burdensome and transparent procedures
- Access of TRQ quantity among supplying countries
 - Application of **non-discrimination** principle?



Allocation of TRQ domestically !

- Simple and less-burdensome paperwork expected
- Multiplicity of options to administer a TRQ
- Broadly two choices:
 - Use licensing procedures
 - No licencing procedures (access on first-come first-served basis)
- There are advantages and disadvantages in both choices from an exporter's perspective
- If licensing is applied: there are obligations in the **Agreement on import licensing procedures**; further clarified and elaborated in the **Bali Ministerial Decision on TRQ administration (WT/MIN(13)/39)**

If licensing system used

❖ Possible issues:

- ❖ Transparency: publication and notification requirements?
- ❖ How many agencies involved in approving the license?
- ❖ Who's eligible to get the license or right to import? STE?
- ❖ Validity period of license?
- ❖ What if licensee doesn't use the license? Re-allocation?
- ❖ Quantity of licenced import? "economic quantities"?
- ❖ Any relation between licensing procures and TRQ underfill?

❖ Bali Ministerial Decision on TRQ administration (WT/MIN(13)/39):

"Tariff quota administration of scheduled tariff quotas shall be deemed to be an instance of "import licensing" within the meaning of the Uruguay Round Agreement on Import Licensing Procedures and, accordingly, that Agreement shall apply in full, subject to the Agreement on Agriculture and to the following more specific and additional obligations".

No Licensing (First-come first-served)

➤ First-come first-served (no licensing):

- Less bureaucratic, freer competition, no involvement of government in administering TRQ

But,

- May be chaotic if small TRQ quantity & heavy demand
- Quota may be filled within hours! *En-route* consignments?
- Uncertainty (whether will pay in-quota or out-of-quota tariff)
- Competitive but distant exporters?
- Production season may be towards the later part of the quota year?

GATT Article XIII: adaptation of MFN principle to quantity allocation

- ❖ **Non-discriminatory access** to and participation in TRQ
 - ❖ No exclusions; all Members to have an opportunity of participation to access the TRQ.
- ❖ **Distribution of TRQ among Members:** aim at distribution of trade corresponding to a free-trade situation (i.e. to mimic Members' comparative advantage)
- ❖ Specific rules on **country-specific allocations** (if so decided by the importing Member):
 - ❖ Distinction between **substantial and non-substantial** suppliers



DOMESTIC SUPPORT/SUBSIDIES

- Two separate agreement in UR dealing with subsidies:
 - Agriculture Agreement (**AoA**) and Subsidies Agreement (**ASCM**)
- Different thrusts in the two agreements with regard to domestic subsidies (both apply simultaneously)* :
 - ASCM: how to deal with negative effect of harmful subsidies (**trade remedies** available to **affected** countries)
 - AOA: How to use subsidies (Binding guidance to the **subsidizing governments**);

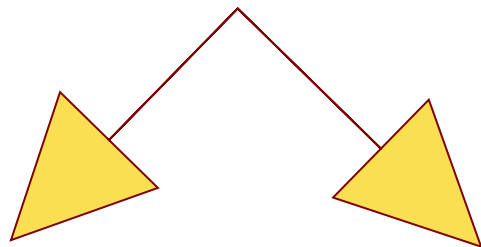
**Limited applicability of ASCM for the first nine years through Peace Clause (now expired)*

Domestic Support

- One of the most innovative aspects of AoA
- To facilitate a change in the design of agricultural support policies so as to contain their negative spill-over effect on others
- Categorization of a support measure: (depends on **policy designs/implementation criteria**)
 - To be deemed as non or minimally distorting (**exempt** i.e. no monetary ceiling)
 - To be deemed as distorting or with potential negative effects for others (non-exempt, i.e. subject to annual monetary limit or **reduction commitment**)
- Detailed policy criteria were agreed for **exempt** policies
- Numerical annual limit on non-exempt domestic agricultural subsidies (nominal Total AMS limit in **Schedule** or **de minimis**)



Domestic Support: Classification of domestic support policies



EXEMPT MEASURES (Detailed Criteria for policy makers)

Offering scope for governments for policies whose potential distorting effect on trade and production is minimal or less:

NON-EXEMPT MEASURES Residual category (no criteria)

subject to **annual** monetary limit
(i.e. **Total AMS** commitment level in the Schedule or *de minimis* limit)

**Encouraging a reform process
towards “exempt” support measures**



Total domestic support

exempt from reduction

subject to reduction

No/minimal
effects on
trade or
production

Production-
limiting
programmes

Development
programmes

Trade-
distorting
support

Green Box
(policy criteria)

Blue Box
(policy criteria)

Art. 6.2
(policy criteria)

Amber Box
(* *de minimis* amounts exempted)



Domestic support

- **Criteria-based rules**

- Exempt from monetary limit
- Need to respect the **criteria**
- Detailed criteria/requirements prescribed

- **Monetary limit based rules:**

- When exemption criteria not respected
- Detailed methodology to **calculate** support/subsidy
- Annual monetary limit on support/subsidies



