
Bringing Agriculture into the GATT

IMPLEMENTATION OF THE URUGUAY ROUND AGREEMENT ON AGRICULTURE AND ISSUES FOR THE NEXT ROUND OF AGRICULTURAL NEGOTIATIONS

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Preface

The International Agricultural Trade Research Consortium (IATRC), an informal association of university and government economists interested in agricultural trade, has taken a keen interest in the Uruguay Round and the negotiations on agriculture from the inception of talks in 1986. During the Uruguay Round, the Consortium published, under the overall title of "Bringing Agriculture into the GATT", a series of eight Commissioned Papers that have attempted to monitor and interpret the progress of the negotiations and in a modest way to provide a platform for ideas. After the negotiations were concluded, Commissioned Paper No. 9, published in 1994, evaluated the new Agreement on Agriculture and the commitments major countries had accepted under it. The present paper continues the series by assessing the implementation of the Agreement and drawing conclusions for the next round of negotiations. Even though the Uruguay Round has firmly embedded agriculture into the GATT, the series title "Bringing Agriculture into the GATT" has been maintained to indicate the unity of the overall series.

Like previous Commissioned Papers of the IATRC, the present report is the work of a team of authors. Ten authors participated in this paper, under the Chairmanship of Stefan Tangermann. Each co-author contributed a draft of one or more chapters and participated in reading and improving the other chapters. The drafting responsibilities, reflecting geographical experience, were as follows: chapter 2 (USA) Sumner; chapter 3 (EU) Tangermann; chapter 4 (Canada) Miner and McClatchy; chapter 5 (Australia and New Zealand) MacLaren; chapter 6 (Japan) Honma; chapter 7 (Korea) Lee; chapter 8 (South Asia) Pursell; chapter 9 (Latin America) Valdes. Tangermann drafted chapters 1 and 10, Josling chapter 11, and Miner chapter 12. The authors are aware of the fact that different views on a number of policy issues are occasionally presented in the individual country chapters. To a large extent, these divergencies of views reflect different attitudes adopted in the respective countries, and it is for that reason that not all of them have been ironed out in the process of editing the country drafts. Though not necessarily agreeing with every sentence in the paper, each of the authors has nevertheless agreed to be associated with the entire report.

The authors gratefully acknowledge comments and suggestions for improvement received on drafts, of the overall text or of individual chapters, from Mary Bohman, Lars Brink, Lynn Kennedy, Henning Twesten, and Peter Witt. None of them should, though, be held responsible for any remaining errors and omissions, nor for the evaluations provided. Lynn Kennedy has greatly

improved the quality of the text through careful editorial work. Petra Geile and Renate Schmidt processed the manuscript.

Abbreviations

ACP-States	African-Caribbean-Pacific States
AMS	Aggregate Measurement of Support
APEC	Asia-Pacific Economic Cooperation
ASEAN	Association of South-East-Asian Nations
CAP	Common Agricultural Policy
CER	Closer Economic Relations Agreement
CRS	Cumulative Recovery System
CSE	Consumer Subsidy Equivalent
DEIP	Dairy Export Incentive Program
EEP	Export Enhancement Program
ERS	Economic Research Service
FACT	Food, Agriculture, Conservation and Trade Act
FAIR Act	Federal Agriculture Improvement and Reform Act
FSA	Food Security Act
FTAA	Free Trade Area of the Americas
HS	Harmonized System
IAC	Industries Assistance Commission
IATRC	International Agricultural Trade Research Consortium
MAC	Minimum Access Commitment
MFN	Most Favored Nation
NAFTA	North American Free Trade Agreement

NPR	Nominal Protection Rate
NTB	Non-Tariff Barrier
PSE	Producer Subsidy Equivalent
QR	Quantitative Restriction
RAS	Rural Adjustment Scheme
RTA	Regional Trade Agreement
SBS	Simultaneously By-and-Sell
SDT	Special and Differential Treatment
SIL	Special Import License
SITC	Standard International Trade Classification
SPS	Sanitary and Phytosanitary
SSG	Special Safeguard [Provision]
STE	State Trading Enterprise
TRQ	Tariff Rate Quota
USDA	United States Department of Agriculture
WGTA	Western Grain Transportation Act

1 Introduction

Among the many new achievements made in the Uruguay Round of GATT negotiations, the ambitious and wide-ranging Agreement on Agriculture (The Agreement) was a significant departure from the way agriculture had traditionally been treated in the international trading order.¹ Completely new rules and commitments were established in the areas of market access, export competition and domestic support.² While it was generally agreed that the nature of these new WTO provisions for agriculture pointed in an appropriate direction and held promise for the longer run process of reforming the multilateral trading regime for agriculture, it was also clear that the quantitative parameters agreed for the current implementation period of the Agreement were not yet very demanding in most cases. Moreover, right from the start observers and analysts agreed that the actual impact of the new disciplines for agricultural policies and trade agreed at Marrakesh in 1994 would very much depend on the way in which they were going to be implemented in practice.

Would the new commitments countries had accepted require or induce changes in their policies? Was access to markets really going to be improved? Were the new elements of managed trade, resulting from the host of new tariff rate quotas, going to have negative impacts on trading relations? Would the new constraints on export subsidization turn out to be binding? Could the new provisions on domestic support, and in particular existence of the "green box" be expected to influence national decision making on the instrumentation of agricultural policies? Would countries try to find loopholes in the Agreement which might allow them to escape the constraining effects of some of the new disciplines? Did one have to expect that the frequency of trade disputes in agriculture might further increase? And would the new WTO rules for dispute settlement be able to deal with such trade frictions more successfully? Was the newly established WTO Committee on Agriculture going to be a useful forum for settling any disagreements at an early stage, and for making sure that the reform process in agriculture was kept on track?

The current six-year implementation period under the Agreement (lasting until the year 2000, with four more years for developing countries to implement their reduction commitments) is

¹ For a detailed analysis of the treatment of agriculture in the GATT, including the Uruguay Round negotiations and their results, see Josling, Tangermann and Warley (1996).

² The details of the new rules for agriculture established in the Uruguay Round will not be outlined in this study. They can be found in Josling, Tangermann and Warley (1996). The commitments accepted by most of the countries covered in this study have been described in Josling et al. (1994).

now approaching its mid-term. It is still too early for a final assessment of how effective the Agreement has been. However, interesting and important insights can already been gained from the way governments have so far implemented the new rules and commitments. An assessment of the experience made in the first half of the implementation period should be useful for the remainder of the implementation process. Moreover, the time is ripe for a stock-taking as governments begin to prepare for the next round of agricultural negotiations, on the "continuation of the reform process", scheduled under the Agreement to be initiated in 1999. Such a mid-term assessment of how the Agreement is being implemented, and of the resulting issues for the next round of negotiations, is exactly what the present paper tries to achieve.

The main part of the paper consists of chapters 2 to 9, looking into the way the Agreement is being implemented by major countries and country groups (USA, European Union, Canada, Australia and New Zealand, Japan, Korea, South Asia, Latin America). Chapter 10 provides a brief overview of that country experience and reviews developments in Geneva, in the Committee on Agriculture and in the settlement of agricultural disputes. On the basis of all that analysis, chapter 11 then discusses issues for the next round of agricultural negotiations. Chapter 12, finally, draws conclusions regarding the future of agricultural trade liberalization.

2 The United States

2.1 Introduction

The multilateral trade agreement reached through the Uruguay Round negotiations is important and extensive. Beside forming the World Trade Organization, it includes general tariff cuts and new rules relating to services, intellectual property, trade related investment and general subsidies. It also includes important new procedures for dispute settlement. Many of these areas outside agriculture may have significant agricultural consequences in the United States, but we focus here exclusively on how the agricultural agreement negotiated in the Uruguay Round is being implemented and how other recent agricultural policy changes in the United States relate to the Uruguay round agreement.

In the United States the implementation of the Uruguay Round agreement for agriculture (Agreement) has been mostly routine and aroused little interest. Much more attention in the United States has focused on (1) implementation in other countries, (2) the NAFTA agreement, including implementation and dispute resolution, and (3) reform of domestic agricultural policy in a context in which the Agreement was only indirectly relevant.

To provide some context for the discussion that follows, Table 2.1 shows the commodity distribution of US agricultural imports and exports for the two years since Agreement implementation. Agricultural exports for major commodities vary from year to year, but aggregate exports have grown rapidly in recent years, reaching a peak of more than US\$60 billion in 1996. Agricultural imports have also grown as the US economy expanded rapidly. Much of the recent growth in exports has been in processed or other high value per unit items. Fruit, nuts, vegetable, and meat exports have all grown rapidly in recent years. In only a few cases, such as rice and a few horticultural crops, could a significant part of the increase in exports be attributed directly to the Agreement.

2.2 Agreement commitments and implementation in the United States

The legislation implementing the Uruguay Round agreement (December, 1994) satisfied immediate commitments of the United States and set in motion the process of complying with

other commitments of the agreement. The law covered all aspects of the agreement, not just agriculture. Also, meeting commitments on an annual basis for issues other than import barriers relies on annual appropriations legislation and the administration of programs.

Import access was the major focus of implementing legislation in the United States. First, non-tariff import barriers (quotas and "voluntary export agreements") were converted to bound tariffs ("tariffication"). This implied the elimination (for WTO Members) of the notorious "Section 22" exemption whereby the United States had maintained the right to impose import quotas to safeguard the operation of domestic farm programs. As for other developed countries, all agricultural tariffs, including the newly created ones, were to be reduced by an average 36 percent over six years. In the United States, for products of political sensitivity, which includes those with a new Tariff Rate Quota (TRQ) such as sugar and dairy products, the minimum 15 percent reduction over the six-year implementation period was applied. For most products for which new TRQ were designed, current access opportunities were maintained based on pre-agreement data and pre-agreement commitments. In the case of goods for which initial access was minimal, import access, in the form of a TRQ was created at 3 percent of domestic consumption (expanding to 5 percent over six years). For the United States, these cases included selected manufactured dairy products and peanuts. For dairy products, the procedures for determining current domestic consumption of specific items, and in milk equivalent terms, was complicated and controversial.

As a general statement it is appropriate to note that the TRQ that the USA implemented were approximately as restrictive as the quotas they replaced except where minimum access requirements implied that quantity of access be expanded. For example, for peanuts the quota is filled immediately and only a minor amount of specialized product enters over the tariff wall. For cotton the quota does not fill, just as it did not fill before the Agreement. In the case of dairy products, the situation is complex. For some tariff lines little is imported relative to the TRQ because of product definition. Alternatively for butter, the quota has not filled because the US price has been low relative to the world price and the USA is not an attractive market. For products such as skim milk powder and most cheeses, the quotas do fill and the tariffs are prohibitive. Overall, the TRQ system seems to be working about as expected.

The second implementation category is export subsidies. The United States committed to reducing the quantity of subsidized exports of each commodity category by 21 percent in volume and 36 percent in budget outlays over 6 years from a 1986-1990 base period. Thus products that did not receive export subsidies previously are now ineligible, and for those whose export subsidies expanded after 1990, such as certain dairy products, the commitment requires a steep decline in quantities subsidized relative to 1994. The export subsidy commitments are being

complied with in annual appropriations and in farm program authorization legislation. Given the state of grain markets in recent years the United States has had no trouble meeting this commitment for wheat. In fact the Export Enhancement Program has not been used at all for wheat since 1995. Because of world market conditions, the export limits have been an issue recently only for skim milk powder and a few other more minor products.

The domestic support category of commitments was the most elaborate in the Agreement, but these rules were in part designed such that no policy changes were required in the United States. Unlike commitments on border measures, these domestic support commitments apply on an aggregate basis. An aggregate of "trade-related" domestic subsidies were to be reduced by 20 percent. Measures exempt from reduction, (so-called "green box" subsidies) include conservation subsidies, disaster assistance, research and extension programs, rural development and regional subsidies, and subsidy programs that are not based on current production commitments. Also excluded from reduction, for the six year implementation period, were programs (such as US deficiency payments) for which payments are made on a fixed quantity and on less than base period production or for which specific set aside requirements are met. But, even without the special category provided for deficiency payments, the United States had already far exceeded the required cutbacks. Subsequent farm legislation has replaced the deficiency payments with payment schemes even more removed from the market, but this reform, which is discussed in detail below, was not a direct response to the Agreement nor even a deliberate strategy for future negotiation.

Under the "peace clause", "green box" policies are exempt from countervailing duty actions and other GATT challenges (such as nullification and impairment actions, serious prejudice actions). Moreover, even where the direct payments and the domestic supports subject to reduction are not exempt from countervailing duty actions, they are exempt from other WTO challenges (such as nullification and impairment) provided that support for the specific commodity being considered does not increase from 1992 levels during the implementation period. These peace clause provisions suggest that trade distorting subsidies in the United States are now even more protected from international challenge than they were in the past.

The final category in the Uruguay Round agreement that is specific to agriculture requires that sanitary and phytosanitary measures be based on science. Such restrictions in the United States generally do have some scientific backing, but there are some barriers (such as the recently relaxed ban on avocado imports from Mexico) that have been dealt with more in terms of challenges from prospective importers than on "pure" scientific grounds.

In general, the implementing legislation of the United States complied with the Agreement but not with the spirit of trade liberalization. The political climate during the implementation debate was less favorable to open trade relations. While the implementing legislation was being considered both the Secretary of Agriculture and the Director of the Office of Management and the Budget jointly pledged to Congress that funding for export subsidies would be continued at the maximum allowable levels for the next six years. They further stated that the administration would propose increasing the funding for domestic and export market promotion programs by US\$600 million over five years (Espy and Rivlin). These pledges were made at a time when grain prices were expected to be relatively low and when Congress was controlled by those who supported increased farm subsidy. Nonetheless, this basic subsidy-driven approach to farm trade issues has continued in subsequent legislation.

2.3 The FAIR Act of 1996

The most important farm legislation since the Agreement has been the Federal Agriculture Improvement and Reform Act of 1996 (FAIR). Some would argue that this was the most important farm legislation in a generation, if not the past half a century. However, the recent liberal evolution of US farm programs began not in 1996, but with the Food Security Act of 1985 (FSA) and was continued and strengthened in the Food, Agriculture, Conservation and Trade Act of 1990 (FACT) (and in the Omnibus Budget Reconciliation Act of the same year). The reforms that appear in FAIR were additional progress on a path that began more than a decade earlier. These recent reforms in the United States are roughly consistent with the global trend toward more market orientation, less government regulation and lower economic costs of the programs. There are exceptions to this trend and progress is slow and uneven (especially in the area of trade policy), but nonetheless, there does seem to be a discernible pattern.

Some are skeptical of these trends, and of the place of FAIR in the pattern. Certainly the process that led to FAIR was not pretty (see Orden *et al.*); even if the result was unusual, the process was politics as usual. Three general forces lead to FAIR. First, there was a broad commitment to reduce projected outlays for farm programs relative to projected outlays under the FACT baseline. These outlay projections were sensitive to grain price forecasts. The forecasts and the outlay projections were revised during the FAIR debate and have been subsequently revised again. Second, there has been a growing awareness that farm programs caused significant economic distortions that have been costly to the rural economy. In particular, there has been a growing recognition in the United States that, without excessive budget outlays, laws that require

high minimum farm prices imply the use of supply controls which generally waste resources and reduce the market for processors and others in the marketing business. Supply controls (such as the high acreage set-asides and the paid land diversions of the 1980s) reduced the US export potential and provided benefits to export competitors. Third, even with the general pressure for reform, there remained a strong commitment to continue to transfer income from taxpayers and consumers to farmers and rural landowners. The rationale used to defend this subsidy position has evolved. In the United States, it is now often stated in terms of matching subsidies paid to international competitors, or in terms of the desire not to reform too dramatically. Nonetheless the political support for some farm subsidy remained strong.

In 1985, the USA began to lower price supports and to rely more on direct income support through the deficiency payment program. Enacted during a period of low prices, the 1985 Act also introduced some planting flexibility for program crops and began a long-term land idling program. It also provided for aggressive export subsidies. Farm legislation in 1990 introduced additional planting flexibility and reduced outlays by eliminating payments on some base acres. It also continued the export subsidy programs. The major component of FAIR is elimination of direct payments tied to market prices or planting restrictions. The new payments introduced under FAIR would seem to qualify as "green" in the Uruguay Round Agreement on Agriculture, but because the Agreement was not binding on domestic supports, this was never a consideration in the policy process. FAIR continued the policy of relatively low price support for grains and scheduled complete elimination of the price support for dairy. FAIR also continued, without significant change, the major export subsidy programs.

In the next sections we provide more details on grains and dairy programs. These programs were substantially modified in the 1996 legislation and these commodities are of major importance, both in the United States and in other countries. Changes to the cotton and rice programs were similar to those for major grains. No significant reforms were included in the sugar and peanut programs which depend mainly on import barriers for producer support. The lack of reform to sugar policy in particular was a major disappointment to advocates of liberal import policies.

2.3.1 Grains policy under FAIR

Major US farm policies relating to grains fall into four categories: crop insurance and disaster aid; price and income support programs; the Conservation Reserve Program; and the

Export Enhancement Program. Some changes in each of these areas were included in the recent legislation and administrative action.¹

Crop insurance and disaster policy was modified in the Federal Crop Insurance Reform Act of 1994 in an attempt to reduce total outlays, reduce the variability of outlays over time, and to reduce some of the subsidy variation across farms. This legislation was coincident with the Uruguay Round Agreement implementation but, since the Agreement left the US program intact, the changes focused on purely domestic issues. Reform of these programs was important because outlays averaged several billion dollars per year. In addition, there has been a large production subsidy implicit in both the ad hoc disaster assistance and the crop insurance programs. The disaster program simply provided payments when yields were unusually low. This encouraged production of selected crops (especially wheat and soybeans) in areas with marginal profitability and variable production. Further, many crop insurance premiums were far below actuarially fair rates, especially in regions where particular crops were marginal on economic grounds (Goodwin and Smith).

The 1994 Act attempted to reduce the likelihood of ad hoc disaster payments by changing Congressional budget rules so that budget saving offsets would be required if ad hoc payments were made. In addition, the 1994 Act encouraged some reform of premium rates and required program crop producers to purchase a minimal crop insurance policy. The 1994 Act left the basic crop insurance subsidy in place. FAIR modified the program slightly, but did not reduce the size of the subsidy. There remains a significant production subsidy in the US crop insurance and disaster programs. Nonetheless disaster programs seem to qualify as "green" in the Agreement on Agriculture.

Under FAIR, participation in the direct payment program remains voluntary; there was a single enrollment period in the spring and summer of 1996. Participants receive a fixed payment each year for seven years based on a percentage of past deficiency payments. These payments are independent of market prices and largely independent of crops planted, though land is required to remain in "agricultural" use. Annual idling requirements and most other planting restrictions are eliminated.

FAIR payments started approximately equal to the average annual payments from 1990-1995, and will decline by about one third over seven years (Economic Research Service (ERS);

¹ This section draws on Sumner, 1996.

Smith and Glauber). Current grain price projections indicate that deficiency payments would have been very small over the next seven years. With these price projections, it is likely that FAIR will cost taxpayers about US\$20 billion more than FACT would have done (Young and Westcott). Some argue that this was the dominant reason that FAIR was politically feasible (Orden *et al.*).

Price supports for grains remain in FAIR, but, for the past several years, and in most projections for the future, this price safety net is at such low levels that the government is very unlikely to acquire any stocks. The market effect of price support has been minimal for several years. FAIR did not change this fact.

The Conservation Reserve Program (CRP) and related long-term land idling schemes cost the US taxpayers about US\$2 billion per year and, in 1996, farmers idled about 37 million acres of crop land. The quantity of land idled by the CRP has major effects on grain supply and price. Beginning in 1986, farmers were offered bids under which their erodible crop land would be held out of production. The United States Department of Agriculture (USDA) accepted the low-cost rental agreements, subject to eligibility criteria that spread the idled land across the nation. Most observers suggest that environmental benefits of the original program were low relative to the government outlays. But, the CRP has been very popular among landowners, in part because rental rates that the government offered were often substantially higher than prevailing cash rents for crops. The program is also popular among some crop producers because idling crop land raised commodity prices. Even after a major revision in 1997 and a reduction by about 10 million acres of the total land in the reserve, most of the CRP land will remain in the Great Plains and the Northwest. In research reported in 1994, the USDA projected that between two-thirds and three-quarters of CRP land would have returned to production if the program would have been eliminated (Sumner, 1995a).

Under the old grain programs, by raising market price, the CRP reduced outlays for deficiency payments. Under the FAIR Act, direct payments are fixed by contract and thus the CRP outlays are not offset by savings elsewhere in the farm program. FAIR left the CRP intact. This year USDA used its authority to limit new CRP acreage to land with higher erodibility, and to focus more on land with off-site environmental effects. These changes, and high grain prices, likely mean fewer acres in the CRP and a lower percentage in wheat, barley, and sorghum producing regions.

The export subsidy program is another policy area of major importance for grains. Here FAIR must be interpreted explicitly in the context of the implementation of the Uruguay Round Agreement. The Agreement implied no significant commitments for domestic subsidies, but did

impose serious limits on direct export subsidies (Sumner, 1995b). For wheat especially, this means a limit on the outlays and tonnage subsidized under the Export Enhancement Program (EEP). The EEP was planned to help reduce massive USDA stocks and reverse a loss of wheat export market share due to high price supports, large acreage set-asides, and also export subsidies in Europe. In the Uruguay Round Agreement, the USA promised to phase down subsidized exports over a six year period.

During the first two years of that implementation period, grain prices were high and markets were tight. For 1995 and 1996 the EEP subsidized far fewer than the Agreement allowable tonnage and spent far less than the Agreement's allowable funds. FAIR re-authorized the EEP with little change. It authorized the outlays for EEP at less than the Agreement maximums for the first two years of the Act and at the maximums for the out-years. By reducing authorized spending on the EEP for 1996 and 1997 below Agreement maximums, FAIR was credited with "budget savings" even though no one expected that the EEP would be used much during these years. Those "savings" were then allocated to other subsidies. In the out-years when the EU and others may challenge US exports more aggressively, the EEP is authorized to spend the full Agreement maximum. With respect to export policy, significant reform took place in the Agreement on Agriculture, not in FAIR.

Although FAIR continued authorization for export subsidies, it may have created a policy environment that will allow more progress to reduce these subsidies further in the next multilateral trade negotiations. The United States no longer maintains high support prices and no longer requires farmers to idle cropland to get government support. Therefore, US exports are now in a better position to compete on world markets without direct export subsidy. Further, the higher domestic price caused by subsidizing exports no longer reduces outlays on deficiency payments and, therefore, actual expenditures under EEP no longer have a budget off-set in the USDA accounts.

2.3.2 FAIR Dairy Policy

Dairy is a US\$20 billion industry in the United States measured by farm revenue. It is a significant industry in many states and has long been among the most subsidized of agricultural industries. Dairy policy is also among the most complex of all farm policies. (These statements apply in many countries.) Dairy policy in the United States went through many changes over the decades, but the basic instruments remained in place for half a century. No major long term

program changes were embodied in the 1985 or 1990 farm policies, but short term surplus removal programs and gradual reductions in price support rates were both important. This section reviews the FAIR dairy policy in relation to Agreement commitments (Cox and Sumner).