Green Box (Annex 2 of AoA)

Fundamental objective

- No, or at most minimal, trade-distorting effects or effects on production

Basic criteria

Assistance:

- Provided through **publicly funded** government programme not involving transfers from **consumers**
- Not resulting in **price support** to producers

Once basic criteria are fulfilled, specific support policies among the Green Box policy options may be chosen by following the **policy-specific criteria**

Green Box – Policy-specific criteria

General services, including:

- research
- pest and disease control
- training
- extension/advisory services
- inspection
- marketing and promotion
- infrastructural services

- Public stockholding for food security, and
- Domestic food aid

Direct payments, including:

- decoupled income support
- income insurance and income safety-net
- relief from natural disasters
- structural adjustment assistance
 - producer retirement
 - resource retirement
 - investment aids
- environmental programmes
- regional assistance programmes

General Services (para 2 of Annex 2)

- Budgetary expenditure by the government in offering services to the agriculture sector: **research, training, extension and advisory services, infrastructure services** etc.
- **No direct payment** to producers: not directly affecting farm receipts
 - Obviously, these services affect long-term productivity and thus production and consumption
- No targeting of individual producers: general or collective support

Food security-inspired governmental intervention

(Public stockholding (PSH) & domestic food aid)

- Budgetary expenditure in maintaining food stocks or providing food aid to needy people
- Policy objectives are often oriented towards supporting **consumers**
- Green Box policy criteria primarily target the interaction of the government's with **producers**, for example:
 - **Pre-determined** food security stock targets for PSH (intervention not driven by production fluctuation)
 - Purchase of food under **market conditions** (not administered prices) for both PSH as well as domestic food aid programmes

Various possibilities of Direct Payments

(paragraphs 5-13 of Annex 2)

- Direct payments to farmers to support their income
- Payments shouldn't affect producer expectations and their current production decisions:
 - “**decoupled income support**”: Payment amounts not to depend on current production parameters (**production, prices or factors of productions**)
 - Payments possibilities to address various **disadvantages** faced by farmers: loss of income from natural disasters, structural disadvantages (e.g. constrained access to investment), regional disadvantages etc

Blue Box (Article 6.5 of AoA)

- Direct payments under **production-limiting** programme
 - production quota, set-aside a part of land, levies etc.
- Often designed while moving away from price-dependent support systems towards direct payment
- Specific criteria for 'decoupling' (not as extensive as in Green Box): Payment to be based on past/historical area and production
- Recourse by very limited number of Members (EU, Iceland, Japan, Norway, USA(1995) and most recently China): not a politically easy choice

Article 6.2

Development programmes exempt from reduction:
only for developing countries

- **investment subsidies** generally available to agriculture
- **input subsidies** generally available to low-income or resource poor producers
- **Diversification subsidies** to encourage diversification from growing illicit narcotic crops

Amber Box (AMS)

- All other domestic support measures (i.e. not falling within exempt categories) will be automatically deemed as falling in the Amber Box
- No policy criteria for Amber Box (**residual category**)
- Agreement on Agriculture contains rules to quantify Amber Box support, referred to as **AMS**
- Support amount against measures falling within the Amber Box is subject to **annual limit**.
- With regard to legal limit on AMS spending, two categories of Members:
 - Subject to a **monetary limit** (called **Total AMS**) in the Schedule
 - Subject to **de minimis** (threshold based on a % of Value of production)

How to determine AMS commitment

- ❖ The information on the entire domestic support system in an acceding government has to be collected for the most recent three years.
- ❖ All domestic support measures need to be examined under the AoA domestic support framework and classified in the four **Boxes** (Green, Blue, Art 6.2 and Amber).
- ❖ Amber support is quantified to determine Base Total AMS:
 - ❖ AMS may be within *de minimis*
 - ❖ AMS may be in excess of *de minimis*; leading to the determination of Total AMS limit (to be specified in the Schedule);
 - ❖ *De minimis* is based on agricultural value of production; is generally 5% for developed and 10% developing countries. Negotiated outcome for acceding governments (e.g. China, Kazakhstan have 8.5% *de minimis*).
- ❖ Prescribed format to present the domestic support information;
 - ❖ the final document (AGST) determining the AMS commitment is legally significant; inscribed in the Schedule.

Schedule CLXVI - Montenegro

PART IV - AGRICULTURAL PRODUCTS: COMMITMENTS LIMITING SUBSIDIZATION

(Article 3 of the Agreement on Agriculture)

SECTION I - Domestic Support: Total AMS Commitments

<u>BASE TOTAL AMS</u> <u>2005-2007</u>	<u>Annual and final bound commitment levels</u>	<u>Relevant Support Tables</u> <u>and document reference</u>	<i>Euros</i>
333,278	333,278	WT/ACC/SPEC/CGR/1/Rev.2	

Members with Total AMS commitments

Argentina	The former Yugoslav Republic of Macedonia	Moldova	South Africa
Australia	Iceland	Montenegro	Switzerland - Liechtenstein
Bolivarian Republic of Venezuela	Israel	Morocco	Chinese Taipei
Brazil	Japan	New Zealand	Tajikistan
Canada	Jordan	Norway	Thailand
Colombia	Korea	Papua New Guinea	Tunisia
Costa Rica	Mexico	Russian Federation	Ukraine
European Union		Saudi Arabia	United States
			Viet Nam

What if no Total AMS limit in Schedule?