Prior to FAIR, US dairy policy had six components: (1) purchases of manufactured dairy products at minimum prices; (2) producer assessments used to fund the purchase of supported products; (3) domestic disposal of government-controlled stocks of dairy products; (4) marketing orders that regulate milk prices and supplies regionally; (5) export subsidies; and (6) import barriers.

After generations of a government price floor, FAIR will terminate the complete price support program for dairy eliminating instruments (1) - (3) on the list above. FAIR eliminated the assessment program immediately, reduces the price support rate gradually over the next 4 years, eliminates the price support program totally in the year 2000, and consequently reduces and eliminates the surplus disposal features of the program. While the final elimination of the price support program after half a century is historic, the economic effects of this final move are likely to be small. During 1995 and 1996, high grain prices and other factors caused the price of manufactured dairy products to be well above the USDA purchase prices. The result was low USDA acquisition of stocks and very low government costs. Prices fell in 1997 causing limited government price support activity. Even pessimistic price projections for dairy forecast product prices above the government support prices in the future. Real and important changes in policy occurred gradually with the phased reduction of the price support, from more than US\$13 per hundredweight down to US\$10.10 per hundredweight from 1981 to 1991.

Milk marketing orders in the United States are regional in their implementation. All federal milk marketing orders, and the major state milk marketing orders are comprised of three basic elements. First, they establish specific minimum prices that must be paid for milk according to its end-use class (classified pricing). Second they establish pool pricing for farms such that individual farmers receive a weighted average price of milk sold in their marketing order. Unlike farmers under federal orders, individual farmers in California (who produce about 15 percent of US milk) receive a weighted average of the two pool prices, with these weights determined by individual ownership of milk quota. Third, because milk transported freely across marketing order borders would undermine the maintenance of separate fluid milk markets in different orders, pricing regulations ensure that there is generally little economic advantage to arbitrage across prices in different orders.

FAIR did not require major changes to milk marketing orders, but it did require consolidation of current orders and authorize consideration of other changes. The result of FAIR has been considerable debate in the US dairy industry as producer groups and others discuss the regional distribution of benefits from price discrimination. Reforms of the domestic policy for fluid milk may affect trade through effects on the efficiency of the US industry and its ability to export or compete with imports. As discussed below, proposals to adjust the marketing order system to stimulate exports were dropped.

Subsidized exports, along with donations to domestic food programs and international food aid, have been used to reduce stocks of dairy products acquired under the price support program. In addition to the disposal of government stocks, since 1989 the Dairy Export Incentive Program (DEIP) has provided explicit price subsidies for commercial dairy product exports. FAIR extends and fully funds DEIP through 2002. FAIR stopped short of authorizing explicit or implicit producer financed export subsidies, but it did authorize a Dairy Export Council to stimulate interest in dairy exports by private firms and cooperatives.

FAIR made no real change to export provisions; nevertheless, dairy export concerns were a driving force behind the 1996 legislation. One rationale for eliminating the price support is to allow US butter and skim milk powder to enter the world market on a commercial basis. Notice that under the current marketing order system, the price paid for milk used for exported butter and skim milk powder will be well below the blend price which is received by farmers and hence determines milk output. This price is also well below the prices of milk used for other dairy products, most of which are unlikely to be exported. This means that, even though the pricing is not conditional on export, the price of milk generally applicable to export products will, in fact, be below the prices of milk used for products used by domestic consumers or the price of milk paid to domestic producers.

Some variant of the system which consists in end-use prices to buyers and pooled prices to producers is widely used throughout the world for milk and some other commodities. It has been in place for 60 years for dairy in the USA. In 1995, the US dairy farm lobby suggested an explicit policy under which milk used to manufacture products destined for export would receive a lower price by virtue of the export of the final product. This degree of specificity seemed to be a clear violation of the Uruguay Round Agreement export provisions and the proposal was withdrawn. Canada has instituted an "export class" in their system and the US dairy industry is keenly awaiting the outcome of the discussions in the WTO that have ensued.

Trade barriers are a fundamental feature of US dairy policy. In general, imports of dairy products in the United States have been limited to a small percentage of domestic consumption of manufactured dairy products. These import barriers allow the domestic price of milk and milk products to remain well above the price for traded products in world markets, making price discrimination policies feasible. The system of absolute quotas gave way to a system of TRQ as a part of the Agreement. The "second-tier" tariffs that limit over-quota imports remain prohibitively high; therefore, the effects of the TRQ remain the same as the absolute quotas that were replaced except that they will expand gradually (Sumner 1995b). Despite (or, perhaps because of) the fact that trade barriers are now the most significant feature of US dairy policy, no serious trade policy reform was contemplated in the policy discussions leading to FAIR and no reforms were included in the legislation. A more liberal dairy import regime will almost surely await further WTO agreements.

What might be the qualitative effects on US interest groups of FAIR relative to a hypothetical policy proposal, named Farm Reform for Economic Efficiency (FREE), which would eliminate trade barriers as well as marketing orders and price supports (Cox and Sumner)? Let us consider impacts on two classes of consumers and two classes of producers. Fluid milk consumers in the USA are worse off under FAIR than under FREE, but the negative impact of FAIR on consumers of manufactured dairy products is likely even larger, because restrictions on imports affect these markets more directly. Producers in regions with high fluid use of milk are much better off under FAIR because they are subsidized by both marketing orders and trade barriers. However, milk producers in regions with low fluid use of milk are only moderately better off under FAIR. This is because the current milk marketing order system shifts revenue from producers of milk used for manufactured products to producers of milk used for fluid products and limits the opportunity of producers to enter certain regional fluid milk markets. If world dairy prices rise, say because of multilateral trade liberalization, these producers could gain with more open markets and no marketing orders. Finally, taxpayers continue to have some potential costs under FAIR; they would bear no costs under FREE.

US dairy policy is much more protectionist and the industry is more highly subsidized than most of US agriculture. The bulk of the subsidy derives from trade barriers and domestic price discrimination. FAIR included neither significant reform of marketing orders, nor any trade liberalization for dairy. Both of these topics remain on the US domestic and multilateral policy agenda.

A headline issue for the US dairy industry in the post Agreement period has been a trade dispute with Canada that has been pursued under the North American Free Trade Agreement

(NAFTA). Under NAFTA Canada made almost no agricultural commitments, but did (in accordance with the earlier Canada-US Free Trade Agreement) pledge (roughly) to reduce the rate of duty on items that had tariffs in place and not to introduce new tariffs. Supply managed commodities, such as dairy, had import quotas, so no tariff reductions applied under NAFTA. Under the Uruguay Round Agreement on Agriculture Canada was required to replace its import quotas for dairy products, which it did by instituting tariff rate quotas with prohibitive tariffs applied to the over-quota quantities. After the Agreement was implemented, the USA argued unsuccessfully that, in complying with the Agreement, Canada had violated NAFTA by introducing the dairy TRQ and that the only dairy import regime that complied with both the Agreement and the prior NAFTA was to eliminate both the quota and any tariff. Canada insisted that it was complying with both agreements and that it was unreasonable to apply the precise language of the NAFTA to the policy adjustments that were made to comply with the Agreement. The dispute settlement panel ruled in favor of Canada, and the US dairy industry and others in US agriculture have used this case as an example of how trade agreements in general do not really work to open markets!

2.4 Agricultural Trade Policy Reform and Multilateral Negotiations

Compared to the wasteful and intrusive policy prior to 1985, US farm policy has been reformed substantially over the past decade. In 1997, the United States now has a policy for many commodities in which: (a) price supports will soon be either eliminated or irrelevant; (b) annual acreage set-asides do not apply; (c) income support does not depend on what is planted; (d) subsidies do not vary with market prices and (e) the government is (mostly) out of the storage business. FAIR continued a policy evolution that led to these major changes. However, much more remains to be reformed before one could describe US farm policy as open and liberal.

Import barriers and export subsidies lead the list of policies that distort resource use and are costly to taxpayers and consumers. In this regard, reform of dairy import barriers was never raised in the FAIR debate, and export subsidies were positively embraced. These policies need to be a part of any serious agenda to reform US farm policy, but border measures may be most effectively reformed in a multilateral context. This reinforces the importance of the next set of multilateral trade negotiations for both national and international objectives.

Using export subsidies and import barriers to provide income support for farm industries or to insulate domestic farm programs has a long tradition in the United States (Johnson (1950)).

However, having turned the corner on multilateral agricultural trade rules with the Uruguay Round, and with a decade-long trend of reform on internal subsidy programs having lead to FAIR, the stage is set for further multilateral negotiations in the WTO.

In the United States, reform of internal subsidy programs has proceeded independently of multilateral commitments. At the same time, liberal reform of border measures seems to require a multilateral process. Let us examine each of these observations in more detail, from a US perspective, as expressed by Sumner (1995b).

The Uruguay Round Agreement on Agriculture devotes more space to domestic support than to either of the border measures, though the result imposed no serious commitments on any of the largest agricultural traders. One can argue that the problem is fundamental. Domestic subsidy programs occur with such variety and have such complex effects (many of which have very little to do with trade) that it may be impossible in practice, if not in theory, to create effective enforceable policy commitments on domestic supports in the context of a multilateral agreement. There are just too many individual policies to discipline each individually and the idea of using an index of trade effects of policies has so far proved elusive. For example, there is no policy index that measures trade impact exclusive of changing market conditions which are beyond the control of the country making a commitment.

Further, aggregation of policies into an index such as the Aggregate Measurement of Support (AMS) tends to ignore their differential trade impacts, and from a US perspective one can argue that they may encourage more trade distorting policies in preference to less distorting policies. For example, US disaster payments are classified into a "green" category when they have encouraged planting on marginal land and thus increased US production and exports. Alternatively, the deficiency payment program, which probably reduced production and export of grains because of the link between deficiency payments and acreage reduction, was not considered "green". Or consider the "green" category of production aids for "disadvantaged" areas. Most often these are regions with relatively high marginal cost which would reduce production of farm commodities if it were not for subsidy.

As noted in the discussion of the FAIR Act, Agreement commitments were irrelevant to successful reform of US domestic support policy in recent years. Budget pressure, pressure to reduce regulatory burden, and desire to increase productivity were the driving forces behind reduction in trade distorting domestic subsidies. In some cases, reform of domestic price policy may be influenced by multilateral negotiations, but usually it is pressure from lowered import barriers, not commitments on domestic support, that will be more effective.

International negotiations and agreements on domestic support are not irrelevant; from a US perspective one can argue that they can be positively harmful to progress in agricultural liberalization (Sumner, 1995b). By including text on domestic supports in a multilateral agreement, the ability to use WTO provisions related to nullification and impairment is weakened. Countries may argue that they are complying with the Agreement when they introduce subsidies that impair border measure concessions. Further, by diverting attention away from border measures, including domestic support in the negotiating process may reduce the amount of progress made on the policies that block imports or subsidize exports directly. Therefore, from a US perspective there may be a case for a focus exclusively on border measures in future multilateral trade negotiations.

One might argue that the problem is the failure of the negotiators of the Agreement on Agriculture, and that problems associated with domestic support may be repaired with better modalities or a better set of rules for dispute settlement or nullification and impairment. We may have the opportunity to find out in the next round of negotiations, but the problem may be fundamental. Therefore, for the US Administration it may be counterproductive to devote negotiator time and other resources to devise schemes to regulate internal subsidy policy.

Unlike the case of internal subsidies, the United States has not been successful in reducing import barriers and export subsidies unilaterally. However, in this case, external pressure and incentives from multilateral negotiation have been useful.

In international trade negotiations, countries agree to "concessions" in order to receive trade "concessions" from their trading partners. A standard trade-off is for a country to lower a tariff only if a trading partner is willing to lower a tariff of their own. The idea that forgoing a trade barrier is a "concession" is counter to basic trade theory and to the notion that there are mutual gains from trade. But, in negotiator language, imports are "bad", and exports (even subsidized exports) are "good". Generally, a country must receive concessions from trading partners if it is to pursue liberal trade policies that most economists argue would improve national welfare if undertaken unilaterally. It seems a paradox that trade negotiations use such a mercantilist process to arrive at market oriented reforms. One result of the process of negotiation is that countries that unilaterally adopt open markets find they have little to offer in exchange for other countries' trade concessions.

With its mercantilist flavor, the trade negotiation process sometimes provides incentives (or rationalizations) for countries to consciously pursue trade distorting policies. In the context of exchanging policy concessions, the EEP may have been useful to encourage the EU to negotiate seriously in the Uruguay Round. This strategic policy argument is dangerous however. The United

States now has strong reasons to eliminate export subsidy programs unilaterally, but no such reform has been forthcoming.

In order to liberalize trade, the most important issue on the export subsidy agenda is the continuation or acceleration of the Agreement export subsidy constraints. If reductions are continued from the initial base levels, export subsidies could be effectively eliminated by 2010. Other issues related to export subsidies are more difficult. These include export credit subsidies, export promotion, and exporting by state supported export firms. The United States is focusing on states trading enterprises, while other countries may want to look closely at indirect export subsidies.

For import measures, the Agreement made progress in converting non-tariff barriers to tariffs and in creating minimum access. The United States has complied with the letter of the agreement, and this has meant somewhat more access for several major commodities. Less attention has been paid to the path of tariff reduction, but as these tariff reductions continue they will begin to have significant trade effects. If tariffs continue to fall at a rate of 6 percent per year from the initial base, we will be near free trade by 2010. This suggests that continuing the trend would be an important accomplishment of any new multilateral negotiations. Other import issues include state trading importers and reducing more rapidly the excessive tariff barriers created under the Agreement tariffication.

2.5 Concluding Remark

The United States has made progress over the last decade in reforming internal subsidy programs. The most important remaining policy distortions relate to border measures and these may be most effectively reformed in the context of multilateral agreement. This seems likely to occur if the progress in the Uruguay Round is taken as the basis for continued reforms of border measures. Negotiators will likely make less progress if they are distracted by too much attention to concerns such as state trading or detailed commitments on domestic supports.

Table 2.1: US Agricultural Exports and Imports, 1995-1996, US\$ Millions

Products	<u>Exports</u>		<u>Imports</u>	
	1995	1996	1995	1996
Meat and Animal Products^a	9,520	9,789	4,592	4,428
Dairy	711	727	1,089	1,236
Grains and Feeds	18,537	20,864	2,362	2,716
Fruits and Nuts^b	4,650	4,865	3,887	4,553
Vegetables	3,889	3,872	3,103	3,471
Cotton	3,681	2,715	29	300
Tobacco, unmanufactured	1,400	1,390	550	923
Seeds	649	795	259	310
Sugar	160	95	683	1,087
Oilseeds and Products^c	9,162	11,385	1,815	2,172
Coffee, tea, cocoa, spices			4,959	4,831
Other^e	3,457	3,934	6,7385	7,5225
Total^d	55,816	60,431	29,993	33,552

Source:

USDA, ERS (1997), Table 27

Notes:

^a Includes live animals, meats and preps., poultry, fats, oils, greases, hides, skins including furskins and wool.

^b Includes fruit juices.

^c Includes essential oils.

^d Totals may not add due to rounding by the source.

^e "Other" includes all items not listed explicitly.

3 European Union

3.1 Introduction

In large parts of the European Union (EU), the Agreement on Agriculture was not exactly greeted with enthusiasm. Throughout the Uruguay Round, the EU had opposed attempts at sweeping liberalization of agricultural trade. When it turned out that the overall negotiations might fail if the EU were to resist meaningful commitments, in particular on export subsidies, Commissioner for agriculture MacSharry managed to push through a major reform of the Common Agricultural Policy (CAP) for cereals and oilseeds. Even though this reform was always said to respond to purely domestic concerns, it eventually paved the way for a GATT agreement on agriculture, and allowed the Uruguay Round to come to a conclusion.¹ How fearfully EU farmers and agricultural policy makers responded to the new international disciplines about to be imposed on the CAP became particularly obvious when they forced the EU Commission to negotiate with the USA a number of relaxations to the impending agreement, at Blair House in November 1992, and in the last minute negotiations of December 1993 ("Blair House II").

For some time, the political anxieties over the Agreement were calmed down in the EU when the European Commission declared that the new WTO commitments in agriculture were consistent with the outcome of the MacSharry reform and did not require further policy adjustments in the EU. Also, the technical process of implementing the many changes to CAP market regimes and their administration, which had to be made because of the new commitments, went relatively smoothly, largely unnoticed by EU farmers. In the run-up to the start of the implementation period in 1995, the EU got rid of most of its intervention stocks of cereals (which declined from 33.3 million tons at mid-1993 to 6.4 million tons at mid-1995), as it reduced actual exports far less than the decline in market surplus resulting from the MacSharry reform. The start of the implementation period then coincided with a dramatic rise of world market prices for cereals, and rather than having to worry about how to keep EU export of cereals within the export subsidy constraints, the EU Commission imposed a tax on cereals exports. Domestic cereal prices in the EU declined far less than expected under the MacSharry reform, and the set-aside rate was

¹ For an account of the relationships between the UR and the MacSharry reform, see Swinbank and Tanner (1997). See also Tangermann (1996a).

greatly reduced. With no more than 2.7 million tons of intervention stocks in cereals at mid-1996, the EU reached a historical low. In other words, to some extent it looked as if the earlier fears about the new international disciplines imposed on the CAP were not at all justified.

However, this superficial impression is not at all the whole story. In some areas, the new commitments begin to bite already. With the reductions to be made in the coming years, and given the tendency for EU surpluses to grow, the WTO constraints will become more and more binding. The EU has lost two important WTO panels in agriculture (on bananas and beef hormones) and very much feels the powerful effects of the new WTO rules on dispute settlement. A number of other WTO disputes demonstrate that trade conflicts in agriculture are not at all a matter of the past.

Above all, in the debate about the future of the CAP, existing and expected future WTO commitments figure very prominently. In July 1997, the EU Commission has tabled a package of proposals for how to prepare the EU for the impending Eastward enlargement ("Agenda 2000"). In agriculture, the Commission proposes another significant reduction of price support for cereals and major changes in direct payments which would make another step towards decoupling these payments from crop production. In arguing for its reform proposals, the EU Commission makes explicit reference to the commitments which have resulted from the Uruguay Round, in particular those on export subsidies. The Commission also argues that the EU should enhance the EU's negotiating stance in the next round of WTO negotiations on agriculture, by cutting border protection, reducing export subsidies and reshaping internal support towards more decoupled measures. Responses from EU member states to these proposals differ, but all member states are very much aware of the constraints which the WTO now imposes on the CAP. In summary, after the Uruguay Round, the atmosphere in the CAP is no longer what it used to be.

3.2 Commitments and Policy Changes

3.2.1 Market Access

Tariffication of its infamous variable levies was, for a long time during the Uruguay Round negotiations, a proposition which the EU found very difficult to accept. Indeed, in the past it appeared as if the variable levy regime was a cornerstone of the CAP, providing for the type of protection and domestic market stability which Europe's agricultural policy makers found

indispensable. Variable levies were introduced as one of the first instruments of the newly created common policy for agriculture, in the early 1960s, and then became something of an epitome of the CAP. From this perspective, substitution of fixed tariffs for this central element of Europe's agricultural policy must be interpreted as a fundamental policy change required by the outcome of the Uruguay Round. One may, therefore, assume that conditions on EU agricultural markets changed fundamentally as the implementation period began, with much excitement among farmers and traders. However, in reality this policy change went nearly unnoticed by most market participants, at least for the time being. There are two major reasons for this surprising outcome.

First, in many cases both the old variable levies and the new tariffs were and are essentially prohibitive, with only small quantities or nothing at all being imported (outside Tariff Rate Quota (TRQ)). Examples of such essentially prohibitive tariffs (outside TRQ) are beef and sugar. In such cases, the major difference between the old regime and the new tariffs is that the amount of "water in the tariff" (i.e. the redundant part of the duty) now is more variable than it used to be. The tendency for this to be the case is the more pronounced the larger the amount of water included in the new tariffs, as a result of both "dirty" tariffication and support price reductions made after the base period for tariffication in the Uruguay Round. Indeed, in some cases the new tariffs introduced in 1995 were considerably higher than where the variable levies stood immediately before the implementation period began (in mid-1995). This was particularly the case for grain-based livestock products, where EU levies used to be based on the difference of cereal prices between the EU and world markets. Because EU cereal prices had come down significantly after the Uruguay Round base period, as a result of the MacSharry reform of the CAP, levies on grain-based livestock products had also declined. The newly bound tariffs on these products, though, were still based on the old much larger price differentials. As a result, the new tariffs for such products, introduced in mid-1995, were much higher than the levies which were charged immediately before the start of the implementation period. In some cases, the new tariffs exceeded the old levies by 50 percent and more (see Table 3.1). As tariffs are reduced during the implementation period they come closer to the levies which were used before the implementation period, but in some cases still remain above them.

Second, for some products the EU has negotiated specific rules in the Uruguay Round, and in those cases the border regimes have not really changed very much as a result of "tariffication". One example is the sector of cereals and rice, where maximum duty-included import prices, related to EU intervention prices, were negotiated at Blair House, with the result that tariffs still vary over time, very much like the old variable levies. Problems related to this sector will be discussed below. Another case in point is the regime for fresh fruit and vegetables, where the EU has now

established, in line with its Schedule, an entry price system. This new regime very much resembles the old reference price system the EU had before the Uruguay Round. If imports enter the EU below 92 percent of the entry price, a very high tariff is now charged, which for all practical purposes is prohibitive. The new border regime for fruit and vegetables protects the rents which accrued to exporters under the old reference price system, and in that sense it probably is better for them than a mechanical application of tariffication procedures might have been.² However, the entry price system neither notably improves access to EU markets, nor does it fundamentally change the process of price formation on EU markets for fruit and vegetables.

As far as processed agricultural products are concerned, one needs to distinguish, when one looks at the EU regime, between first-stage processed products (in EU jargon "Annex II products") such as flour and butter, and more highly processed foods (in EU jargon "Non-Annex II products"). For the former group, implementation of the Uruguay Round commitments has in some cases notably changed the technicalities of setting the duties, but it has done little to remove the often prohibitive effect of the border regime. The latter group is subject to a rather complex mechanism of setting duties, which has not fundamentally changed after the Uruguay Round. In this group of high value-added products, effective protection was generally low already before the Uruguay Round, and will tend to be even less in the future. In some cases, tariff reductions will actually result in negative effective protection. A case in point is beer, where tariffs will be completely eliminated by 2002, leaving EU breweries without protection, even if they have to purchase malting barley at prices above those prevailing in international trade.³ On the other hand, effective protection for processed products derived from cereals (e.g. pasta) is now very high (and often prohibitive) because the grain-related part of the duties for these products is based on the high (and fixed) bound cereals duties reflecting the price situation before the MacSharry reform, rather than on the much lower (and variable) cereal duties actually charged in line with the Blair House arrangement on maximum duty-included import prices.⁴

The lack of direct impact, so far, of tariffication on EU markets, though, should not be extrapolated into the future. In some areas, tariff reductions to be made in the coming years, and

² For a detailed discussion of the functioning of the entry price system, in comparison with the old reference price regime, see Swinbank and Ritson (1995) and Tangermann (1997).