“Where no Total AMS commitment exists in Part IV of a Member’s Schedule, the Member shall not provide support to agricultural producers in excess of the relevant de minimis level set out in paragraph 4 of Article 6.” (Article 7.2 (b) of the Agreement on Agriculture)

Schedule CLXXII - Republic of Kazakhstan

PART IV - AGRICULTURAL PRODUCTS: COMMITMENTS LIMITING SUBSIDIZATION

(Article 3 of the Agreement on Agriculture)

SECTION I - Domestic Support: Total AMS Commitments

BASE TOTAL AMS	Final bound commitment levels	Relevant Support Tables and document reference
0.0	For the purpose of Article 6.4(a) of the Agreement on Agriculture, with respect to product-specific domestic support, the percentage of Kazakhstan's total value of production of a basic agricultural product during the relevant year, and with respect to non-product specific domestic support, the percentage of the value of Kazakhstan's total agricultural production, which would otherwise be required to be included in a Member's calculation in its Current AMS, shall be 8.5 per cent.	Supporting Tables DS:1 to DS:9 in document WT/ACC/SPEC/KAZ/6/Rev.14

Role of AGST

- AGST/supporting tables form the basis of discussions and negotiations on the domestic support commitment that will be inscribed in the Schedule (**Part IV** of it).
- The very final AGST document prior to accession that determines the basis of domestic support commitment is also **inscribed in the Schedule** (**‘incorporated by reference’ in the Schedule**).
- AGST document assumes an important legal role (Article 1 of AoA): it becomes the legal source of “***constituent data and methodology***” that needs to be consistently followed for domestic support calculations subsequently upon becoming the Member

Supporting Tables for commitments on agricultural subsidization

These tables provide background information on data and methodology used by countries in deriving their commitments on domestic support and export subsidies. They include detailed information on the provision of domestic support and export subsidies during the agreed years (i.e., the base period). For example, details can be found in these tables on

- support exempt from reduction commitments (e.g. [Green Box](#))
- aggregate measures of support (AMS, sometimes called the [Amber Box](#)) overall and for specific products, including the data on AMS support that did not exceed the prescribed minimum threshold in terms of value of production (i.e. the [de minimis](#))
- provision of export subsidies subject to [reduction commitments](#)

The documents containing the tables of supporting material are generally referred to as the AGST Supporting Tables and are specifically noted in the "Schedules" (or lists) containing domestic support and export subsidy reduction commitments. For Uruguay Round participants, the supporting tables were prepared based — in practice — on a document negotiated in the Uruguay Round but never formally agreed: [Modalities for the Establishment of Specific Binding Commitments under the Reform Programme](#). Supporting material submitted in the context of accessions is prepared using the guidance contained in [WT/ACC/4](#).

The WTO compilations in the series [G/AG/AGST/](#) were circulated in five volumes and contained the AGST Supporting Tables submitted by countries during the Uruguay Round as well as in the context of accessions. The agricultural supporting tables of acceded Members are now routinely circulated in the WT/ACC/ or WT/ACC/SPEC/ documents series and are referenced as such in Sections I (domestic support) and II (export subsidies) of Part IV of the Schedules. The information contained in the supporting tables is used, as appropriate, by Members in their notifications of current measures.

Click any Member to access the relevant supporting tables.

[Afghanistan](#)

[Albania](#)

[Angola](#)

[Antigua and Barbuda](#)

[Argentina](#)

[Armenia](#)

Export Subsidies

- Original Members during the Uruguay Round committed to **reduce** the then existing export subsidies (1986-90) and not to introduce any new export subsidy: reduction commitments in Schedule
- Seeking to eliminate all forms of export subsidies was one of the very important objectives in the ongoing agriculture negotiations:
- Historic decision in **Nairobi** to eliminate all forms of export subsidies
- Almost all acceded Members have committed **to bind export subsidies at zero**. Likely to continue especially after Nairobi



Role of Schedules*

- GATT jurisprudence: Schedule may only add to the obligations flowing from the rules & may not diminish those rule-based obligations. (“***United States-Sugar Headnote***” case)
- Marrakesh Protocol (paragraph 3) further confirms that: “.. Concessions and commitments in the Schedule are “*without prejudice to the rights and obligations of Members under agreements in Annex 1A of the WTO Agreement*”.
- Hierarchy with the Schedule and the AoA rules (AoA Article 21):
“*The provisions of GATT 1994 and of other Multilateral Trade Agreements in Annex 1A to the WTO Agreement **shall apply subject to the provisions of this Agreement.***”



THANK YOU