³ See Gerken (1997), who provides a detailed analysis of EU rules on trade in processed agricultural products, including the effects of the Uruguay Round.

⁴ In 1994/95, the "agricultural component" of the duty on pasta was 33.5 ECU/ton on average, reflecting low post-MacSharry levies on cereals. With the implementation of the UR, it increased to 362 ECU/ton, at a time when the EU charged only very low duties on raw cereals, because of high world market prices.

presumably after the next round of agricultural negotiations, will squeeze sufficient water out of the tariffs, and will then begin to impose constraints on the level of domestic price support in the EU. This prospect figures prominently, for example, in the debate about future milk policies in the EU. The EU will soon have to decide on the CAP for milk after the year 2000. Many agricultural policy makers favor the maintenance of quotas, with a high level of price support. However, as tariffs on dairy products have to be reduced, the scope for price support will be increasingly limited. Under such conditions, production quotas lose much of their political attractiveness. Some EU politicians, therefore, will begin to consider alternative policies, including a significant reduction in price support for milk (which would eventually make quotas redundant), coupled with direct payments. The limitations resulting from fixed and declining tariffs, thus, begin to noticeably flavor the domestic policy debate in the EU.

In spite of the high (and often prohibitive) levels of the new tariffs, there were a number of cases where the EU has invoked the Special Safeguard Provisions (SSG), always in the price-triggered form. This was the case in particular for sugar and molasses, and for some feather products. In the case of sugar this may be surprising, given the high tariff the EU has bound (around 300 percent equivalent). However, the EU has set a rather high trigger price for sugar, based on the unit value at which preferential imports from the ACP countries were imported in the base period. As these preferential imports are guaranteed a price directly related to the domestic EU price, their unit value and hence the trigger price comes close to the EU intervention price, and is therefore far above usual world market prices. It is, then, no surprise that the EU can easily invoke the price-triggered SSG for sugar.

Experience with imports under tariff rate quotas is a mixed story. The EU notification to the WTO of imports under TRQ in 1995 (respectively 1995/96) includes 55 products (notification on some more TRQ is still outstanding). For one half of these TRQ (27 cases), the EU Commission reports that they have been fully utilized.⁵ Interestingly enough, complete quota fill was particularly frequent among those TRQ which have originated from minimum access commitments. Of the total of 21 TRQ under minimum access, three quarters (16 cases) have been fully utilized. Among the current access quotas, many of which were based on actual trade flows in the past, only one third were fully used.

It is interesting to take a somewhat closer look at those quotas which have not been filled. Table 3.2 reports all cases where TRQ were used at less than 90 percent. Notable is the large

⁵ Actual imports under these 27 TRQ were above 99 per cent (in 18 cases 100 per cent) of the TRQ volumes.

number of current access quotas with low rates of utilization. In some of these cases, low quota fill is due to recent changes in the CAP. In particular, cereal price cuts under the MacSharry reform have greatly reduced the demand for cereal substitutes, and hence imports of products such as manioc and cereal residues into the EU have fallen significantly short of the quotas which had been negotiated with Thailand and other exporters. In the cases of the (relatively few) minimum access quotas which were filled by less than 90 percent, one possible explanation could be that even the within-quota tariffs were too high to allow larger imports. However, this is not universally true. The quota for pork cuts has a zero tariff, and was still used by less than 40 percent. It may be interesting to note that the three remaining underused minimum access quotas belong to those much disputed cases where the EU has reserved the right to count preferential imports from the countries in Central Europe (under the Europe Agreements) against its access commitments. Within-quota tariffs in these cases are no more than 20 percent of the "normal" tariffs.⁶ But even at these greatly reduced rates imports were rather small.

It should be noted, though, that a number of minimum access quotas of the EU started at zero tons in the first implementation year, as base period imports were larger than three percent of base period consumption. In these cases, TRQ did not yet have to be opened up in the first year (and hence, underuse could not yet occur). Only later years will show to what extent these quotas will be used.

3.2.2 Export Subsidies

As in some other countries, the export subsidy commitments were expected to be the most binding constraints on EU policies. The extent to which this was the case already in the first implementation year, though, has differed significantly among products (see Figure 3.1). In the cereals sector, high world market prices meant that only part of EU exports in the 1995/96 marketing year required subsidization (see Figure 3.2).⁷ In the case of wheat, only one quarter of all EU exports were subsidized, while more than 90 percent of coarse grain exports were shipped with export subsidies. In both cereal categories, though, even the total quantity of exports would have easily fit into the commitments. In the EU, there were many more products where subsidized

⁶ When the EU decided, in 1995, to reduce preferential tariffs under the Europe Agreement to 20 per cent of regular tariffs, it also reduced MFN tariffs within the respective TRQ to the same levels.

⁷ In some cases, Graph 6.2 shows subsidized exports to have been larger than total exports. This is due to the fact that reporting periods used in the EU notification are not always identical for subsidized and total exports.

exports (and also total exports) remained well below the constraints in the first implementation year. Because of the implicit "credit" rule in Article 9:2(b) of the Agreement, such unused scope for export subsidies can probably be utilized in later years (except in 2000). This provision may become important in the EU for those products where export subsidy commitments would otherwise be binding in the future.

For some other products, the quantities of subsidized exports and/or budgetary outlays have already come close to commitment levels in 1995/96. This was the case for olive oil, cheese, other milk products, beef, poultry, fresh fruit & vegetables, and processed fruit & vegetables (outlays only).

For no product were commitments used to the last ton or ECU in 1995/96. However, in some cases only a small safety margin remained. As a matter of fact, as the marketing year went on, the management committees for the products concerned began to reduce export subsidies where export development threatened to get out of line with the new WTO commitments. Dairy products, in particular, saw several rounds of cuts in export subsidies, necessitated, as the EU Commission said, by the need to respect WTO constraints. For a number of dairy products, as well as certain types of pork and poultry products, export subsidies were eliminated altogether, or at least for certain destinations (though this did not mean the end to exports). The situation was similar in 1996/97, and export subsidies, particularly for cheese and other dairy products, were reduced several times in order to keep export volumes under control. With cereals, however, the EU had no difficulties in 1996/97.

As allowable quantities and outlays decline over the implementation period, the export subsidy constraints will become more and more binding in the EU. To show the extent to which this will be the case, Figure 3.3 sets subsidized exports and outlays of 1995/96 against commitments for the year 2000. For those products which came already close to constraints in 1995/96, subsidized exports will have to be reduced significantly as the implementation period goes on. In addition, outlays on incorporated products will not be sustainable at their 1995/96 level. As EU output of many products concerned continues to grow, the binding power of the export subsidy commitments will become even more stringent in the future, requiring policy changes in the years to come.

In the cereals sector, 1995/96 EU exports would still fit relatively easily into commitments for 2000, even if total 1995/96 exports (including exports not subsidized) are considered. However, in this sector there is a strong tendency for EU exportable surpluses to grow. In its latest market projections, the EU Commission expects a surplus of domestic production and gross

imports over domestic consumption in 2000/01 of 30.4 million tons, for the aggregate of wheat and coarse grains, at the "normal" set-aside rate of 17.5 percent (against the current rate of 5 percent).⁸ The export subsidy commitment of the EU for that year, though, stands at 25.3 million tons for wheat and coarse grains taken together.⁹ If EU cereal prices at that time should be above world market prices and therefore require export subsidies, major adjustments may have to be made in the EU. With the further expected growth of cereals yields in the next century, the export subsidy constraint is likely to become more and more of a constraint. For some time, of course, the EU can postpone policy adjustments by taking surpluses into (now greatly reduced) intervention stocks. However, given the expected magnitude of the excess surplus, such a response can only create a short breathing pause. After a while, set-aside would have to be raised significantly.

This is exactly the reason why the EU Commission has argued for another 20 per cent reduction of price support for cereals in its "Agenda 2000" proposals of July 1997. If implemented, this price cut might allow the EU to export cereals (and cereal based livestock products) without export subsidies and without having to engage in set-aside. In the Commission proposals, the EU's WTO commitments are explicitly cited as a reason why this significant policy change is required. The strong influence of the Uruguay Round results on future policy making in EU agriculture are very obvious in this case.

3.2.3 Domestic Support

In the way they were finally agreed upon in the Uruguay Round, the domestic support commitments were, from the beginning, not expected to bind EU agricultural policies. The major reason is that policy changes after the base period, coupled with the "blue box" provisions, have greatly reduced the level of domestic support in the EU as defined under the Agreement. A large part of price support for cereals (and non-exempt direct payments for oilseeds) was, under the MacSharry reform, converted into direct payments after 1992. To a smaller extent, a similar change was also made in the beef sector. As such these policy changes would not have reduced the level of domestic support. However, under the "blue box" provisions, agreed between the USA

⁸ European Commission (1997), p. 23.

⁹ In its projections, the EU Commission forecasts exports strictly within the WTO limits for subsidized exports. Any surplus above those limits is projected to be taken into intervention stocks, which are assumed to increase (from 2.7 million tons at the end of 1995/96) to 8.4 million tons in 2000/01, and to 58 million tons in 2005/06, with assumed constant constraints on subsidized cereal exports after 2000.

and the EU at Blair House, the new payments, based on fixed area and yields (and, in the case of cattle, on a fixed number of head), are exempt from reduction commitments and not included in the current AMS (i.e. the AMS calculated for each year during the implementation period). As a result, the EU's current product-specific AMS levels for cereals, oilseeds and beef, as calculated for the WTO, are now greatly reduced, even though the support level in economic terms (as measured, for example, through the PSE) has not declined. Because of the sector-wide definition of the AMS commitment, the "savings" made on cereals, oilseeds and beef can be used to cover support for other products in the EU. The EU would probably not even need to make use of this aggregation over products as it is in the process of reducing, rather than raising, support levels. However, with the sector-wide definition of the AMS commitment and the "blue box" effect, the domestic support commitments have essentially lost any binding power for the EU, at least during the current implementation period. An important constraint, though, often mentioned in the EU, is the product-specific support, decided in 1992, which must not be exceeded if the EU wants to benefit from the peace clause.

At the time of writing, the EU has not yet notified its 1995/96 AMS to the WTO. The extent to which the EU has "underused" its domestic support commitment can, therefore, not yet be specified. However, estimates have shown that the 1995/96 AMS of the EU was likely to be already below the domestic support commitment for the year 2000.¹⁰ In any case, the domestic support constraint is unlikely to bind EU policies until the year 2000, and no need is seen, so far, to adjust policies from this perspective.

As an interesting aside, not related to WTO commitments, there is now a debate in the EU about the extent to which farmers have been overcompensated through MacSharry payments. The background is that actual producer prices of cereals have declined far less than intervention prices under the MacSharry reform. This was due to a combination of high world market prices in some periods, and generous export subsidies in others. As direct payments introduced under the reform were based on the cut in intervention prices, EU cereal growers have benefited from the reform. The UK ministry of agriculture has estimated that over the four year period from 1993/94 to 1996/97, overcompensation has added up to 14.3 billion ECU.¹¹ The overcompensation argument was also used by EU Commissioner Fischler to justify his proposal, much opposed (and finally voted down) by most member states, that compensation payments should be reduced as of

¹⁰ See OECD(1995a) and Tangermann (1996b).

¹¹ Agra Europe (English edition), 2 May 1997, p. E/4.

1997/98. Because these payments are in the "blue box", their reduction would, though, not add to the slack in the EU domestic support commitment.

There was only one very specific element in the area of domestic support where the EU has already touched a constraint in one year. This related to the Memorandum of Understanding on Oilseeds which originated from the GATT oilseeds dispute, was agreed between the USA and the EU at Blair House, and is annexed to the domestic support section of the EU Schedule. Under this provision, the EU has to respect a given maximum area of oilseed production as long as it grants crop specific payments to oilseeds, and has to reduce these payments if actual planting exceeds that area, by the same percentage by which the maximum area is exceeded. This EU commitment entered into force already in the 1994/95 marketing year, and in that first year the EU indeed exceeded the maximum oilseeds area (by nine percent) and had to reduce oilseed payments accordingly. In later years oilseed plantings remained below the threshold, and no further reductions of payments were required. However, the Blair House constraint on EU oilseeds production is considered a potential threat to the future viability of the EU oilseeds regime. This is why the EU Commission has, in its "Agenda 2000" package, proposed to eliminate the crop specific payments for oilseeds, by making these payments identical to those for cereals. If implemented, this proposal could result in a significant reduction of EU oilseed production. This proposed policy change is another indication of the extent to which its new WTO commitments strongly influence thinking about future agricultural policies in the EU.

3.2.4 EFTA Enlargement

In the EU, the start of the implementation period for the Uruguay Round Agreement on Agriculture coincided with accession by Austria, Finland and Sweden on January 1, 1995. As a result of that EU enlargement from 12 to 15 member states, two types of issues had to be settled regarding agricultural commitments. First, the Schedules of the three entrants had to be combined with that of the EU-12. Second, adoption of the CAP and of EU border measures by the three acceding countries resulted in some tariff increases in the entrants, and compensation had to be negotiated under GATT Article XXIV:6.

Merging the Schedules of the three acceding countries with that of the EU raised the issue of how past bilateral trade between the EU-12 and the entrants should be treated when adding up minimum access and export subsidy commitments. The Agreement on Agriculture does not have provisions for how this should be done, and hence a solution had to be negotiated. For the EU it

would have been nice if export subsidy commitments of the EU-12 and the three entrants had simply been added up, without any corrections for past bilateral trade between them. In the area of market access, though, the EU wanted to correct the aggregated access commitments for bilateral flows between the Twelve and the Three, in order to arrive at smaller access commitments. In the end, bilateral trade was deducted in both areas from the simple aggregate of commitments of the EU-12 and the three entrants. In other words, in this regard the aggregate of the 15 countries was treated as if they had already been united before the Uruguay Round, and only their trade with third countries was taken into account. Compared with the previous EU-12 Schedule, both allowable volumes of export subsidies and access commitments have in some cases decreased for the EU-15.

Compensation negotiations under GATT Article XXIV:6 were conducted with a number of countries,¹² and concluded towards the end of 1995. They resulted in several new or enlarged TRQ for various products, with varying degrees of tariff reductions (in some cases to zero), and in some further tariff reductions.¹³ New TRQ were opened up, for example, for oats (21,000 t, negotiated with Australia); worked oats (10,000 t, Canada); durum wheat (50,000 t, Canada); rice (63,000 t milled, USA; 20,000 t husked, Australia); cheddar (4,000 t, Canada). Enlarged quotas apply to products such as sheepmeat (extra 1,700 t, negotiated with New Zealand; 1,510 t, Chile); high quality beef (2,000 t, Australia); processing cheese (1,000 t, New Zealand); almonds (45,000 t, USA); and manioc starch (10,000 t, Thailand). Tariff reductions were agreed for products such as kiwi (negotiated with New Zealand); apples and pears (Argentina and Chile); fish meal (Chile); certain seeds (Japan); sweet cherries (USA); fresh foliage (USA); petfood (USA).

The adjustments agreed in these enlargement negotiations have resulted in a new Schedule for the EU-15, to replace the EU-12 Schedule agreed at Marrakesh. However, at the time of writing the WTO has not yet legally sanctioned that Schedule.

Linked to the enlargement negotiations were talks with the USA and Canada regarding implementation of EU tariffs for cereals and rice. The results will be discussed in the following section.

¹² Argentina, Australia, Canada, Chile, Japan, New Zealand, Thailand, USA.

¹³ It is interesting to note that other types of concessions were also made. For example, in the negotiations with Canada, the EU committed itself to limit subsidies for exports of beef and veal to Canada, to 5,000 t per year.

3.3 Implementation Issues

The technical implementation of the new EU commitments in agriculture, in the areas of market access and export subsidies, required a large number of changes in, and additions to, administrative procedures under the CAP. However, overall the adjustments were made smoothly and markets were not disrupted.

As far as EU market access commitments are concerned, the outstanding implementation issue, which has caused (and may continue to cause) significant trouble between the EU and some of its trading partners, is application of the specific commitments the EU has made regarding tariffs on cereals and rice. The background to this issue is the cut in support prices which the EU made under the MacSharry reform of 1992. As a result of that reform, cereal prices were reduced by around 30 percent. The tariff equivalents to which the EU was "entitled", though, were still based on the much higher support prices of the 1986-88 base period. Tariffs at those levels would have been prohibitive for all practical purposes, given the now much smaller gap between EU and world market prices. Moreover, under normal world market conditions, such high tariffs were not needed by the EU to defend its new lower support prices. During the verification process before Marrakesh, the USA spotted this issue, and in the Blair House II negotiations, a formula was agreed between the USA and the EU (and then included in the EU Schedule) which commits the EU to apply tariffs to cereals¹⁴ and rice which in normal times are much below the bound tariffs. Under this clause, the EU "undertakes ... to apply a duty at a level and in a manner so that the duty-paid import price ... will not be greater than the effective intervention price ... increased by 55%" (and in the case of rice 88% for Japonica and 80% for India rice). Of course, the duty charged must never be higher than the "normal" bound tariff.

What may not have been fully considered when this formula was negotiated in haste is the fact that this wording may be interpreted as requiring that duties are set on a shipment-by-shipment basis. If this is actually done it not only requires a significant administrative effort, it also invites fraud, and can result in absurd economic consequences.¹⁵ Hence the EU sought for a solution which might avoid these difficulties. It introduced a regime based on observed ("reference") world market prices for a number of standard qualities, and began to set duties calculated as the difference between the agreed maximum duty-paid price and these reference

¹⁴ The clause applies only to wheat, rye, barley, maize and sorghum. Oats and other cereals are subject to the "normal" bound tariffs.

¹⁵ For a discussion of some economic issues involved, see Tangermann and Josling (1994).

prices.¹⁶ In effect this system comes very close to the old variable levy system the EU had before the Uruguay Round.

Of course this regime, which is not based on prices of individual shipments, cannot guarantee that no consignment ever enters the EU at a duty-paid price above the agreed maximum. Also, as only a given number of standard qualities are taken into account, price differentials between qualities actually traded may not always be fully reflected in duties paid. Not all cereal and rice exporters shipping to the EU were, therefore, equally happy with that regime. As soon as the EU had decided on the new regime, the USA and Canada criticized it. However, bilateral negotiations did not resolve the matter. Hence, immediately after the EU had begun to implement the regime, in July 1995, the USA and Canada took the case to the WTO, where it has meanwhile gone through several cycles.¹⁷

Both the USA and Canada requested the formation of a panel in October 1995. The EU delayed the panel requested by the USA, but the panel requested by Canada was established, though no panel members were selected. In the course of the GATT Article XXIV:6 negotiations related to EU enlargement (see above), an apparent solution was negotiated between the EU and the two opponents, and both the USA and Canada stopped pursuing their WTO complaints. For cereals, minor adjustments of the reference price regime were agreed. For husked rice, the EU promised to introduce a "cumulative recovery system" (CRS) in the marketing year 1996/97. Under this system, rice exporters would be paid back, at the end of the marketing year, any duties they had paid over and above the level that would have resulted in the maximum duty-paid price. Another part of the settlement with the USA was the EU promise to open up a TRQ for 30,000 tons of malting barley.¹⁸ However, when the EU had not yet started to implement these concessions at the beginning of the 1996/97 marketing year, Canada and the USA began to lose patience, and again requested consultations with the EU in the fall of 1996. The EU argued that it needed more time to design the CRS for rice, because of the complicated issues involved.¹⁹ In

¹⁶ Duties are calculated on a daily basis, but changed only every second week, unless the calculated duty changes by more than a given amount (5 ECU/t in the case of cereals). Duties are reduced, by given amounts, for certain EU ports and for particularly high qualities. The regime described here applies to cereals, but is similar for rice.

¹⁷ Thailand and Uruguay also took the EU to the WTO because of the duty regime for rice.

¹⁸ In passing it may be interesting to note that the malting barley quota was negotiated on the insistence of the US brewing company Anheuser-Busch, which argued it needed North American, rather than European, barley in order to produce its Budweiser beer for the growing market in the UK.

¹⁹ It is said that the EU Commission intended to make the CRS for rice so complicated that exporters would find a system like that unattractive. The idea behind that might be to guard against attempts at introducing a similar system for cereals.

December 1996, the USA requested the WTO to reopen a panel on the EU reference price regime for cereals, but dropped the request in the same meeting. In February 1997, the USA again requested, and the EU blocked, formation of a panel. In March 1997, the EU Council of Ministers finally adopted both the CRS for rice and the malting barley TRQ, and the USA withdrew its request for a panel. However, as the EU delayed publication of the details of the relevant measures, the USA again requested the formation of a panel in April. The EU again objected, but then adopted the measures concerned a week later. The TRQ for malting barley was implemented retroactively²⁰ from 1 July 1996, and the CRS for rice is to run from 1 July 1997 to 30 June 1998 for a trial period. In response, the USA again withdrew its request for a panel.

Though it appears as if this case has been settled for the moment, this may not yet be the end of the story about the maximum duty-paid price for cereals and rice in the EU. The economics of the case are such that a sensible solution is probably difficult to find as long as the respective clause in the EU Schedule remains as it was worded at Blair House II. It would probably be better to try and negotiate lower but fixed EU tariffs for cereals and rice. However, so far none of the parties involved appears to move in that direction.

As far as administration of TRQ is concerned, the EU has abstained from allocating quotas to groups directly related to producer interests. Licenses are granted only to importing companies, which have to be registered in the EU (i.e. exporters do not get access to quotas, except in a few cases of country-specific TRQ). In many cases applicants must be historical importers. In most cases, quotas are allocated on a first-come, first-served basis for given periods, with pro-rata reductions if applications exceed availability. For fruit and vegetables, licenses are not issued. Instead, tariff reductions for within-quota exports are reimbursed *ex post* if it turns out that quotas were not yet filled at the time of importation. The banana regime, with a rather complex mechanism for quota allocation, is a very special case, and details of the licensing procedures (which have now been found to be GATT-illegal by a WTO panel) will not be discussed here.

Under many TRQ, quota rents accruing to traders are significant. As an EU official has observed, "given the high level of protection which still exists for many of the major agricultural sectors, these reduced or zero tariff quotas are worth a great deal of money. When they are open, therefore, all players want a slice of the action. ... Requests generally exceed to a dramatic extent

²⁰ Retroactive implementation of a tariff concession is an interesting concept. It may make economic sense where only a quota rent is at issue. Where quantities traded can be expected to depend on tariff levels, ex post reduction of a tariff cannot affect past trade volumes, but can of course result in windfall profits for the traders concerned.

the quota availability. ... In some cases applicants for a share of a quota get as little as 1% of the quantity they request. ... Importers are driven to ask for exponentially more than they could ever want, in order that the percentage they are allocated will represent a satisfactory quantity. ... Those quotas are gold dust for the operators who obtain a share of them."²¹ Cases have been reported in which companies established dozens of subsidiaries in order to get better access to quota licenses.

Regarding the implementation of the special safeguard provisions, there was some disagreement between the EU Commission and the Council of Ministers. The Commission wanted to make SSG implementation dependent on its decisions, on a case by case basis. The Council, though, decided that it should be automatic, thereby providing more protection.

In implementing the export subsidy commitments, the EU Commission now requires the prefixing of all export refunds, in order to be able to monitor, and if necessary constrain, the volume of subsidized exports.²² The EU Commission considers to extend the tender system for export refunds, already existing for some products, to more sectors in order to keep export subsidies in line with EU commitments. For some products, in particular processed foods, producers and traders find the administrative procedures involved in applying for export licenses so cumbersome and costly that they forego export refunds even though they would be entitled to them.

An interesting issue in the area of export subsidies relates to processed cheese. As cheese is one of the products where export subsidy commitments bind most effectively in the EU, the proposal was made by the German ministry of agriculture that processed cheese could effectively be taken out of the cheese category by producing it in customs storage. Export subsidies would then only have to be made under the categories of butter and milk powder, to be combined (with some subsidized exported EU cheese) into processed cheese outside the customs territory of the EU.²³ The EU Commission, though, feared that this might not be WTO consistent. However, an approach was then adopted under which processed cheese produced from imported cheese is now treated under inward processing rules, and export subsidies are paid only to EU butter and milk

²¹ Doran-Schiratti (1996).

²² Prior to the UR, prefixing was not required for all products, and where it was not, traders were paid export refunds at the standing rate for any quantities they exported. Prefixing means that traders have to apply for an export certificate, with export refunds, which is valid for a specified future period. Consistency of subsidized exports with WTO commitments is monitored on the basis of these export certificates, rather than on the basis of statistically reported exports.

²³ Agra Europe (German edition), No. 51/96, December 16, 1996, Europa-Nachrichten 17.

powder added in processing the cheese. Even this approach, though, has already been questioned in Geneva by the EU's trading partners.

3.4 Difficulties Between the EU and Other Countries

In the WTO Committee on Agriculture, the European Union has addressed several problems it saw in other countries' approaches to implementing certain commitments. However, generally the EU has had only a few major problems with other countries' policies. One indication is that after the Uruguay Round the EU has, so far, lodged only three agricultural complaints in the WTO.

One EU complaint relates to the way Japan implements safeguards for pigmeat. The somewhat complex Japanese system of safeguards for pigmeat, combining a tariffed domestic safeguard regime, sanctioned in the Uruguay Round, with the WTO safeguard provision of the Agreement, is described in detail in the chapter on Japan in this paper. As reported there, the domestic safeguard was in effect in four of the nine quarters since April 1995, and the WTO special safeguard provision (quantity triggered) was invoked in one quarter. EU producers feel that the domestic Japanese safeguard, in particular, seriously inhibits access of EU frozen pigmeat to Japan's market. It is argued that by switching on and off that safeguard Japan makes life very difficult for EU exporters and adds a significant amount of instability to the EU pigmeat market as supplies have to be diverted to domestic EU markets whenever they can't access Japan. The EU does not fundamentally question the legality of the Japanese regimes, but argues that it discriminates against the particular type of pigmeat, frozen cuts, exported by the EU. The EU has lodged a WTO complaint in January 1997 and requested consultations with Japan. The matter is of considerable interest to the EU as Japan is an attractive market to which the EU can export pigmeat without subsidies, thereby making it easier for the EU to remain within its export subsidy constraints in this sector.

A second EU complaint in the agricultural sector related to Japan's taxes on alcoholic beverages. In line with the EU's (and other countries') complaint, the WTO panel found that Japan's liquor taxes discriminated against imported spirits. Japan appealed against the panel finding, but the Appellate Body largely confirmed the panel report. A third agricultural complaint brought before the WTO by the EU related to the tariff increases which the USA imposed on some food and agricultural imports from the EU, in retaliation for the ban on beef hormones

maintained by the EU. However, when the USA discontinued the tariff increases, the EU no longer pursued this complaint.

EU policies, on the other hand, were the subject of a number of WTO disputes. Outstanding cases, not discussed here in detail, were the WTO panels on bananas and on beef hormones. Both WTO panels were extremely important in demonstrating the powerful effects of the new WTO rules on dispute settlement. Moreover, the panel on beef hormones has established an important precedent for how to interpret the provisions of the new Agreement on the Application of Sanitary and Phytosanitary measures (SPS). The EU has lost in both cases, and is very much concerned about the implications for its future policies. At the time of writing it was not yet clear how the EU might respond to the panel verdicts. However, these two important cases will definitely add to feelings in the EU that its policies are now, after the Uruguay Round, much more constrained by international disciplines.

Other complaints against the EU, in addition to those about duties for cereals and rice mentioned above, related to EU treatment of spreadable butter imports from New Zealand and administration of a TRQ for poultry imports from Brazil. Though both cases may be important for the exporting countries concerned, they do not touch upon fundamental elements of the CAP.

Minor trade rows, which did not result in formal WTO complaints, included EU exports of wheat gluten to the USA, Canada's imports of sugar from the EU, and US countervailing and anti-dumping duties against pasta imports from the EU. Major difficulties, not directly related to the Uruguay Round agreements, were involved in talks between the EU and the USA as well as Canada on veterinary equivalence agreements.

3.5 Issues for Future Negotiations

A first point to make about the EU position on future agricultural negotiations in the WTO is that the EU wants these negotiations to start as late as possible (though not later than at the agreed date, i.e. in 1999). This was made very clear when some countries tried to find agreement at the Singapore Ministerial in December 1996 that preparations for the next round of agricultural negotiations should start soon. The EU is currently involved in heated debates about further reforms of the CAP, and it feels that it needs more time before it can engage in another round of international talks on agricultural trade.

There is no doubt, though, that the new WTO commitments negotiated in the Uruguay Round, as well as expected results of the next round of WTO negotiations on agriculture, strongly flavor the domestic debate in the EU about the future of the CAP. Irrespective of whether current WTO commitments on agriculture have achieved much in terms of liberalizing agricultural trade, the impact which the new rules of the game agreed in the Uruguay Round have on the domestic policy debate, at least in the EU, shows how effective the Uruguay Round Agreement has been. Most policy makers in the EU assume that the next round of WTO negotiations will result in tighter agricultural commitments, and that this will require further adjustments to the CAP. As said above, this view is very much adopted by the EU Commission, and is one of the driving factors behind its "Agenda 2000" proposals for another round of CAP reform.

However, in tactical terms there is much disagreement in the EU on how best to handle the relationship between further CAP reform and the next round of WTO negotiations. Some policy makers, typically from the camp of those who want to minimize changes to the CAP, argue that it would not be wise to give away negotiating chips by reforming the CAP before WTO negotiations. Other more progressive policy makers maintain that the EU will be in a much better position to request, in WTO negotiations, policy changes from other countries if it enters the next WTO round with reformed policies at home.

What the EU position will be in the next round may, indeed, very much depend on whether or not further CAP reforms, along the lines of the "Agenda 2000" proposals, are decided before the WTO negotiations. A particularly important issue in this regard is the future of export subsidies. Many in the EU, not the least the EU Commission, argue that the CAP should be reformed in a way that export subsidies are no longer needed (at least for most products in most years). This point of view, which dramatically diverges from past positions of most agricultural policy makers in the EU, is largely based on the fact that the new WTO commitments agreed in the Uruguay Round do not permit the EU to participate in the expected growth of world markets for food and agricultural products if the EU still needs export subsidies, and therefore has to keep its exports within WTO limits. EU politicians who adopt this position suggest that EU support prices should be brought in line with world market prices, with compensation being granted to farmers in the form of direct payments. If this camp prevails in the debate about the future of the CAP, and if such decisions are taken in the EU before (the conclusion of) the next round of WTO negotiations, then the EU might be reasonably relaxed about requests for an elimination of export subsidies, as proposed by the USA and the Cairns Group.

The EU might, then, still want to maintain the option of granting limited export subsidies to selected products (particularly dairy products), but on the whole it could probably live with large

reductions in export subsidy commitments. As a matter of fact, the EU could consider a "zero for zero" approach under which export subsidies would be completely eliminated in all countries for an agreed set of products (e.g. cereals, oilseeds). Under these conditions the EU might, as a *quid pro quo* for agreeing to drastic reductions of export subsidies, adopt a relatively aggressive stance in requesting better access to other countries' agricultural and food markets, in particular for high value added products. The EU Commission's "Agenda 2000" proposals, if implemented, might allow the EU to adopt this position. On the other hand, if the EU cannot (yet) decide to change its domestic policies such that it can live with much less export subsidization, then it is likely to be a much more difficult partner in the negotiations about the future of export subsidies in the WTO.

In the area of market access, however, the EU may find it difficult to make large concessions, independent of the outcome of the debate about CAP reform. If only minor adjustments are made to the CAP and domestic support prices remain high, then high tariffs are needed to defend that level of price support. If CAP reform is (somewhat) more dramatic, then maintenance of high tariffs may domestically be sold as somewhat of a compensation for the hardship caused by giving up on high price support. Also, the need for high protection against agricultural imports from abroad is much easier to explain to the general public than the large sums the EU has traditionally spent on export subsidies.

On a more technical level, the EU may be interested to clarify rules on producer financed export subsidies in the next round. In the domestic EU debate about the future of the CAP for milk, two-tier pricing systems have been proposed. However, depending on their formulation, there may be problems with their WTO consistency. Also, there may be a point in clarifying the WTO status of the new Canadian system of price pooling for milk.

A particularly difficult issue in the next round, as far as the EU is concerned, will be the "blue box". After the USA has "greened" its deficiency payments through the 1996 FAIR Act, the EU is out in the cold on this issue.²⁴ The USA and some Cairns Group countries have already voiced determined opposition against the existing half-decoupled MacSharry payments in the EU, and against a continuation of the "blue box" beyond the next round of negotiations. In its "Agenda 2000" proposals, the EU Commission has suggested changes to direct payments for crops which go in the direction of further decoupling, though they may not yet fully comply with the "green box" provisions. In theory, of course, the EU could go beyond the latest Commission proposals, and completely decouple payments from production. In practice, though, many agricultural policy

²⁴ Iceland and Norway, though, have also made use of the "blue box".

makers in the EU have not yet gotten used to the idea that payments could be made to farmers without them having anything to do in return. Ways are therefore vividly discussed in which current and future payments could somehow be converted into environmental programs or regional development policies. If this could be achieved in the EU, then such payments might fall in the "green box", and the EU might be able to drop the "blue box". However, it is difficult to design such alternative programs in a way that they can channel the large sums involved to EU farmers, in a distribution among farms not too dramatically different from the needs for income compensation after price cuts. It may, therefore, take the EU quite some time to come up with "green" alternatives to coupled payments, and before it has managed to do so the EU will not want to give up on the "blue box". Also, what are the concessions the EU's negotiating partners can make for the EU to agree to an elimination of the "blue box"?

On state trading, the EU may be close to the US position in the next round. Even though the EU has always intervened heavily in its agricultural trade, it has not opted for state agencies or single desk approaches. The CAP relies on measures which operate through their influence on private trade. On the other hand, the EU feels disadvantaged through the existence of state trading in other countries, both in competition on third country markets and in market access to countries relying on state monopoly importers. Because of the many uncertainties and quarrels that have arisen over the administration of TRQ and the allocation of licenses (not the least licenses under the EU banana regime), the EU may also have an interest in revising and strengthening the Uruguay Round Agreement on Import Licensing Procedures.

An issue about which the EU is very much concerned, and which it may bring up in the next round, is the WTO treatment of agriculture in regional trading arrangements. There is now a growing number of negotiations on free trade arrangements with various countries in which the EU finds it difficult to deal with agriculture. In the past, agriculture was largely excluded from such arrangements. The EU now feels that the relevant rules in the GATT 1994 and their changed interpretation agreed at Marrakesh require that most trade, including agricultural products, is covered by free trade arrangements right from the start. It also fears that, if a free trade arrangement is found to violate WTO rules (because it does not treat agriculture properly), third countries can claim equal access to the EU market under the MFN principle. On the other hand, the CAP (as it currently exists) might be seriously undermined if the EU had to open up its borders completely vis-à-vis its associates in the free trade arrangements.

A very difficult issue for the EU is how to deal with consumer concerns in trade policies. The beef hormones dispute, and the treatment of genetically engineered foods, are cases in point. Many EU consumers feel very strongly, and very negatively, about such issues. On the other hand

it is not easy to see how the SPS Agreement (or other WTO arrangements) could be modified such that these concerns could be taken into account, without the danger of opening up the doors for discretionary protection. Perhaps the EU will raise this issue in the next round.

At the level of individual products, the EU may want to use the next round to negotiate a better solution for the clause on duties for cereals and rice. A new banana regime may also be on the negotiating agenda of the EU (if the EU can delay adjustments to its current regime, as required by the WTO panel, until then).

In summary, the EU is unlikely to be a much more forthcoming negotiating partner in the next round of agricultural negotiations. However, the outcome of the Uruguay Round, and experience made with implementing the new commitments in agriculture, have clearly driven home the message to EU agricultural policy makers that the world has changed regarding the relationships between international disciplines and domestic policies. The need to improve international competitiveness of European agriculture is now universally accepted in the EU. The day may come when this is fully reflected in designing a new CAP. At that moment, the negotiating position of the EU in multilateral talks on agriculture may change fundamentally. However, it may take another round of WTO negotiations before such surprises materialize.

Table 3.1: Current Levies versus Bound Tariffs, Selected Poultry and Pork Products

	Levy applied before implementation period (April- June 1995)	Tariff introduced 1995^a	Final Tariff 2000
	ECU/t	ECU/t	ECU/t
Poultry			
83% chicken, fresh or chilled	290.8	393.6	262.0
Chicken cuts, boneless, fresh, chilled or frozen	946.1	1,504.0	1,024.0
82% geese, fresh, chilled or frozen	504.6	676.8	451.0
Pork			
Pork, carcasses, fresh, chilled or frozen	531.1	804.5	536.0
Hams and cuts thereof, fresh or chilled	770.0	1,166.4	778.0
Loins and cuts thereof	860.3	1,303.7	869.0

Source: GATT(1994),

European

Commission

(1995)

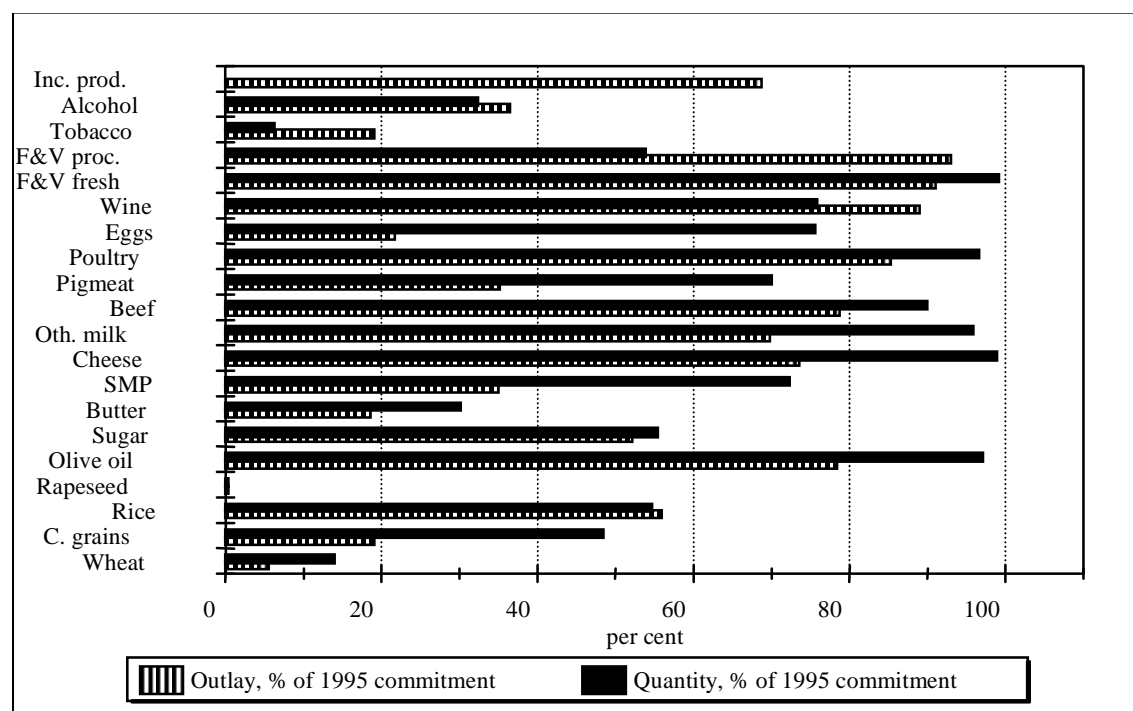
^a Base tariff minus first reduction rate (6%)

Table 3.2: TRQ Products of the EU With Quota Fill Below 90 Percent

Product	Tariff Quota 1000 t	In-quota Imports 1000 t	Quota Fill (% of TRQ)
Current Access			
Buffalo meat	2.25	0.08	3.4
Beef, cuts	50.00	33.00	66.0
Sheep meat	298.74	255.45	85.5
Cheese (for processing)	3.50	3.11	89.0
Manioc (Thailand)	5,500.00	3,106.33	56.5
Manioc (other)	1,352.59	174.47	12.9
Sweet potatoes (other)	5.00	0.16	3.1
Sweet potatoes (China)	600.00	35.39	5.9
Sweet oranges	20.00	13.24	66.2
Other citrus fruit	15.00	7.88	52.6
Maize	2,000.00	1,551.82	77.6
Grain sorghum	300.00	214.30	71.4
Manioc starch	8.00	2.61	32.6
Manioc starch (medical use)	2.00	0.00	0.0
Cereal residues	475.00	83.69	17.6
Malt sprouts	100.00	69.97	70.0
Malt sprouts	20.00	0.04	0.2
Orange juice	1.50	0.52	34.5
Minimum Access			
Pork cuts	7.00	2.62	37.5
Pork, loins and ham	5.67	2.34	41.2
Poultry eggs (in shell)	82.65	0.08	0.1
Egg albumen	8.86	2.85	32.2

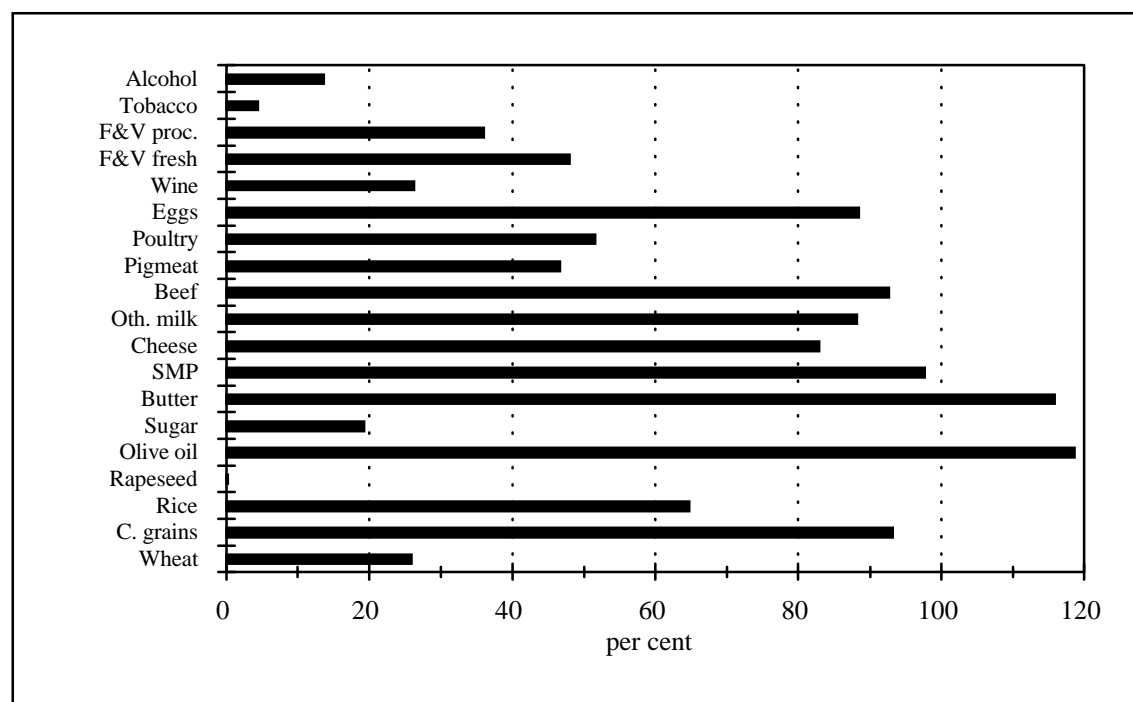
Source: Author's calculations based on WTO document G/AG/N/EEC/4, 12 March 1997

Figure 3.1: EU Subsidized Exports in 1995/96, Percent of Commitments for 1995



Source: Author's calculations based on WTO document G/AG/N/EEC/5, 13 March 1997

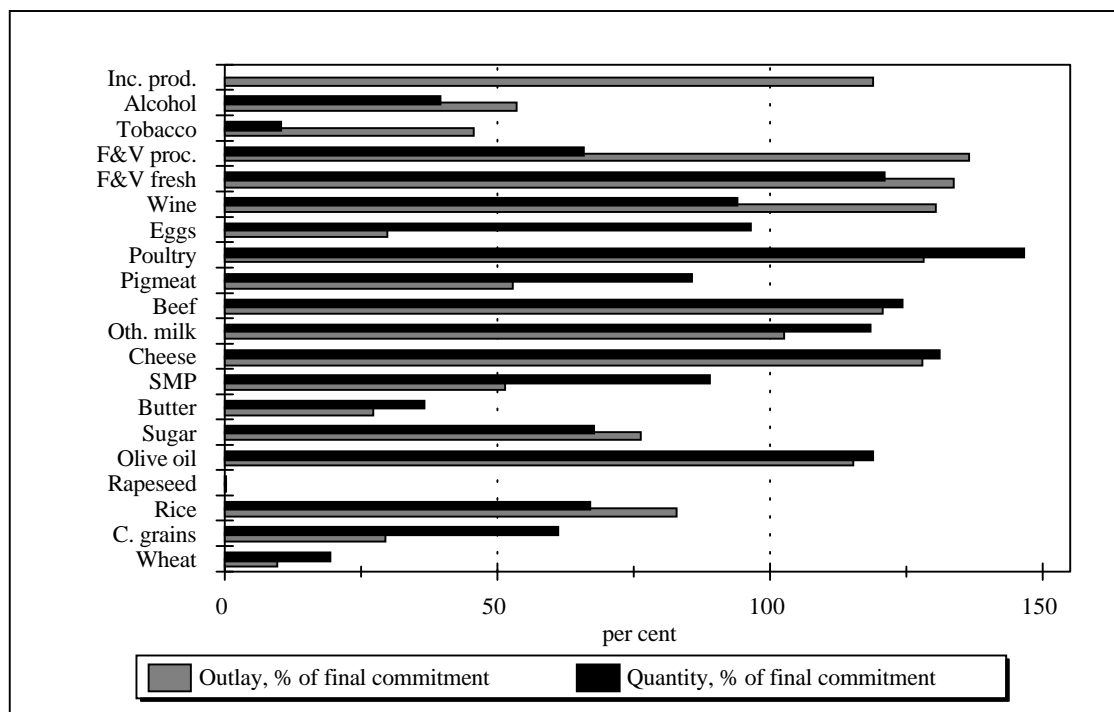
Figure 3.2: EU Subsidized Exports in 1995/96, Percent of Total Exports



Source: Author's calculations based on WTO document G/AG/N/EEC/5, 13 March 1997

Note: Where subsidized exports are larger than total exports, reporting periods are not identical.

**Figure 3.3: EU Subsidized Exports in 1995/96,
Percent of Final Commitments for 2000**



Source: Author's calculations based on WTO document G/AG/N/EEC/5, 13 March 1997

4 Canada

4.1 Introduction

The Uruguay Round Agreement on Agriculture was welcomed in Canada as an important element of this country's overall strategy to improve the competitiveness of the food industry and substantially expand exports of cereals, oilseeds, and semi-processed and fully manufactured foods. The agri-food sector generally expressed confidence that the Agreement would encourage export market development, processing and investment in the food sector, and help to stimulate the economy. While many factors have contributed to the policy adjustments and restructuring that are occurring in Canada's food industry, and to its strong export performance, the Uruguay Round outcome is playing a significant role. When combined with the influences of North American Free Trade Agreement (NAFTA) and other trade agreements, the impacts of the Uruguay Round on Canadian agriculture and food processing are strong and positive.

Not all of Canadian agriculture welcomed the final Agreement. The supply managed sectors, dairy, eggs and poultry, fought hard to retain formal import controls under GATT Article XI, and only reluctantly accepted the tariffication of import quotas. Since some access was already provided under the conditions of Article XI, the replacement of import quotas with Tariff Rate Quotas (TRQ) at relatively low tariff levels did not create important difficulties, and prohibitively high tariffs were retained for imports above the TRQ. Thus the dairy and poultry sectors will remain almost fully protected over the transition period. However, issues arising in Canada's and other countries' administration of TRQ will need addressing in the future, both domestically and in international negotiations.

But on balance, the Uruguay Round Agreement has been good for Canadian agriculture. Recent years have witnessed a strong growth in Canadian agricultural trade, both exports and imports (Table 4.1). There has also been an increasing concentration of that trade with the USA, particularly in the case of Canada's exports, reflecting the impact of the NAFTA.

A significant part of this favorable performance is explained by price increases, especially on the export side. These increases derived both from higher world market prices and from a depreciation of the Canadian dollar. Nevertheless, even if the effects of market price increases, of

exchange rate changes and of general price inflation are all netted out, a considerable growth in the real level of agricultural trade over this period is indicated.

Furthermore, the export of intermediate and consumer-oriented agricultural products were both increasing at almost twice the rate of bulk product exports over the same period. The share of bulk products in total agricultural exports consequently fell from 47 percent in 1990 to 40 percent in 1995. By contrast, on the import side, where consumer-oriented products already contributed 70 percent in 1990, the rate of growth in all three categories has been very similar.

Looking ahead, for most of Canadian agriculture the global shift toward greater market integration, freer movement of goods, capital and services, and reduced government subsidy and regulation, is encouraging an aggressive approach to food production and trade. The output of cereals, oilseeds, most other field crops, meats (particularly pork), and many processed foods is expanding. The transportation, handling and food processing industries are undergoing substantial consolidation and reinvestment. There is a strengthening trend toward diversification and value-added activity in the agri-food industry. Although not all of the sector is enthusiastic about the future of freer trade and less government intervention, on balance Canadian agriculture looks forward to a further round of trade liberalization in the WTO.

4.2 Commitments and Policy Changes

4.2.1 Border Protection

Through tariffication Canada replaced all import quotas and licensing requirements with a two-tiered tariff and a TRQ at the lower tier¹. In total, 22 product categories were "tariffied", including all Canada's supply managed dairy and poultry commodities, margarine, bovine meat, wheat, wheat products, barley and barley products.² TRQ established for these products under the WTO exceed previously existing NAFTA quantities in all cases except chicken, and broiler hatching eggs and chicks. Like the import quotas which they replaced, most TRQ are administered

¹ For the tariff equivalents for basic Canadian products, and TRQ for selected products, see IATRC Commissioned Paper No. 9, pp. 56-57.

² Of course, these 22 product categories include many more than 22 individual tariff lines. The term "tariffication" here means the conversion of non-tariff barriers to "equivalent" (interpreted loosely) tariffs, and does not include the binding of previously unbound tariffs.

on a global quota basis. However, a number of partial country allocations were maintained or established in the implementation of TRQ, including for the EU for most cheese, for New Zealand for most butter, for Australia for all condensed milk and cream, and for New Zealand and Australia for most beef. In keeping with how the previous quotas were administered, as well as with the count of imports used to establish the level of the tariff rate quotas, imports from all sources are generally counted within quota. One exception is beef, where the previous non-tariff barriers did not apply to imports from the USA. In all cases, imports within quota pay the duty applicable, depending on the country of origin. This may be the Most Favored Nation (MFN) tariff, or a preferential tariff applicable to imports from the USA, Australia and New Zealand, or from countries benefiting from preferential rates under the Generalised System of Preferences. In effect, given the terms of NAFTA, this gives US suppliers a tariff preference within most TRQ (and US suppliers are not constrained at all by the beef TRQ). Over-quota (second tier) tariffs have been applied at bound levels in all cases and have proven prohibitive to most commercial trade apart from specialty items desired for particular purposes, and otherwise unavailable in Canada.

All ordinary tariffs have been bound. In virtually all cases applied tariffs are at bound levels, and will therefore be forced downwards by scheduled WTO reductions through 2000. Canada's average applied tariff on all agricultural products in 1996, as calculated by the WTO Secretariat, was 25 percent (within-quota tariffs excluded).³ This average would be much lower were it not for the high over-quota tariffs on the supply-managed commodities.

Thus despite tariffication, prohibitively high bindings on second tier, over-quota tariffs (or "tariff equivalents"), combined with TRQ, have allowed Canada to effectively maintain the status quo in the broad effects of its import regime.⁴ The US trade panel challenge of these WTO bindings in relation to NAFTA concluded in Canada's favor, and the current tariff regime is expected to continue, at least for the duration of the Uruguay Round implementation period.

³ We do not have information on how, precisely, this average was calculated, and do not presume it to be a trade-weighted average. We expect that a trade-weighted average would be considerably lower, because a large proportion of actual agricultural imports are now tariff-free.

⁴ Notwithstanding import access increases for products like butter and margarine for which imports were previously effectively prohibited.

4.2.2 Export Subsidies

Canada operated two forms of export subsidy in the base period which were subject to reduction commitments:

- internal transportation subsidies for Western grains conditional on export, and
- producer-levy funded export subsidies on dairy products⁵.

In a major policy reform, Canada has chosen to go beyond its Uruguay Round commitments in eliminating rail subsidies under the Western Grain Transportation Act (WGTA), and significantly phasing down, with a view to soon eliminating, dairy export subsidies funded by producer levies.⁶ An alternative program to facilitate economically viable dairy product exports, considered to be WTO-consistent, is now in operation. These actions place Canada in a strong position to push for the multilateral elimination of all remaining agricultural export subsidies in the next round of negotiations.

Elimination of the WGTA subsidies resulted in lower domestic market prices for most affected grains and products in the Prairie region. This in turn has provided a boost to value-added activities in Western Canada, particularly fed livestock production.

The dairy policy regime has been revamped to replace producer levies for export funding purposes with multi-level pricing for manufacturing milk. Milk used for processing for export (or for further processing into relatively unprotected products for both the domestic and export markets) is now purchased by the processor from the respective provincial milk marketing boards at world-market equivalent prices.⁷ Milk producers receive a "pooled" price derived from returns from milk sales for some uses at higher prices and from sales in five special classes, used for certain products destined for both domestic and export markets, at lower prices.⁸ In 1995-96

⁵ For Canada's export subsidy reduction commitments see IATRC Commissioned Paper No. 9, p. 59.

⁶ These reforms are partly a result of fiscal pressures.

⁷ This new milk price pooling scheme has attracted considerable international attention. In October 1997, the US Government, under pressure from its own dairy interests, announced its intention to initiate a formal WTO challenge on the grounds that the new scheme still represents a producer-financed export subsidy.

⁸ It is beyond the scope of this paper to describe the complexities of the Canadian milk supply management system, which varies in detail from province to province. It may be worth noting, however, that there is progressive integration of production of milk for the fresh market and milk for manufacturing purposes, so that price pooling in practice also incorporates different prices for different uses in the domestic market. Individual farm sales of milk are limited by quota, which is transferable and has market value in most provinces. Barriers

domestic market requirements were estimated to be 42 million hectoliter (butterfat basis). Purchases in the five special classes accounted for approximately 5.4 million hectoliter. The amounts of butter and skim milk powder produced with milk purchased at domestic market prices but then exported with funds derived from producer levies fell well short of permitted export subsidy quantity and expenditure limits for these two products in 1995/96.

4.2.3 Domestic Support

Due to a combination of fiscal restraint, policy reform and higher world market prices in recent years, Canada began the Uruguay Round implementation period having already substantially reduced agricultural support as measured by the Total Aggregate Measurement of Support (AMS).^{9,10} The ceiling on Canada's Total AMS in 1995 was CAN\$5.2 billion. The Current Total AMS in 1995 was less than CAN\$ 1 billion, - reflecting the policy reforms undertaken since the base period.

Wide-ranging reform of support programs has ensured that this situation will continue into the next century. Previous pillars of federal support which have been eliminated, or are in the process of being phased out, include:

- Western Grain Stabilization Act,
- Gross Revenue Insurance Program,
- Western Grain Transportation Act,
- Feed Freight Assistance,

to interprovincial sales of milk and transferability of production quota are also in the process of being gradually whittled away, so that a uniform national milk supply system is in prospect for some time in the future. Provincial milk marketing boards in essence act as monopolistic "middle-men" between farmers and processors, and have statutory control over all milk sales. National coordination and control is provided by the Canadian Milk Supply Management Committee and the Canadian Dairy Commission. The role of the latter as an intervention purchasing agency for price support (butter, skim milk powder) and as a trading agency is now diminished, but still exists to some degree.

⁹ Only for market price support is Canada's AMS calculated using fixed external reference prices. Income stabilization programs (direct payments) are represented in Current Total AMS by budgetary outlays, as allowed for in Annex 3 of the Agreement. Higher world grain prices therefore translate into lower or zero program payments, generating a low Current Total AMS.

¹⁰ Canada's overall Producer Subsidy Equivalent (PSE), a somewhat similar measure defined and used by the OECD, which had been above 40% in the 1986-88 and 1989-91 periods, was in the 20-25% range in both 1995 and 1996.

- National Tripartite Stabilization Program, and
- Direct Industrial Milk Subsidies.

This will probably ensure that Canada's Current Total AMS remains low throughout the Uruguay Round implementation period, and perhaps beyond.

Although it is difficult to determine how much the Uruguay Round commitments influenced these policy reforms, they were a consideration, and clearly the reforms have gone well beyond what was required by Canada's AMS limits. WTO commitments on domestic support, however, did not force any policy changes, and export subsidy commitments, while necessitating some reform of the WGTA, did not require the complete elimination which occurred.

Notwithstanding the foregoing, the existence of the "green box" and its criterion has had a noticeable effect on the design of some more recent programs. In Canada's case, the freedom from threat of foreign countervail action continues to be important in shaping new legislation and regulations. Two strategies to reduce the threat of countervail action now appear to be possible for Canada: programs can be designed to meet the general and policy specific criteria of the Agreement on Agriculture, or programs can be designed so that they are not-specific (or "generally available" to the entire agricultural sector), under US law and under the terms of the WTO Agreement on Subsidies and Countervailing Measures.

The new Alberta "Farm Income Disaster" program was carefully and deliberately designed to satisfy the "green" criterion (specifically Annex 2, Paragraph 7 of the Agreement) and has been notified as "green". Similarly, one time payment of CAN\$1.6 billion to land owners in Western Canada to compensate for expected adverse land price effects of WGTA reform were designed to be decoupled. Canada notified these transitional payments as "green" and exempt from reduction commitments.

In contrast, the Net Income Stabilization Account (NISA) program has already been judged by the US Department of Commerce to be "non-specific" and therefore countervail-free under US law. Preserving this finding is likely to be the top priority for Canada. 'Agriculture-Agreement-green' status is not currently claimed for NISA, and there appears to be little interest at present in modifying this program to that end.

4.3 Technicalities of Implementation

4.3.1 Tariffs and TRQ

The applied tariffs have not been varied in relation to changes in world market prices. Canada has not used the special safeguards provisions of the Agriculture Agreement in 1995 or 1996. The tariff schedule of Canada provides not only for WTO commitments, but also for NAFTA commitments in relation to the United States and Mexico, and will soon also reflect changes as a result of the newly negotiated free-trade arrangements with Chile and Israel.

The administration of TRQ has been the most contentious issue of Uruguay Round implementation for Canada. The arrangements were developed through extensive consultations with industry groups, and vary by commodity. The underlying principles have been to keep the economic rents in Canada, to provide for transferability of import rights through sale or rental of quota, and to provide flexibility for change in the light of experience by continually reviewing and announcing the details on a year by year basis. The Government is seeking to contribute to employment and to value-added activity. Stakeholders in each product area are consulted regularly on how TRQ should be allocated. In most cases a global tariff quota was established although some shares may be reserved for imports from specific countries. Partly as a result of this approach, and a desire to adjust the administration to suit the market, an extremely varied pattern has emerged. The TRQ are allocated in the following ways:

- cross border shoppers only (1 case),
- one single importer (3 cases),
- established importers (4 cases),
- established processors/users (4 cases),
- both the previous (3 cases),
- unrestricted (5 cases).

For the latter four groups, the basis of TRQ allocation is:

- "first come first served" (7 cases),
- historic imports (4 cases),

- historic use or market share (5 cases).

In nearly all cases Canadian TRQ administration involves a system of both annual allocations, made by Canada's Department of Foreign Affairs and International Trade, and import permits against those allocations, issued by the same Department. Most TRQ allocations are valid for either a calendar or marketing year, with permits being normally valid for 30 days, within that 12 month period. For margarine the TRQ is allocated on a quarterly basis, with unused quota for one quarter being able to be carried forward to the next until the last quarter of the year, and a portion is reserved for kosher margarine for Passover. For "chicken and products" and "turkey and products", each of which covers many individual tariff lines, there are no sub-quotas; importers are free to choose the particular product they import. Imports of fluid milk, wheat, wheat products, barley and barley products under their respective TRQ are covered by "general import permits". Except in the case of fluid milk, where volumes are not recorded, these are available on a "first come, first served" basis until the TRQ has been filled; it is the responsibility of Canada's Department of Revenue to keep a count of imports in each of these categories as they cross the border, and to close the general permit for the remainder of the marketing year if and when each TRQ is filled.

Wheat product imports from the USA are counted against the TRQ for that product (even though the above quota tariff does not apply to the USA) but beef imports from the USA are not counted against the beef TRQ. In addition, only the Canadian Dairy Commission has access to the butter TRQ, and all such butter imports must be used for manufacturing purposes. There are concerns about this complexity and inconsistency, particularly in the light of some criticisms from other countries, and the fact that Canada has many concerns of its own about how other countries are administering their TRQ. Consideration is currently being given to ways to achieve more uniformity, allow greater flexibility for new entrants, and encourage more competition.

Many countries have chosen to reduce only their second tier (over-quota) tariffs, or at least to reduce those faster than their first tier (in-quota) tariffs. However, Canada retains its managed trade approach for some products, having chosen a minimum cut on over-quota tariffs and a much larger reduction on in-quota tariffs. Canada took advantage of the flexibility allowed by the negotiating "modalities", while being more transparent than many countries, by choosing to implement the required average 36 percent tariff cut within each tariffed product category. This it achieved through agreeing to reduce within-quota tariffs for these products by 57 percent, while reducing above-quota tariffs by the minimum amount of 15 percent. To the extent that in-quota tariffs applicable to countries like the US, Australia and New Zealand are at preferential rates, these large percentage reductions in MFN rates are less relevant. However, some preferential

rates (NAFTA) are also being reduced rapidly. Thus, potential per unit rents on TRQ amounts will tend to rise, assuming constancy in international/domestic dairy price margins (these are likely to be unaffected by currently-scheduled over-quota tariff reductions). The result is that the method of TRQ allocation can be expected to become increasingly contentious in Canada as the competitive environment intensifies. However, creating this situation was deliberate on the part of the Canadian Government, and is seen domestically as an appropriate compensation to the processing sector for the high raw input prices they face for milk, chicken and eggs.

In the first year of implementation (1995 or 1995/96), import performance under Canada's TRQ varied markedly, and could be characterized as falling into four categories, depending on the product. For the first group of products, which includes broiler hatching eggs/chicks, chicken, turkey, beef and veal, buttermilk powder and wheat products, actual in-quota imports exceeded the TRQ. The TRQ was reported to be filled exactly in the cases of products in a second group, namely fluid milk, concentrated condensed milk/cream, butter and "other dairy". A third smaller group would include products for which in-quota imports fell short of the TRQ, but not by much (less than three percent): cheese, and eggs and egg products. In the final group are those products where imports fell well short of filling the TRQ. For one sub-group, which should not be of concern to other countries, this probably simply reflects a lack of economic incentive even for in-quota imports due to prices being relatively low in the Canadian market. Margarine, wheat, barley and barley products are probably in this category. The other sub-group, likely to be of greater international concern and to provoke questions about TRQ administration, includes cream, dry whey, ice cream, yogurt and "other products of milk constituents".

An additional issue relates to the allocation of access to Canada's country reserve in the TRQ of the United States. These exist for refined sugar, sugar-containing products and peanut butter. Once more the principle is to capture the rents in Canada. For this purpose an export licensing system is used and the allocation is to traditional exporters based on historic shares of such exports.

4.3.2 Subsidies Commitments

Canada now has no export subsidies for grains or their products. The key to constraining the level of remaining export subsidies in the dairy area is in the further evolution of the milk production quota system and the new milk pricing classes scheme. An indirect effect of policy changes related to the export subsidy disciplines in both the grains and dairy areas is to change the

export composition in favor of more value-added products through reducing the relative prices of the raw commodities.

With respect to the commitments on domestic support, no technical issues have arisen.¹¹ The "blue-box" is not used by Canada. The provision of the "peace clause" which gives countervail-free status to "green" programs has helped to shape Canadian policies as previously indicated. In view of the large amount of unused "room" available to Canada in its AMS, the tightening of its limits by inflation is of no concern.

While State Trading Enterprises (STE) in Canada as elsewhere must respect the Uruguay Round commitments, and do so in the view of the Canadian Government, these institutions have been the focus of continuing and intense criticism from some quarters, both internally and externally, and are under intensive scrutiny in relation to both the WTO and NAFTA provisions.

4.4 Continuing Concerns about Policies and Issues

4.4.1 Minimum Access Commitments (MAC) and TRQ

Since the latter stages of the Uruguay Round there has been concern in Canada about major trading partners failing to grant MAC up to the percentages of domestic consumption laid out in the "modalities" document and widely publicized at the time. As a result, to ensure a perception of fairness and balance in the outcome, Canada felt obliged to adjust on its own offer somewhat in the final negotiations.

In other respects, there is a strong perception in Canada that the MAC granted by other countries are often not meaningful. Some countries have counted previously-negotiated bilateral commitments against their TRQ. Others have failed to implement their commitments, or have implemented them later than required by their schedules (e.g., Philippines for pork). In some countries, many TRQ have been significantly under-filled and it is suspected that the method of TRQ administration itself provides a trade barrier.

¹¹ At the time of writing, Canada's domestic support notification for 1995 was still outstanding (as was the case for several other WTO Members).

Situations where countries allocate most or all of their TRQ to narrowly-defined products or product groups, within a much broader aggregate to which the TRQ applies, also cause concern in Canada as potentially trade-restrictive, and as nullifying and impairing benefits.

4.4.2 Export Competition

There is concern that some countries are in admitted violation of their export subsidy limits, given the absence of formal provisions for penalties in such cases. Some of these countries appear to be making honest efforts to avoid a repetition of this situation, but the desire of others (Hungary, in particular) to address the problem through renegotiation of their commitments, is viewed with considerable apprehension, given the possible danger that such a precedent could weaken what is considered to be a very important discipline.

Another concern is that some countries may seek to carry forward export subsidy "room" which may be possible due to recent years of high world prices, in particular for grains and dairy products. The focus is, of course, on the USA and the EU.

The length of repayment term (up to ten years) offered under US export credit (GSM) programs is also a long-standing irritant for Canada. Virtually all other developed countries have reached agreement, in OECD discussions, to limit the terms of export credit for most products to six months (up to three years might be acceptable for breeding cattle). This US policy is seen as a form of export subsidy which remains to be disciplined.

The use of export taxes by the EU in recent times of high world grain prices has been sharply criticized in Canada as being counter to the spirit of free trade, market orientation and world food security. It is also perceived as a perpetuation of the EU policy of achieving domestic market stability at the expense of greater world market instability (i.e., at the expense of other countries).

4.4.3 Green Box

Lack of clarity and ambiguities in the existing "green box" criteria have frustrated efforts to design programs with confidence which are assured to be countervail-free and excluded from AMS calculations. There are preoccupations that countries will increase subsidy assistance for selected programs with trade impacts due to this lack of precision. While recognizing the inherent

difficulty of precise determination of trade impacts, the criteria themselves, as well as the treatment of subsidies under domestic trade laws, may be subject to discussion and some clarification in further negotiations.

4.4.4 Peace Clause

This provision exempts subsidies granted in accordance with a member country's schedules from actions based on "nullification and impairment" or on "serious prejudice". Without recourse to these multilateral remedies, countries can only react to subsidized trade through countervail against imports causing injuries to producers in their own markets. This does not favor exporters like Canada with relatively small domestic markets. Such countries have a clear interest in being able to deal with serious prejudice in third country markets through WTO dispute settlement.

4.4.5 Sanitary and Phytosanitary (SPS) & Technical Barriers

Recent actions by the EU with respect to hormone-fed beef, and transgenic material (like soybeans) are viewed by Canada, among others, as a misuse of, and inconsistent with, the SPS Agreement. Canada will participate in the ongoing hormones panel proceedings and may pursue stronger disciplines in renewed negotiations. There may also be an effort to obtain full adherence of developing countries to the SPS Agreement.

4.5 Issues For Future Negotiations

Canada's main interests and positions in the next negotiations beginning in 1999 remain to be defined, and will be determined only after extensive consultations with the industry and provincial governments. However, at this stage they seem likely to be concentrated on getting rid of export subsidies, pursuing selected tariff reductions and improving subsidy criteria and disciplines, particularly in relation to contingent protection mechanisms.

4.5.1 Export Subsidies

Canada will almost certainly be pushing hard for a total elimination of remaining export subsidies by an agreed date in the context of the next round. If a transition period is required, then deeper cuts than last time, and less flexibility in reduction modalities, might represent an interim position. The latter could include removing the possibility to accumulate and carry forward "credits" in high-price years, more disaggregated commitments, and extending per unit export subsidy constraints (Article 11 in the Uruguay Round Agreement) to "non-incorporated" processed products (e.g., per unit subsidy on flour exports not to exceed per unit subsidy on wheat exports). Adding a formal agreement on export credit use, perhaps crafted in the OECD, to the WTO may also be a priority for Canada.

The emergence of regional free trade areas is intensifying the scrutiny of all forms of government intervention that may impact on exports and competition. Canada has an interest in sorting out such irritants that frequently arise with the USA, and may seek greater clarity of the rules in the next WTO Round. However, Canada can be expected to resist efforts to bring two-price or multi-price "pooling" schemes unconditionally into the export subsidy category. Such schemes have various purposes, which include stabilization of intraseasonal price fluctuations, and pricing raw product differentially according to use.

4.5.2 Market Access

Canada is likely to support further tariff cuts, but be less interested than other countries in addressing "tariff peaks", and in seeking more uniformity in protection across different commodities. Rather, as in the Uruguay Round, this country's philosophy will probably be to push for liberalized trade in general, and, as part of that, to pursue "zero for zero" tariff reduction commitments in certain commodity areas, including oilseeds.

Achieving more usable and equitable access commitments may be high on Canada's agenda, along with obtaining more uniform and disciplined administration of TRQ. This could also involve some changes in the way Canada has been administering its own TRQ, as well as changes to the practices of others. Suggestions that TRQ should be offered on an MFN basis, should be fully additional to preferential bilateral or regional commitments, and should be free of country reserves, or that new constraints are needed on the way countries administer TRQ are likely to be key issues for consideration.

4.5.3 Green Box, Blue Box & Peace Clause

Retaining freedom from countervail for "green box" programs is an important goal for Canada. The reasons are a perceived need for a defense against the uncertainties in application of US countervail law, and Canada's relative vulnerability to such US actions because of the large share of its exports directed to that market. How this interest will be addressed will therefore be a major challenge for Canada.

Canada is also expected to be among those calling for the elimination of the "blue box". In addition to undermining domestic support reduction commitments, it was effectively imposed on other countries in the Uruguay Round by the USA and the EU, subsequent to their bilateral "Blair House" deal.

When it comes to the "green box", Canada may have an interest in refining some criteria to remove ambiguities. However, it may approach opening up the text very cautiously, given the important place for the "green box".

4.5.4 State Trading Enterprises

Canada can be expected to insist on the right to operate STE in trade in accordance with multilateral rules, and to focus on ensuring that importing STE respect WTO access disciplines. There is a view in Canada that its export-oriented STE operate essentially on a commercial basis whereas importing STE enjoy greater competitive latitude and may distort trade. However, Canada will probably be largely on the defensive in this area, but will favor clear rules that permit STE to operate on a commercial basis. It is doubtful that Canada's long-term interests are served by a defensive stance although this tends to be the current approach.

4.5.5 Subsidies, Dumping and Countervail

The broad WTO Agreement on Subsidies and Countervail Measures also has important implications for agriculture. Negotiations in several regions of the world are placing additional pressures on governments to move more quickly to resolve trade differences that arise from the use of subsidies, anti-dumping measures and countervail. While subsidy transfers are being made more generally available in many countries (and so decoupled from production and trade of

specific products in the sense of the Agriculture Agreement), large direct transfers are continuing, particularly in the EU and USA. Allegations of unfair trading practices are likely to be strongest in free trade areas, yet solutions are best pursued on a multilateral basis.

The complexities and difficulties of making progress on these issues have been demonstrated through experiences under NAFTA and its predecessor, the Canada-USA Free Trade Agreement. Despite a commitment to pursue improved rules and disciplines dealing with the use of government subsidies and unfair pricing practices, there has been little progress. Improved rules in this area require multilateral agreement and Canada may pursue these issues in the upcoming negotiations in the WTO.

Table 4.1: Canada's Trade in Agricultural Products
(Billions of CAN\$: 3 year Averages)

		1989-91	1994-96	5-year change rate ^{a)}
Exports	Total	10.4	17.3	+65%
	To USA	4.1	9.0	+118%
	% to USA	40%	52%	
Imports	Total	8.3	12.6	+53%
	From USA	4.7	7.5	+61%
	% from USA	56%	60%	

^{a)} Calculated as the difference between the 1994-96 three-year average and the 1989-91 three-year average expressed as a percentage of the 1989-91 three-year average. There has been no inflation adjustment.

Source: Authors' calculations based on Agriculture and Agri-Food Canada trade data base.

5 Australia and New Zealand¹

5.1 Introduction

The outcomes of the Uruguay Round for the agricultural sector were certainly less dramatic than those proposed by the Cairns Group in 1987. Nevertheless, when taken together, the Agreement on Agriculture, the Sanitary and Phytosanitary (SPS) Agreement and the Dispute Settlement Understanding, provide for more far-reaching changes to agricultural protectionism than realistically could have been anticipated before the negotiations began. Quantitatively, the benefits may be less than those hoped for but, qualitatively, the new rules represent a long-awaited move in the right direction. Therefore, from the perspective of Australia and New Zealand, the outcomes from the Round are viewed, on balance, in a positive light.

As small-country exporters of agricultural products, both countries benefited from membership of the Cairns Group. It should be acknowledged, however, that each is relatively less dependent upon agricultural exports today than was the case in the early 1980s. The percentage of agricultural exports in total exports fell between 1980-82 and 1994 from 41.1% to 21.7% for Australia, from 66.7% to 50.4 % for New Zealand and from 12.1% to 9.3% for the OECD.²

Both countries are in the fortunate position of having to take very limited steps to conform with the Agreement on Agriculture. During the mid-1980s, for internal political and economic reasons, each country chose to pursue economic policies which withdrew much of the then existing government support for their respective agricultural sectors. In New Zealand, "farming without subsidies" became the catch cry, whilst in Australia, there was a less dramatic removal of some policies and adjustment of others.

The percentage PSE for 1986-88 were 10%, 18% and 45 % for Australia, New Zealand and the OECD, respectively.³ The corresponding, provisional figures for 1995 were 9%, 4% and 41%,

¹ We wish to acknowledge with gratitude the help provided by officials in the Australian Departments of Primary Energy and Industry, and of Foreign Affairs and Trade, and in the New Zealand Ministry of Foreign Affairs and Trade, in the preparation of this Chapter but remain responsible for any errors or omissions.

² OECD (1996), Tables II.1, II.7 and I.1, respectively.

³ OECD (1996), Annex Tables III.1, III.11 and III.21.

respectively. Prior to July 1995, neither country made use of export subsidies except for Australian dairy products which ended in 1996, and the New Zealand Rural Export Suspensory Loan Scheme which ended in 1994/95. Neither used quantitative import barriers except for Australian imports of cheese. Other import restrictions are in place because of sanitary and phytosanitary considerations.

Whilst it has been straightforward for both Australia and New Zealand to implement the Agreement, negotiations in 1999 may prove to be more painful if State Trading Entities (STE) are on the agenda, as is likely. Both countries have STE with export monopoly powers and, at present, there does not appear to be overwhelming evidence to suggest that they will lose those powers by the year 2000. Both countries have been dissatisfied to a degree with the way in which particular aspects of the Agreement have been implemented and these items, and others, will be proposed for the next round agenda.

5.2 Commitments

Australia has had to take few steps to adhere to the implementation of the Agreement. On the import side, the import embargo on sugar was converted to a specific tariff in 1989. The necessary cuts in tariff rates for sugar and for some fruits and vegetables have already been made. There are commitments to reduce tariff rates by 50% on maize, rice, oilseeds, live animals and wool, to leave the bound rates in 2000 at 1%.⁴ The only product on which Australia has a Tariff Rate Quota (TRQ) is cheese. Bans on imports for sanitary and phytosanitary reasons exist, e.g. on apples from New Zealand and on salmon from Canada, and these are unlikely to be removed in the immediate future.

For New Zealand, tariffs rates are already below those required by the Agreement. In 1994, the government announced a timetable of reductions to 2000. The percentage reductions vary from 58% for pigmeat, to 50% for barley, to 36% for dairy products and poultrymeat, to 25% for oats.⁵ New Zealand has bans on imports of eggs and on live poultry arising from sanitary measures.

⁴ OECD (1995a), Table III.6.

⁵ OECD (1995a), Table III.5.

For both countries, domestic support comes largely through budgetary transfers rather than from consumers. The provisional percentage CSE in 1995 for Australia was –6%, for New Zealand was –8% and the OECD was –30%.⁶ To the extent that reductions in the Aggregate Measurement of Support (AMS) were required by the Agreement, they have already occurred. For Australia, one of the major budgetary outlays is for drought relief, an instrument which is part of the Rural Adjustment Scheme (RAS) and which falls in the "green box". In New Zealand, as a consequence of the implementation of the "farming without subsidies" policies, domestic support remains only on supporting basic research and on sanitary and phytosanitary regulations. Even payments for disaster relief are now minimal.

On the export side, Australia chose to re-instrument the export subsidy on dairy products. Prior to July 1995, an export subsidy was provided to processors for manufactured dairy products as part of a complicated two-price scheme for manufacturing milk (a Commonwealth Government responsibility) which overlaps with the State-based arrangements for liquid milk. Since July 1996, the export subsidy has been replaced by an export rebate which, technically, is not a subsidy according to the WTO definition. Under the new system, a levy is collected from farmers for market milk of two cents/liter and for manufacturing milk of four cents/liter. If the resulting dairy products are then exported, the manufacturing levy is refunded to farmers. The level of domestic support for manufacturing milk is scheduled to fall to around ten percent over the period to the year 2000 when dairy policy will again be reviewed. Changes to policies for tobacco and for concentrated fruit juice have also been introduced because of the Agreement. For tobacco, the Tobacco Industry Stabilization Plan was abolished together with trade barriers on leaf and products and these arrangements were replaced by a set of production and price contracts between growers and manufacturers. For fruit juice, the local content scheme was removed. For New Zealand, in the context of the Agreement, the issue of export subsidies does not arise.

In Australia, during the period of the negotiations, but without being influenced by these negotiations, major changes occurred in the important sectors of dairy, wheat and wool. For example, in 1992, there was a major review of dairy policy. Part of the review covered issues to do with flows of liquid milk across State boundaries, with retail price maintenance in the liquid milk market and with the overall levels of support, particularly with respect to exports of dairy products. The export outcome has already been described and was prompted by the Agreement on Agriculture. In 1989, the Australian Wheat Board lost its partial monopoly in the domestic wheat market, as had been recommended by the Industries Assistance Commission (IAC) in 1984. In

⁶ OECD (1996), Annex Tables III.2, III.12 and III.24.

1989, the Commonwealth government decided to continue with the Board's export monopoly, as had been recommended by the IAC. This remains the current policy stance, although there is debate within the grains industry (just as in Canada) about the economic wisdom of continuing to have a single-desk seller on export markets and one with pooling provisions on prices. In 1991, after suspending the Reserve Price Scheme for wool, the Commonwealth government ended it because it was no longer either sustainable or credible. Between 1988 and 1991, wool prices had fallen dramatically and with a floor price in place which was much too high relative to spot prices in a depressed market, there was a build up of stocks equivalent to almost a year's production. To date, only about one half of the stock has been sold, despite modifications to the rules for its sale, a contraction of the sheep flock and a relatively more buoyant international market.

The very dramatic changes which occurred in government involvement in New Zealand agriculture began in 1984. Intervention of various kinds had begun in the 1960s and increased until 1984 when the in-coming Labor Government introduced substantial economy-wide economic reforms. The agricultural sector did not escape either the direct effects of the changes to sectoral policies or the indirect effects of a deregulated financial system and the unleashing of macroeconomic forces which ultimately caused financial hardship for many farm families. Subsidies on the use of fertilizers and on the removal of noxious weeds were phased out; subsidies on irrigation water reduced; cost recovery for inspection services re-introduced; interest rate subsidies phased out; and changes made to taxation. These changes to domestic agricultural policies were carried out for internal reasons but it could be argued that they anticipated the sentiment expressed in the Agreement on Agriculture.

The outcome of the Uruguay Round has been accepted by the agricultural industry and it has not been important in public debate, except to the extent it is perceived that other countries are not "playing by the rules", more of which below (Sections 5.3 and 5.4). However, the outcome has reinforced the prevailing view in both Australia and New Zealand that groupings of small countries, e.g. the Cairns Group, do help the process of multilateral reform.

5.3 Implementation Issues

For Australia and New Zealand, there has been almost no need to react to the Agreement on Agriculture. Australia claimed credit on removing, in 1989, the import embargo on sugar. In July of that year a specific tariff of AUS\$115/ton was imposed on raw and refined sugar; this was reduced to AUS\$76/ton in July 1991 and further reduced to AUS\$55/ton in July 1992. In July this

year, the tariff was removed. In the case of cheese, the applied rate is set at the binding, which is relatively low (around 35 percent). Australia has claimed the right to the special safeguard on those products which have been tariffed, i.e. the 10 tariff lines relating to cheese and tobacco, but has no intention of using this provision.

Tariff rate quotas exist only for cheese. Licenses have been allocated to importers on the basis of historical shares and they are not country-specific. These licenses are tradable amongst importers. The operation of this TRQ appears to have had a limited effect on sources of imports.

The State Trading Entities, of which Australia and particularly New Zealand have a number, have not been affected by the Uruguay Round outcomes for agriculture. Nevertheless, the market opportunities for the Australian Wheat Board will be enhanced by the curbs placed on the export subsidies of the European Union and the United States. In New Zealand, there are three STE with export monopoly powers but no powers over the domestic market, namely, The New Zealand Dairy Board, the New Zealand Apple and Pear Marketing Board and the New Zealand Kiwi Fruit Marketing Board. There are a further two marketing boards for minor products which have powers in both the domestic and export markets; and there are five other boards which do not operate as commercial entities, being concerned instead with promotion and market development, research, export licensing and so on. In addition, although there is no STE for meats, export licences are required by exporting firms. With improved bilateral and multilateral access to the EU market for butter, cheese and apples and to the Japanese market for apples, the marketing task of the Dairy Board and the Apple and Pear Board will have become easier. Currently, there is growing opposition in New Zealand to the continued export restrictions imposed by licensing and by STEs and it may well be that these restrictions are removed, or at least have their influence reduced, prior to 1999 because of internal pressures.

As noted above (Section 5.1), reductions in the Aggregate Measurement of Support have not been an issue for Australia or New Zealand. In Australia, the bulk of support is through the Rural Adjustment Scheme and is provided by the taxpayer. This support falls in the "green box" and the operation of the Scheme is currently being reviewed by the Commonwealth government. One possible outcome is that the Scheme may be scrapped and replaced by a more focused alternative. In the interim, the interest rate subsidy for productivity improvements ceased at the end of September 1997 and the remaining interest rate subsidy for "exceptional circumstances" (e.g., for drought and for sudden and dramatic falls in commodity prices) will be phased down over four years from 100% to 50% beginning in July 1999. In New Zealand, any remaining assistance provided to the agricultural sector, e.g. on research, on quarantine services, on disaster relief and on environment areas, is in the "green box".

5.4 Concerns about Other Countries' Implementation

The implementation process is not yet half-way through but in both Australia and New Zealand there is a feeling that, in general, implementation of the Agreement is proceeding smoothly. However, there is also concern that the text of the Agreement and the implementation of it do not in all regards reflect the intention and this has been a source of frustration to both governments. In addition, some issues of concern have arisen because of differences in interpretation of parts of the text, e.g., on the timing of export subsidies, and on the lack of modalities, e.g., with the administration of TRQ. On reflection, it seems an unfortunate oversight that modalities were established for most commitments but not for TRQ, given the importance of market access and the scope for mal-administration of them. There has also been concern that some contracting parties have been dilatory in notifying the WTO, through the Committee on Agriculture, on those aspects of implementation about which notification is required, e.g., TRQ, domestic support and export subsidies.

There are a number of specific issues which are of concern to Australia and New Zealand about the processes of implementation by their trading partners:

- (i) the difficulty of ensuring that the intent of the Agreement is being honored in spirit, particularly with respect to the administration of TRQ and, especially, (a) the method of allocation (e.g., import licensing by lottery or historical share, or by auctioning), (b) the receivers of that allocation (e.g., processors or domestic producer organizations), (c) the reserving of preferential trade against Most Favored Nation (MFN) tariff quotas, (d) the delays in making the allocation, and (e) in choosing to make the allocation at inappropriate SITC levels;
- (ii) on judging whether new policy instruments or adjustments in existing ones are circumventing the AMS commitment, e.g. the reduction of the set-aside in the European Union cannot be considered neutral with respect to production, and payments made under the respective EU regime should, therefore, not strictly fall in the "blue box";
- (iii) the lack of provision by some countries to the Committee on Agriculture of an inventory of "green box" policies (Australia has done so but the EU has not);
- (iv) the concerns about the way in which some WTO Members administer country-specific allocations of tariff quotas;

- (v) the behavior of some WTO Members with respect to breaches or perceived circumvention of their commitments;
- (vi) the slow rate of implementation of the Agreement particularly of tariff rate quotas by some WTO Members;
- (vii) the allocation by some WTO Members of part of their WTO tariff quota concessions to non-WTO Members;
- (viii) the use by some WTO Members of tariff quota imports for food aid, thereby denying their consumers the opportunity to develop a taste for imported food; and
- (ix) the ambiguity of Article 9:2(b) in the Agreement with respect to the ability to accumulate unused export subsidies until the end of the implementation period.

The existence of the Peace Clause has not proved to be an issue and neither Australia nor New Zealand has taken any new countervailing action. Given the compliance by both countries with the Agreement, the Peace Clause has proved not to be an issue for their trading partners as importers of exports from Australia and New Zealand.

The Australian and New Zealand position on the treatment of new countries which join the WTO is that, in principle, all WTO Agreements, including that on Agriculture, should apply. It is felt that this is a reasonable price for joining, i.e. acceding countries must offer concessions which are acceptable to existing WTO Members. Both countries recognize the leverage that they possess to gain access to new markets. Australia believes that there should be no inter-sectoral or intra-sectoral trade-offs allowed. New Zealand argues strongly for export subsidies to be bound to zero. Protection from imports should be frozen and then reduced. Thus, the methodology of the Uruguay Round, which does not apply to new accessions, would be modified such that all reforms are on a multilateral basis rather than just the domestic and export reforms.

The final issue dealing with implementation by other countries is one which the Cairns Group meeting at Cartagena (June 1996) echoed. It was felt by the Group that some countries were not adhering to the Marrakesh Ministerial Decision dealing with the poor, net food importing countries (Measures Concerning the Possible Negative Effects of the Reform Program on Least Developed and Net Food Importing Developing Countries) and they wanted to ensure that the Decision is fully implemented. In that context, the Group was critical of countries (although unidentified, the EU was clearly the target) which have restricted exports of foodstuffs by applying export taxes, particularly on cereals, in order to limit the increase of domestic prices.

5.5 Items for Further Negotiation

There are several issues flowing from the Uruguay Round Agreement on Agriculture which, from the Australian and New Zealand perspectives, require to be re-visited. The gulf between the Cairns Group proposals of 1987 and the Agreement is substantial in each of the three major areas of domestic support, market access and export assistance. There is no doubt that the influence of the Cairns Group waned after the December 1990 meeting in Brussels and that the final Agreement was significantly weaker as a result of the bilateral, Blair House Accord. It is the intention of Australia and New Zealand to ensure that the outcome of the negotiations in 1999 make a much more substantial dent in agricultural protectionism. To achieve such an outcome, certain elements will need to be placed on the agenda.

The 20 percent reduction required in each country's total AMS considerably weakened the possibility of reducing domestic support on highly sensitive and highly assisted commodities. Therefore, both countries want domestic support to be on a commodity-by-commodity basis, as originally written in the "Dunkel Draft", and to see significant percentage reductions agreed from a more satisfactory base than that used for the Agreement. In addition, there is the need to ensure that policies which it is claimed by Members are consistent with the "green box" criteria, are truly de-coupled and, therefore, not trade distorting.

On the issue of market access, which is crucial for "small" country exporters, there are a number of concerns. First, there must be a removal of the special treatment provisions which have allowed some WTO Members to delay effecting tariffication. Second, Australia and New Zealand would prefer to see a move towards a tariff-only regime but, in the interim, would support an increase in the size of the within-quota amounts of the TRQ and a reduction in the out-of-quota rates which, in some instances, have been set at punitive levels as a result of "dirty tariffication". Third, there needs to be improved administration of TRQ. Fourth, more attention should be given to processed food products where tariff escalation, or cascading, is a serious impediment to expanded trade opportunities. Fifth, some attempt should be made to remove tariff peaks in order to reduce trade distortions and unreasonable protection for politically sensitive sectors. And sixth, from the perspective of Australia and New Zealand there is a need to dispel the supposition that STE in exporting countries are "unfair traders". Some of these entities engage in commercial practices which do not differ much from those of other traders. A more important aspect of STE on which there should be a focus is that of the behavior of importing countries' STE and the administration of import licensing and TRQ to ensure that their activities are transparent and non trade distorting.

On export subsidies, the preference is to eliminate these. As small exporting countries, Australia and New Zealand have suffered from lower world prices and loss of export volumes as a direct consequence of the export subsidies used by some WTO Members. Therefore, both countries would prefer to see such subsidies banned or at the very least substantially reduced. Second, each would like to ensure that export subsidies (under Article 3:3) cannot be applied to new export destinations, particularly in the Asian region. Third, given the ambiguity in Article 9:2(b), there is a need to clarify whether or not export subsidies can be accumulated. And finally, there is a desire to finalize improving disciplines on the use of export credits which, again, act against the interests of small countries with small budgets.

Given this list of issues to be re-visited, it is safe to conclude that the Australian and New Zealand governments believe that there is still scope for further substantial negotiations about agriculture. The Singapore Ministerial Meeting in December 1996 endorsed the proposal to make preparations for the 1999 next round and this process of analysis and information exchange was approved by the Committee on Agriculture in March this year. In the meantime, disputes over environmental issues will probably increase, despite the SPS Agreement. It is timely that the operation of this Agreement is to be reviewed during 1998.

5.6 Conclusion

In summary, for Australia and New Zealand, as small countries in international agricultural trade, the implementation of the Uruguay Round outcomes for agriculture are regarded as only the "end of the beginning". For agricultural products, it signals the beginning of a new phase during which domestic market and international trade regimes will be in place which are more market orientated. The result should be that world markets will be less distorted by the domestic and trade policies of the major countries, namely, the European Union, the United States and Japan. Moreover, if world market prices rise, as indicated in the results of quantitative simulations of the Agreement, then this will be to the benefit of smaller exporting countries although not necessarily to all small, importing countries.

The extensive list of items for future negotiations outlined above (Section 5.4) justifies the view, from the perspective of these two small countries, that only a start has been made to dismantling the distortions of the post-war years. The months between now and 1999 will need to be well spent in preparing for the next round if the year 2000 is to mark the "beginning of the end" of agricultural protectionism.

6 Japan

6.1 How Binding Are the Commitments?

The Japanese Diet passed the Marrakesh Agreement and the laws required to implement the Agreement in December 1994. The new system, according to the commitments, came into force on April 1, 1995. Policy changes were required mainly in the area of market access because Japan had already fulfilled the commitments in the areas of domestic support measures and export subsidies.

In the area of market access, Japan converted the non-tariff border measures to tariffs for 28 commodities at the 4-digit level of the Harmonized System (HS), including wheat, barley, milk products, starches, legumes, peanuts, konnyaku roots, cocoons, silk, and pork. The tariff equivalents (TE) were calculated based on the price differentials between the domestic wholesale prices and the c.i.f. import unit values in the 1986-88 base period. The tariffs based on these TE were mostly bound as duties applied to imports beyond the access quantities committed.

Japanese commitments regarding market access are classified into four categories. The first category is the tariffication for the commodities in private trade with tariff rate quotas. The second is the tariffication for those under the state trading system. The third category is the tariffication for pork on which a differential duty system is maintained. The fourth is the exemption from tariffication for rice. The treatment of access quantities differs among these four categories, and will be discussed in what follows.

Measures Affecting Private Imports

The commodities in the first category were mostly under the import quota system before the tariffication was implemented. The border measures were converted to tariffs and other charges and tariff rate quotas were introduced. Up to the access quantities committed as the annual average volumes of imports for the 1986-88 base period, which correspond to the previous import quotas, the same tariff rates are applied as in the previous import quota system. The tariffs apply to imports beyond the access quantities. The commodities in this category are shown in Table 6.1 with relevant information.

In this category, the access quantity does not necessarily mean the guaranteed volume to import but it just provides the access opportunity under the same conditions as in the base period. In reality, the import volumes did not increase for the commodities in this category in 1995, due mainly to a lack of import demand, and were mostly much less than the access quantities (tariff rate quotas) as indicated in Table 6.1.

The State Trading Regime

Japan restricted imports of several agricultural commodities by the trade monopolies of the state trading enterprises. The tariffs were set as a border measure for private imports of all commodities under state trading except rice. Thus, anyone can import these commodities now if tariffs and/or other charges are paid. However, Japan maintains the state trading system and sets markups that the state trading enterprises charge on imports. Markups are defined as the differences between the purchasing prices and the selling prices of the imports by the state trading enterprises. The markups were set at a lower level than the TE as shown in Table 6.2.

The access quantities committed in this category are the amounts that the state trading enterprises are obliged to import. But the enterprises can import beyond the access quantities and charge the same markups as on the access quantities. Private users of the commodities in this system, therefore, have no incentives to import by themselves if the state trading enterprises expand imports as demand for them increases. Rather, they purchase the commodities from the state trading enterprises at lower costs. Indeed, for wheat and barley this is the case, and hence they are imported mainly by the Food Agency as before the tariffication was implemented. The import quantities of wheat and barley in 1995 were greater than the access quantities as indicated in Table 6.2, but imports in private trade paying full tariffs were few. This means that the state trading enterprises have imported more than the access quantities.

Skim milk, butter, and raw silk are under state trading by the Agriculture and Livestock Industries Corporation (ALIC), which manages the buffer stock operations to stabilize the domestic prices of those commodities (though the buffer stock operations for silk will be abolished in 1998). As shown in Table 6.1, skim milk and butter for specific purposes are imported in private trade also under the tariff rate quota system. The duties for dairy products are prohibitively high and few are imported beyond the tariff rate quotas in private trade.

It is noted that the tariff quotas are not filled and are underutilized for many cases in Table 6.1. The tariff quotas were set on the basis of the import quotas for the base period. The import quotas were not filled because the demands for those commodities, especially for specific purposes

like skim milk and whey, were limited but the quotas were expanded. This was a political solution reached in the trade negotiations. On the Japanese side, there was a political reason to maintain the import restriction so that it can protect the farmers in cases of rapid import increases though the restriction was not effective in regular conditions. On the other side, the negotiators of exporting countries gained from the expansion of the import quotas as a negotiation result, though the best solution would have been to abolish the restriction. This non-binding restriction was carried over into the process of tariffication and resulted in the tariff rate quotas. Quantity restrictions under tariff rate quotas could, in principle, be abolished without any problem for the commodities whose quotas are not filled.

In the case of raw silk, the treatment is a little different from other state trading commodities. The ALIC can import silk for buffer stock operations but in reality it has imported little for a long time because of the declines in demand for and price of raw silk due to increasing imports of silk products. On the other hand, domestic producers of silk products demand cheap raw silk for weaving from abroad while the tariff for raw silk was set at a prohibitively high level. As a compromise, the government permits the producers of silk products to import raw silk for weaving duty free with a quota, but the ALIC collects a charge on the imports of raw silk that is much lower than the bound tariff. The charges collected are used to support the domestic cocoon price. This charge is not called a markup, but the function is the same as the markups for other state trading commodities.

By the way, the tariffs on imports of the commodities in this group are set as the differences between the TE and markups or other import charges by the state trading enterprise, the Food Agency or the ALIC. Namely, although anyone can import wheat, barley, milk products, and silk, the imports have to be sold to the state trading enterprise when the products arrive at the port of entry at the price declared to the customs authorities as the total import cost, including the original price, transportation and insurance costs. As soon as the imports are sold to the state trading enterprise, the enterprise has to sell the products back to the original owners or importers, at a price worked out by adding the markup to the total import cost. The difference gained by subtracting the markup from the TE then goes to the custom tariff authority.

This two stage procedure of collecting charges on the imports is necessary to ensure the budget to protect domestic farmers. Namely, the markups are the duty that the Food Agency or the ALIC can utilize for specific purposes for farmers while the part collected by the custom tariff authority (Ministry of Finance) goes to the general account for the government expenditures.

Measures Affecting Pork Imports

The third category of the commitment in the market access area is for pork. Pork imports were under the differential tariff system similar to the variable levy of the EU. This system was considered a minimum import price system that shall not be maintained according to the Agreement. In the process of tariffication of the pork import system, it appeared that the TE of pork would be 425 yen per kilogram in the base period if calculated in accordance with the agreed Modalities. The average c.i.f. price of pork in the base period was about 400 yen per kilogram, and a tariff in line with the calculated TE would have been essentially prohibitive. The USA, who had condemned the pork import system of Japan that prevented expansion of their exports, had to reluctantly allow Japan to maintain the differential tariff system for pork imports.

Formally, the Japanese pork import system was tariffied, but the reality changes substantially nothing except the commitments on reduction of the policy prices in the system. They are summarized in Table 6.3. The system was tariffied in the sense that the TE is introduced as a specific duty applied in case the import price is lower than a certain level. As indicated in Table 6.3, if the pork c.i.f. import price is lower than 47.1 yen per kilogram in 1997, for example, 393 yen of the specific duty is charged. It is impossible to imagine that pork is available abroad at the price of 47.1 yen per kilogram. Thus, in most cases, the differential tariff system works and the difference between the standard import price and the actual c.i.f. price is collected as long as the c.i.f. price is less than the minimum price for ad valorem duty. If the c.i.f. price is greater than the latter, an ad valorem duty is applied following the rates shown in Table 6.3. In addition, it should be noted that Japan has no commitments on access quantities for pork, which is also different from other commodities tariffied following the Agreement.

As emergency protection measures against rapid increases in pork imports, two types of safeguard measures can be used. One is the ordinary Japanese safeguard measure and the other is the special safeguard measure under the WTO Agreement on Agriculture. Details of these measures and how they were implemented are discussed in the next section.

The Rice Regime

Rice is the fourth category and the most important commitment for Japanese agriculture. Rice was exempted from tariffication but in turn larger minimum access imports of rice were accepted, namely 4 percent of domestic rice consumption in 1995, rising to 8 percent in the final year of the implementation period. The actual quantity committed to import is 379,000 tons in

milled rice in 1995 and 758,000 tons in 2000, calculated from domestic rice consumption in the 1986-88 base period.

Foreign rice is imported by the Food Agency, a state trading enterprise, which charges 292 yen per kilogram on the imports as a markup. The Food Agency conducts import tenders for most foreign rice several times a year to fulfill the minimum-access commitment each year. Imported foreign rice is under control of the Food Agency and the selling price in the domestic market is determined by the government. But foreign rice is different from domestic rice and its demand schedule is unknown to the government.

To see the market demand for foreign rice and the market price differential under the current import restrictions, a certain amount of foreign rice is imported through the simultaneous buy-and-sell (SBS) method, whereby importers and wholesalers offer tenders simultaneously for the selling and buying prices of each variety of rice. Thus, the prices offered by wholesalers reflect the market demand and differences between those of wholesalers and importers are the market evaluation of the price differentials of foreign rice. The differences between the selling and buying prices are collected by the Food Agency.

In 1995, 365,000 tons of foreign rice were imported through the ordinary tenders on four occasions while 10,000 tons were imported under the SBS method twice. Additional 4,500 tons of rice were imported as a quota for rice flour for dyeing purposes. In 1996, the ordinary tenders were conducted five times for 430,000 tons of foreign rice and the SBS auctions three times for 20,000 tons. Adding 4,500 tons for dyeing purpose, the total imports of rice in 1996 were about 455,000 tons. Rice is imported from the USA, Thailand, Australia, China, and other countries based on the domestic rice market conditions and the consumers' preference survey on foreign rice.

To implement the commitment on the minimum access imports of rice and also to implement the Agricultural Policy Council's report, "The Direction of Policy Development in Japanese Agriculture in a New International Environment", published in August 1994, Japanese government abolished the Food Control Law and established the New Staple Food Law (the Law for the Stabilization of Supply-Demand and Price of Staple Food) in 1995. The previous Food Control Law had long regulated the distribution of rice since 1942, though it was amended several times. The distribution of rice was deregulated to a great extent under the new system.

Rice is classified into three categories by its distribution routes. The first is voluntarily-marketed rice which is distributed through the designated corporations under the government plan.

The second is government-marketed rice that is purchased and sold by the government with the aim of proper management of stockpiles. Rice in these two categories is called "ordinary marketed rice" and distinguished from rice in the third category called "other rice outside ordinary marketing" that was illegal to distribute under the previous Food Control Law. Rice in the third category is distributed freely with only a requirement for farmers to report to the Food Agency the amounts marketed in this channel.

Foreign rice imports are naturally classified as government-marketed rice and sold to the wholesalers at a price not exceeding the level reached by adding the markup of 292 yen per kilogram to the import price, except the rice imported by the SBS auctions. In reality, most foreign rice is accumulated in the government stock or purchased for processing purposes at lower prices than for direct consumption. The markup rate of 292 yen per kilogram was calculated from the difference between the import price of Thai rice and its sales price to the wholesalers in the 1986-88 base period. If this rate had been set as the TE for rice, it would have been prohibitively high and there would have been no imports of rice exceeding the minimum access imports on the regular basis of 3 percent in 1995 and 5 percent in 2000. Indeed, the price differences which appeared in the SBS method were 150 to 200 yen per kilogram, which are considered the real differences between the domestic market prices and import prices of rice.

The result of the refusal of tariffication for rice is the larger volume of the minimum-access imports, which is now ironically a greater downward pressure on the domestic rice price. Following rich harvests in three consecutive years, the crop-year-end stock of rice reached 3 million tons in fall 1996. But Japan is supposed to import 510,000 tons of rice in 1997 as pledged in line with the minimum access commitment.

6.2 Implementation Issues

Tariffication and other commitments that Japan agreed to in the Uruguay Round have been fully implemented following the Schedules. But this does not necessarily mean that Japan's imports of the commodities concerned have increased. As already discussed, the new import system blocks increases in imports by tariff rate quotas, state trading, and prohibitively high tariffs. In fact, as seen in Table 6.1 and Table 6.2, imports in 1995, the first year of the implementation period, did not differ much from the previous years.

It seems unique for Japan that the state trading enterprises play an important role to control agricultural imports. Markups that the state trading enterprises collect may be considered as tariffs

with tariff rate quotas. But the markups are charged with no quota. The state trading enterprises can import the respective commodities as much as they want and sell them in the domestic market adding the markups to the import price. As far as the markups are less than the tariffs charged on private imports, there are no incentives to import in private trade the commodities under this system.

Another feature to be noted on state-traded commodities is the tariffs scheduled on them. The tariffs are calculated as the differences between the TE and the markups. The tariffs are collected by the tariff authority (Ministry of Finance) while the markups are charged by the state trading enterprises and are used for other purposes, mostly for promoting domestic production of the same commodities the markups are charged on. Thus, it is misleading to look at the tariffs in Customs Tariff Schedules of Japan, for example, to see the level of protection, though "tariffication" was implemented.¹ Namely, charges introduced in tariffication are divided into two parts as mentioned previously. This also implies the advantage of the state trading enterprises because they can sell their imports after charging the markups, but private traders have to pay the tariffs in addition to the markups. Therefore, private traders lose the incentive to import as long as the state enterprises try to fill the excess demand themselves.

Pork is the only commodity whose imports have increased rapidly among those tariffed under the Agreement. Imports of pork were 467,000 tons in 1993 and 502,000 tons in 1994, but increased to 591,000 tons in 1995 and 611,000 tons in 1996. These increases are not attributed to tariffication or reduction in the policy prices, but result from decreases in domestic pork production due to heat waves and hog diseases.²

The increases in pork imports triggered safeguard measures under the Japanese safeguard regime (SG) four times in two years. The Temporary Tariff Measures Law rules emergency measures for pork in two ways. First, it provides that the standard import price (SIP) is raised to the level agreed in the Uruguay Round when the volume of pork imports between the beginning of the fiscal year (1 April) and the end of any quarter exceeds average imports during the same

¹ Japan committed itself to bind the TE in the country schedules presented to WTO. But the tariffs in the Customs Tariff Schedules of Japan published by the Ministry of Finance are not TE for some commodities because the state trading enterprises collect charges (markups) from the TE. This way of splitting the TE into two parts does not conflict with the WTO principle because charges as a border measure are admitted as well as duties and taxes (GATT Article XI:1).

² Domestic pork production in 1994 was 1,390,000 tons while it was 1,322,000 tons in 1995. This reduction was not caused by increases in "cheaper foreign pork" because the pork import price was US\$5,855/ton in 1994 on average, while it was US\$6354/ton in 1995. Also, the rapid increases in pork imports have not resulted from changes in the policy price.

period of the three preceding fiscal years by 19 percent or more. The increases in the SIP remain in effect until the end of the fiscal year. Second, it provides for the SIP to be raised to the level agreed and to remain in effect in the first quarter of the next fiscal year when the volume of pork imports in any fiscal year exceeds average imports of the three preceding fiscal years by 19 percent or more.³

Table 6.4 shows how the safeguard measures were implemented for pork imports. In 1995, the cumulative imports from the beginning of the fiscal year exceeded the trigger level (119 percent of the three preceding years average for the same period) by the end of the second quarter (September) by 5 percent. This was reported in the trade statistics published on October 27, and the safeguard measure was implemented on November 1, 1995. The SIP was raised from 460.01 yen to 568.90 yen per kilogram in carcass basis, and maintained at that level until March 31, 1996, the end of the fiscal year.

On April 1, 1996, the SIP returned to the rate in the regular schedule that was 450.02 yen per kilogram. However, it appeared in the trade statistics published on June 27 that the pork imports exceeded the trigger level already by the end of May. Thus, the SIP was raised again to the level at 557.19 yen per kilogram on July 1, 1996.

In addition, the total volume of pork imports between April 1 and November 30 in 1996 exceeded the trigger level for the WTO Special Safeguard Provision (SSG) provided by Article 5 of the Agreement on Agriculture. Namely, the pork imports for the eight months in 1996 were more than 105 percent of the average annual volume for the preceding three years. Thus, with this special safeguard measure the ad valorem duty rate was raised from 4.8 percent to 6.4 percent on January 1, 1997 and applied until March 31, 1997, the end of the fiscal year. The safeguard measure implemented on July 1, 1996 was still in effect in this period and the SIP was raised to 565.70 yen per kilogram. Hence in this period both the domestic Japanese safeguard mechanism and the WTO Special Safeguards Provision were applied, as allowed under the Agreement on Agriculture and the Japanese Schedule agreed in the Uruguay Round.

³ Strictly speaking, there are four different regimes regarding tariff bindings for pork and pork products for the 1995-2000 period, relating to different market conditions. These four different cases are (1) "normal" market conditions; (2) market conditions under which the Japanese safeguard mechanism (SG) applies; (3) market conditions under which the WTO Special Safeguard Provisions (SSG, discussed later) apply; and (4) market conditions under which both types of safeguard measures apply. All four types of tariff regimes were agreed in the Uruguay Round.

This is not the end of the story on the safeguards for pork imports. The trade statistics showed that the total pork imports exceeded the trigger level by the end of January 1997 for the second type of the domestic Japanese safeguard (SG). Namely, the total imports in the 1996 fiscal year exceeded 119 percent of the average annual imports of the 1993-95 period. As a result, the safeguard measure was implemented for pork imports in the first quarter of the 1997 fiscal year, and the SIP was set at 545.49 yen per kilogram while the ad valorem duty rate returned to 4.7 percent according to the regular schedule. This safeguard system for pork imports into Japan is being criticized by pork exporting countries like Canada and the EU.

Safeguards were also implemented for imports of frozen beef exceeding the trigger level (117 percent of the preceding year for the same period) both in 1995 and in 1996; the tariff rate was raised on August 1 to 50 percent from 48.1 percent in 1995 and from 46.2 percent in 1996 and remained in effect till the end of each fiscal year.

The commitments on the domestic support measures were fully implemented in the sense that the total AMS (Aggregate Measurement of Support) was about 4 trillion yen in 1995, already 20 percent less than the AMS of 5 trillion yen in the base period. The government budget for the agricultural sector itself was increased because the post-Uruguay Round agricultural aid package has been implemented as a six-year program from 1995 to 2000 costing a total of 6.01 trillion yen for the period. The amount paid from national funds would be about 2.8 trillion yen; the rest would be paid by prefectural governments, municipalities and the beneficiaries themselves.

Most of the payments in this package, however, are not included in the AMS calculation because the major parts are public works projects to improve the agricultural infrastructure and production base with the emphasis on hilly and mountainous areas. The package also gives financial assistance to farmers who replace their existing loans by low-interest loans to ease interest payments for them. Japan excludes all payments under these programs from the AMS calculation claiming they are "green box policies" under Annex 2 of the Agreement on Agriculture.

6.3 Issues for Future Negotiations

What Japan is most concerned about in the agenda for the next round of agricultural talks is the rice issue. Rice was excluded from the list of tariffication by the so-called "rice clause" added to the Agreement as Annex 5, "Special Treatment under Article 4:2." Japan has to negotiate with other WTO members if it is to seek extension of the special treatment on rice. Annex 5 requires Japan to make "additional and acceptable concessions" if it is agreed that Japan may continue to

apply the special treatment, which may result in an expansion of the minimum access quota. If Japan agrees to implement tariffication for rice in 2000, the TE on rice has to be set at a level at least 15 percent lower than the TE that would have been set at the start of 1995 under the original formula.

Rice is a highly political commodity in Japan and the political influence of rice farmers is more than the economic importance of rice in the Japanese economy. Tariffication for rice was rejected to protect rice farmers from competition with foreign rice. But the reality is that farmers and the government are suffering from the larger minimum access imports suppressing the domestic price of rice. The government has accumulated rice stocks and may have to curtail domestic production via strengthened acreage control to keep the price of rice as high as the current level. Imported rice is supposed to be used partially for foreign aid, but this cannot be a solution in the long run.

The rice market condition will cause Japan to cease the application of the special treatment, avoiding further increases in minimum-access quota. Also, the Japanese government learned how to engage in "dirty tariffication", allowing a prohibitively high level of TE. The markup for rice on the minimum access imports was accepted in the Uruguay Round to be as high as 292 yen per kilogram, which is equivalent to a 731 percent tariff if evaluated in the base period. The TE for rice would be set on this base and it would be hard to import foreign rice in private trade. Thus, it is presumable that Japan will decide to implement tariffication for rice by 2000. But such a very important change in rice policy will be recommended and authorized by a high level of advisory committees or councils on agricultural policy. Now is a good time for this because a new advisory council was organized in the Prime Minister's Office in April 1997 to establish a new basic law on food, agriculture and rural areas, replacing the 1961 Agricultural Basic Law. Agricultural policy reform including rice policy is supposed to be discussed within the two-year term of the council.

Another issue that Japan will be involved in is state trading. As discussed in the first section of this chapter, the state trading enterprises play important roles in Japan's agricultural trade. Article XVII of the GATT provides that state trading enterprises shall make any purchases or sales solely in accordance with commercial considerations and shall afford the enterprises of other countries adequate opportunity to compete for participation in such purchases or sales. But the state trading enterprises were founded to pursue specific purposes and are supposed to behave differently from private traders. The imports by the ALIC are directly linked to the buffer stock operations to stabilize the domestic prices of the commodities covered. The Food Agency is a part of the Ministry of Agriculture, Forestry and Fisheries and controls the imports to implement its own domestic policy under the Staple Food Law.

Therefore, the principle of trade activities of such state trading enterprises is different from that of commercial traders and may erode competitive conditions in the markets for the commodities concerned. The consistency of the state trading enterprises with the WTO regime will be a major issue not only specific to Japan but also in general in the next agricultural trade talks. In particular, the problem of state trading will be raised if China is admitted into the WTO, and new rules on state trading may need to be established.

Table 6.1 Commodities newly tariffied with tariff rate quotas ^a

	TRQ (1995)		Secondary duty (TE) (yen/kg)	Import quantity (1,000 tons)			
	Quota (1,000 t)	Tariff (%)		1993	1994	1995	1996
Skim milk:							
for school lunch etc.	7.3	0	466	5.6	5.4	4.8	4.5
for feeding purposes	85.9	0	466	54.4	49.2	42.5	35.5
Non-sugar condensed milk	1.6	25	299+25%	n.a. ^b	n.a. ^b	1.1	0.7
Whey:							
for feeding purpose	45.0	0	500+35%	18.5	20.9	22.5	22.4
for milk powder	25.0	10	470+35%	13.4	17.7	6.6	5.0
concentr. minerals	14.0	25	500+25%	0.5	1.2	3.2	2.0
Butter and butter oil	0.6	35	1,159+35%	0.5	0.6	0.5	0.3
Preps. Of milk fats	19.0	25	1,363+35%	n.a. ^b	n.a. ^b	13.1	18.1
Other milk products ^c	124.6	12-35	63+25% - 1,363+35%	n.a. ^b	n.a. ^b	124.6 ^d	126.5 ^d
Dried legumes	120.0	10	417	162.4	171.8	110.9	110.1
Groundnuts	75.0	10	726	49.1	43.1	42.1	43.2
Konnyaku roots	0.3	40	3,289	0.2	0.3	0.3	0.2
Starches	157.0	25	140	167.0	147.3	107.6	120.6
Cocoons	2.9	140Y/kg ^e	2,968	2.8	5.1	2.6	3.0

Sources:

Customs and Tariff Bureau (1995).

Japan Tariff Association (1995).

Japan Tariff Association (various years).

Notes:

^a When different rates are applied within one commodity group, tariffs and duties shown are minimum values.

^b Not available because the commodity classification was changed in 1995.

^c In milk equivalent.

^d Estimated.

^e Free after April, 1998.

Table 6.2 Commodities newly tariffed under state trading, 1995

	Access Quantity 1995	Markup 1995	TE 1995	Import quantity (1,000 tons)			
	(1,000 t)	(yen/kg)	(yen/kg)	1993	1994	1995	1996
Wheat	5,565.0	53	65	5,814	6,352	5,965	5,928
Barley	1,326.5	34	46	1,619	1,665	1,732	1,598
Skim milk	137.2 ^a	358	466+25%	74 ^b	86 ^b	103 ^b	75 ^b
Butter	137.2 ^a	950	1,159+35%	0	0	0	0
Silk	1.8 ^c	1,000 ^d	8,209	1.5	1.8	1.8	2.0

Sources:

Customs and Tariff Bureau (1995).

Japan Tariff Association (1995).

Japan Tariff Association (various years).

Notes:^a In milk equivalent for total imports of the designated milk products.^b Including imports by private traders.^c Quota for lower import charge.^d Import charge on the quota**Table 6.3 Pork import schedule in Japan for 1995-2000, in normal case**

	1995	1996	1997	1998	1999	2000
Ad valorem duty (%)	4.9	4.8	4.7	4.5	4.4	4.3
Standard import price (yen/kg)	460	450	440	430	420	410
Minimum price for ad valorem duty (yen/kg)	438.5	429.4	420.3	411.2	402.1	393.0
Maximum price for specific duty (yen/kg)	45.7	46.4	47.1	47.4	48.1	48.9
Specific duty (yen/kg)	414	404	393	382	372	361

Source: Customs and Tariff Bureau (1995).Note: Figures shown are in carcass base.

Table 6.4 Safeguard measures implemented for pork imports in Japan

		Accumulative imports in fiscal year (1,000 tons)	Ratio to the trigger level^a (%)	Standard import price (yen/kg)	Ad valorem duty rate^b (%)
1995	Apr.-June	142.7	97	460.01	4.9
	July-Sept.	301.2	105	460.01	4.9
	Oct.-Dec.	469.7	107	568.90 (SG) ^c	4.9
1996	Jan-Mar	536.5	95	568.90 (SG)	4.9
	Apr.-June	373.2	245	450.02	4.8
	July-Dec.	544.5 ^d	101 ^e	557.19(SG)	4.8
1997	Jan-Mar	622.5 ^f	105	565.70(SSG)	6.4(SSG)
	Apr.-June	-	-	545.49(SG)	4.7

Sources:

Japan Meat Council (1997).

Japan Tariff Association (various years).

Notes:

^a Trigger level for the safeguard (SG) is 119 percent of the average imports of the three preceding fiscal years for the period between the beginning of the fiscal year and the end of any quarter. Trigger level for the special safeguard (SSG) is 105 percent of the average annual imports for the preceding three years.

^b Ad valorem duty rate is applied if the import price is higher than the standard import price.

^c The safeguard was implemented from 1 November 1995.

^d Imports from 1 April to 30 November 1996.

^e Ratio to the trigger level for the special safeguard.

^f Imports for 1 April 1996 to 31 January 1997.

7 Korea

7.1 Introduction

The Republic of Korea actively participated in the Uruguay Round negotiations on agriculture, though conservatively in many regards. It was the consistent position of Korea that agricultural markets should be liberalized gradually for the smooth structural adjustment of domestic agriculture. Emphasizing non-trade concerns of agriculture including food security, Korea also insisted that there should be some exemption from the tariffication in the case of basic food stuffs such as rice and beef. However, Korea committed a full range of market liberalization at the Uruguay Round negotiations with only the exception of rice, of which tariffication was postponed 10 years.

Agriculture in Korea is noticeably shifting toward a more market-oriented system as recommended by the Uruguay Round Agreement on Agriculture (Agreement). Laws and regulations of the agricultural sector are being arranged in line with international disciplines. Market access opportunities are continuously increasing. Korean agricultural imports increased by almost 50 percent from 5,425 million dollars in 1994 to 8,152 million dollars in 1996. These facts must be seen in relation to the enormous socio-political unrests in Korea which occurred at the time of the final stage of the Uruguay Round negotiations.

Several statistics indicate substantial changes in Korean agricultural structure during and after the negotiations. During the period of 1990 to 1995, the share of rice out of total value of agricultural production decreased from 37 to 26 percent, while the share of fruits and vegetables increased from 26 to 36 percent. Recent changes in the commodity mix of agricultural production in Korea can be explained by the fact that vegetables and fruits are relatively capital and technology intensive products, suitable to the factor endowment conditions of Korea. Korean agricultural structure has been naturally adjusted based on the principle of gains from specialization. While the farm size of young farmers is steadily expanding, the ratio of farmers over 60 years to total farm population is rapidly increasing. The number of farm households with more than three hectares of farm land increased by 61 percent from 44,000 in 1990 to 71,000 in 1995. The large proportion of older farmers is becoming an obstacle to the further structural adjustment of Korean agriculture, demanding further re-orientation of agricultural policies in order to speed up structural change.

At the same time, ensuring food security is appearing as a national concern in Korea because domestic production of rice, the most important product in terms of the source of agricultural income as well as calorie intake, has been continuously decreasing in recent years. It might be a possible scenario that Korea will have to import rice in excess of the minimum market access determined in the Uruguay Round negotiations given the decreasing trend of rice production may surpass the decreasing domestic consumption in the near future.

In Korea, it is perceived that the world rice market is unstable compared to other grains because of the intrinsic characteristics of the world rice market, including the lower proportion of trade out of the total world production, geographical concentration of the world production, and thin markets classified by tastes and quality of rice.

In conclusion, it is evident that the external pressures coming from the Uruguay Round were an important factor to positively reshape Korean agriculture and agricultural policies. However, there remain a number of problems related to the implementation of the WTO commitments as well as structural adjustment. In this context, this chapter discusses the implementation issues faced by Korea.¹

7.2 Issues in Implementing the Agreement in Korea

7.2.1 Market access²

Korea agreed to the elimination of non-tariff barriers and market liberalization of all agricultural commodities. Tariffs and newly established tariff-equivalents are to be reduced by 26.7 percent on average (the required reduction rate for developing countries was 24 percent) over 10 years.

All agricultural commodities subject to import restrictions and tariffs before the conclusion of the Uruguay Round can be classified in two groups. First, there was a group of 125 products (based on 10-digit HS) whose import restrictions were legalized by special domestic laws applying the grandfather clause of the GATT. These were subject to tariffication. In the case of rice, a

¹ For more detail see Lee (1993, 1994, 1996).

² See Kang (1995).

grace period of ten years is allowed with minimum market access which is increased from one percent of base period domestic consumption in 1995 to four percent by 2004. Second, there was a group of 95 products whose import restrictions were covered by periodic announcements of importing schedules by trade laws. This group includes commodities for which Korea had previously agreed to open the markets or bring conformity with the GATT rules by July 1997, according to the 1989 Agreement related to the balance of payments (BOP) consultation under GATT Article XVIII. The Korean government insisted that tariffication should be applied to the second group of commodities since it was also thought to be a GATT rule. In the negotiations it was agreed that ceiling bindings and tariff rate quotas were to be applied to these products, with low within-quota tariffs and higher above-quota tariffs, which, though, were lower than the difference between domestic and world prices. The formats of market liberalization of major products are summarized in Table 7.1.

The first implementation issue related to tariffication arises from the fact that tariffs and quotas are not equivalent if parameters of the economy are shifting over time. Considering dynamic non-equivalence of tariffs and quotas (Vousden, 1990), importing countries were required to provide market access through tariff rate quotas on which low or minimum duties are charged to guard against the cases that tariff equivalents become prohibitive, not allowing the imports of the related products if world prices increase. At the same time, importing countries can invoke the Special Safeguard Provisions in the event of import surges and low world prices.

To collect economic rents that might accrue to importers of products subject to tariff rate quotas and to return the rents to the agricultural sector, Korea is operating state trading systems for 97 products to which minimum and current access provisions apply (Table 7.2). In return for the operation of state trading, Korea guarantees to import the quantities agreed under minimum and current access. Tariff rate quotas for 21 products including pork, poultry, and milk powder are allocated to traders through a competitive bidding system.

Several problems have occurred with regard to maintaining the state trading system. Since Korea guarantees the importation of market access quantities, losses from importing may occur when world prices are higher than domestic prices. Actually, Korea gave up potato state trading due to the possibility of import losses. In addition, because the quantities for market access were calculated based on the 1988-1990 period and imports have increased since then, in many cases such as corn and soybeans there is a need to expand market accesses beyond the tariff rate quotas to stabilize domestic agricultural prices. In 1996, current market access quantities for 19 products including corn, soybeans, and barley were actually expanded. However, if the market access of a product is expanded excessively, it will result in liberalization effects that will surpass the effects of

the reduction of the tariff equivalent. There are other problems as to how to allocate the quantity of market access among different tariff lines and different exporting countries since market access quantities were determined comprehensively at a higher levels of aggregation. The Uruguay Round Agreement on Agriculture does not provide specific guidelines regarding the management of tariff rate quotas.

For the cases that farmers associations are designated for stating trading, trading partners are continuously raising the issues that farmers are inclined to restrict importation of quantities committed under market accesses.

The other implementation issue regarding tariffication is the fact that domestic prices of agricultural products are expected to fluctuate more widely than before, because tariffication lets the price instabilities in the world market transmit into the markets of importing countries. If the world market price goes down to a low level while there is a production shortfall in the importing country in a certain year, farmers' incomes in the importing country will decrease sharply and vice versa. This is a feature of tariffication that the price instabilities in the world market directly influence the prices and incomes in the importing countries. In this context, it could be argued that a certain percentage of changes in world prices should be automatically added to tariffs even if the world price is still above the trigger price level for the Special Safeguard.

Lastly, tariffication results in a tendency to bias the import mix towards cheaper items within the fixed quantity of market access since it increases the relative price of expensive items. To cope with such distortions of the import mix, Korea is applying a flexible tariff structure combining *ad valorem* and specific tariffs to barley, soybeans, pepper, garlic, onions and others.

7.2.2 Domestic Support and Export Subsidies

A total Aggregate Measurement of Support (AMS) of 2.18 trillion won (base period, 1989-1991) is to be reduced over ten years to the level of 1.49 trillion won in 2004. Almost 90 percent of AMS to be reduced centers on the price support for rice. The rest of the 10 percent is support for barley, soybean and corn. Domestic support for grapes, silkworm and milk is less than 10 percent of the total production value of each product and thus excluded from the subsidy reduction requirement under the *de minimis* provision applied to developing countries. Non-commodity specific interest concessions and subsidies for fertilizer are also excluded from AMS reduction since the total expenditure and forgone revenue is less than 10 percent of the total value of agricultural production according to the same rule. Lastly, Korea classified investment aids and

subsidies for agricultural inputs as exempted from reduction under the developing country provision.

As outlined above, the Uruguay Round Agreement on domestic subsidies seems to be less demanding for Korea. However, the very fact that even the domestic subsidies come under WTO regulations substantially influenced the structure and directions of agricultural policies in Korea. After the conclusion of the Round, the Korean government realized that fundamental improvement of agricultural productivity is an important task in the internationalization of Korean agriculture. The government is reshuffling policy priorities, putting much emphasis on structural adjustment in agriculture rather than direct support for farmers. Such shifts in agricultural policies are well reflected in the trends and composition of expenditure on individual policies (Table 7.3).

While expenditures on land consolidation, marketing development, and R&D are increasing rapidly, expenditures on farm mechanization and development of non-farm income sources are increasing steadily. It should be noted that expenditures on price support for grains decreased to zero because the market price of rice increased to the level of the government purchasing price.

Regarding productivity improvement policies, the Korean government focuses on the enlargement of farm size through the relaxation of the ceilings of farmland ownership. In the regions where enlargement of farm size is relatively easy, the government will activate rent-lease systems of agricultural lands and support farmers who want to purchase additional land to gain economies of size..

Since current agricultural policies in Korea mainly emphasize on the enhancement of productivities through structural adjustment, some compensatory programs are needed for the large number of old farmers with structural disadvantages excluded from the targets of government policies. Nevertheless, developing proper support programs is not easy due to the budget constraints and huge administration costs. The criteria of the "green box" of the Agreement are such that it is not easy for Korea to bring current policies under this category. However, the Korean government is trying to develop programs of direct payments including assistance through retirement programs, payments for relief from natural disasters, and payments under regional assistance programs.

The first issue directly related to the Uruguay Round provision regarding domestic support is that Korea is utilizing Article 6:2 of the Agreement on Agriculture to exclude investment and input subsidies from the calculation of total AMS. Article 6:2 states that investment subsidies which are generally available to agriculture and agricultural input subsidies generally available to

low-income or resource poor producers in developing countries shall be exempt from domestic support reduction commitments. In order to continue support programs for structural adjustment, Korea considers that it needs to secure its status of developing country throughout the implementation period and during the next round of negotiations.

Secondly, as in the case of market access, substantial implementation problems are arising from the time lags between base years and the first year of implementation. Contrasting with the cases of developed countries where agricultural subsidies were reduced after the base years of 1986-1988, Korea had increased domestic subsidies continuously until the year of 1994 when the Round was concluded. Accordingly, Korea has a burden to reduce agricultural subsidies much more rapidly than otherwise.

Korea did not use export subsidies during the base period and so has no reduction commitment, but is not allowed to introduce market distorting export subsidies. Even though the current level of agricultural exports is negligible compared to imports, the Korean government has made substantial efforts to increase agricultural exports to compensate for part of the losses resulting from agricultural market liberalization. In the infant stage of agricultural exports, government subsidies may be required for the development of agricultural products preferred by foreigners. Market development and advertising may also need to be supported. However, since there was no base for export subsidies and Korea cannot introduce new export subsidies, the scope for increasing agricultural exports through government measures is quite limited.

7.3 Conclusions

The Agreement seemed to have a great psychological impact on the agricultural industry in Korea. Because of the Agreement, Korean people, including politicians and policy makers, had a good chance to re-evaluate the role of Korean agriculture, not only in the national economy, but also in the world trading arena.

In terms of economic impacts of the Agreement, Korea was able to minimize the effects by applying developing country status in setting the reduction rates, reduction periods, and provisions regarding policies to be reduced. Internally, the Korean government has implemented ambitious packages of structural adjustment programs through setting up the "Agricultural and Fishery Development Plan" in 1994. Owing to this development plan, the agricultural industry grew much more rapidly, by an average rate of 3.6 percent annually during the period of 1994-1996.

Despite an outcome of the Uruguay Round Agreement favorable for Korean policies, mainly because of the exclusion of rice from tariffication, there exist many constraints in implementing the Agreement while, at the same time, fostering further structural adjustment in Korea. It is a challenging task to tackle the dual targets of attaining efficiency of the agricultural industry and equity among farmers domestically, and, at the same time, living up to the rules of the WTO.

Specific issues in implementing the Agreement in Korea are related to, in particular, state trading, price instabilities after tariffication, Korea's status as a developing country, and strict criteria of "green box" policies. With regard to export policies, WTO rules should be strengthened in such a manner that exporting countries can not easily resort to limiting exports for the stabilization of their domestic prices.

Table 7.1 Formats of Market Liberalization of Major Products in Korea

Commodity	Year	Tariff Equivalent (% or won/kg)	Market Access (metric tons)	Within Quota Tariff(%)
Rice	1995	--	51,307	5
	2000	--	102,614	5
	2004	--	205,228	5
Barley	1995	333% or 410 won/kg	14,150	20
	2004	229.7% or 361 won/kg	23,582	20
Soybeans	1995	541% or 1,062 won/kg	1,032,12	5
	2004	487% or 956 won/kg	1,032,152	5
Corn (Feed)	1995	365%	6,102,100	3
	2004	328%	6,102,100	3
Potatoes	1995	338%	11,286	30
	2004	304%	18,810	30
Sweet Potatoes	1995	428% or 375 won/kg	11,121	20
	2004	38.5% or 338 won/kg	18,535	20
Oranges	1995	99%	15,000	50
	2004	50%	57,017	50
Beef	1995	44.5% and 70% mark-up	123,000	20
	2001	41.25% and 0% mark-up	225,000	20
Pork	1995	37%	21,930	25
	1997	33.4%	18,275	25
	2004	25%	--	--
Poultry	1995	35%	7,700	20
	1997	30.5%	6,500	20
	2004	20%	--	--
Pepper	1995	300% or 6,900 won/kg	4,311	50
	2004	270% or 6,210 won/kg	7,185	50
Garlic	1995	400% or 2,000 won/kg	8,680	50
	2004	360% or 1,800 won/kg	14,467	50
Onions	1995	150% or 200 won/kg	12,369	50
	2004	135% or 180 won/kg	20,645	50
Sesame	1995	700% or 7,400 won/kg	6,731	40
	2004	630% or 6,660 won/kg	6,731	40
Skim Milk Powder	1995	220%	621	20
	2004	176%	1,034	20

Source: Country Schedule of Republic of Korea

Note: In 1995 the exchange rate was 771.27 Won per US \$.

Table 7.2 State Trading of Major Products in Korea

Commodity	State Trading Agency	Remarks
Rice, Barley	Office of Supply	government institution
Onion, Garlic, Pepper, Soybean (Food), Sesame, Peanuts	Agricultural and Fishery Marketing Corporation	corporation with exclusive privileges
Beef	Livestock Products Marketing Organization	final demanders can also import; Simultaneous Buy-and-Sell (SBS) System is applied
Oranges	Orange Growing Farmers Association	association with exclusive privileges
Natural Honey	Livestock Cooperative Federation	farmers association; final demanders can also import

Source: Ministry of Agriculture and Forestry, Republic of Korea

Table 7.3 Trends of Budget Expenditure by Major Agricultural Policies (in billion won)

Policies	1994	1995	1996	1997
Land Consolidation	1,018	1,434 (40.7)	1,934 (34.9)	2,477 (28.1)
Farm Mechanization	336	402 (19.4)	441 (9.8)	446 (-0.3)
Marketing Development	603	929 (54.0)	1,039 (12.5)	1,159 (12.1)
R&D Development	36	40 (12.7)	79 (97.9)	81 (7.3)
Human Capital	303	423 (39.5)	428 (1.0)	472 (10.4)
Development of Non-Farm Income Source	347	334 (-4.0)	478 (43.1)	453 (-5.0) ?
Improvement of Living Condition	131	142 (8.6)	148 (4.5)	155 (4.2)
Price Support for Grains	--	697	448 (-35.7)	-- (-100.0)

Source: Major Statistics of Agriculture, Forestry, and Fishery (MAFF), various issues.
Data in parenthesis indicate increasing rates from previous years.

8 South Asia

8.1 Introduction

This chapter examines the way in which the countries of South Asia are implementing the Uruguay Round Agreement on agriculture. The chapter examines the nature of the domestic trade policy reforms which have taken place since approximately 1990 in the two regions, documents the current status of tariffs and quantitative restrictions (QR) and the commitments by these countries under the Agreement, and discusses the domestic policy adjustments required to comply with the Agreement commitments. Under an impetus for economic reform which was essentially indigenous, the South Asian economies have implemented profound reforms in their agricultural trade regimes.

8.2 Liberalization Initiatives

Starting in Sri Lanka in the late 1970s, by the mid 1980s all the South Asian countries had embarked on a gradual process of economic liberalization which accelerated in the 1990s, especially in 1991/92 in India. These reforms were under way during the Uruguay Round negotiations, but the Round itself had no influence on them, except to the extent that it constituted part of an international liberalizing consensus of which the South Asian policy makers were aware. The impetus for the reforms was essentially indigenous and represented the erosion of, and disillusion with economic planning as it had been implemented in South Asia, and the recognition of the extent of past lost opportunities and impatience, spurred by the examples of China, Indonesia and other east Asian countries, that these opportunities should not be frittered away in the future.

The liberalization of South Asian economic policies, and especially trade policies that occurred during the 1980s and 1990s, shared a number of common features, but there were also some differences, especially between the reforms in India and those in the other four countries. Very summarily:

- Between the mid-1980s and the mid-1990s the exchange rates of the South Asian countries were substantially devalued in real terms, the Indian Rupee by about 130 percent between

1985 and 1992. These devaluations supported the liberalization of their import regimes for manufactured goods and also the rapid growth of manufactured exports.

- Although the liberalization of Indian trade policies has been substantial, it has been much less far reaching than in the other South Asian countries. In particular, the removal of import QR was largely confined to manufactured intermediate and capital goods. Nearly all consumer goods have remained subject to import licensing; in practice, for most of them, an import ban exists. As most agricultural products are defined to be consumer goods, the share of tradable Indian GDP protected by QR has remained very high. Between 1990 and 1995 it fell from about 93 percent of tradable GDP to about 66 percent of tradable GDP.
- The liberalization of trade policies which occurred in Pakistan, Bangladesh, and Sri Lanka included agricultural trade policies, and Nepal's policies have always been quite open. But in India, reforms affecting agricultural trade policies have been much less far reaching. Firstly, there is the general ban on the import of consumer goods, which includes basic agricultural commodities as well as processed foods. In addition, India has continued to control agricultural imports and exports by the use of parastatal import and export monopolies. As regards basic agricultural commodities, however, these instruments are redundant since, on average, Indian domestic agricultural prices are about equal to world prices. Moreover, the Rupee devaluation combined with increases in world prices have, for the time being, eliminated or substantially reduced some previous pockets of high agricultural protection which emerged in the 1980s, notably for sugar and oilseeds. However, the QR protection of the local food processing industries is probably more significant, owing to the importance of quality, packaging, brand image, advertising and similar considerations.

8.3 Some Principal Outcomes of the Round and the South Asian Commitments

The reforms summarized above have greatly improved the incentive environment of South Asian agriculture by substantially reducing the previous marked general level of anti-agricultural bias, in addition to which incentives within agriculture are more even than they were in the past. In addition, the exchange rate devaluations have improved incentives for exports of both basic commodities and processed agricultural products. The Uruguay Round had practically no influence on this outcome, but it is pertinent to consider the extent to which the Agreement on Agriculture and the new GATT might help keep South Asia from wandering very far from this new and highly desirable policy direction. Before considering these questions, it is useful to note

for future reference a few outcomes of the Round and commitments by the South Asian countries which are relevant for their agricultural policies.

(1) Before the Round, India, Pakistan, Bangladesh and Sri Lanka had routinely used the balance of payments exception (GATT Article XVIII:B) to justify the general use of import licensing, including import licensing of agricultural products. During the 1980s and 1990s reforms, nearly all import licensing was abandoned in Sri Lanka, Pakistan and Bangladesh, and its scope considerably reduced in India, but at the close of the Round all four countries continued to invoke this article to justify their remaining QR. In India these are still very extensive. In May 1997, about 40 percent of approximately 11,700 10-digit tariff lines were subject to some kind of import restriction, principally import licensing. The import licensing status of some major agricultural products produced in India and in the other South Asian countries is shown in Table 8.1.

(2) Under the State Trading provisions, India notified and gave information to the WTO on a number of parastatal enterprises, including enterprises with statutory import monopolies of rice, wheat, coarse grains, oilseeds and some edible oils. The agricultural products "canalized" in this way account for about 55 percent of the value of Indian agricultural and livestock production. None of the other South Asian countries notified agricultural State Trading Enterprises (STE), but there are a few additional situations in India, and some in Pakistan, Bangladesh, and Sri Lanka which probably qualify as STE under the new broader Uruguay Round definition. These have been indicated in Table 8.1.

(3) The South Asian countries set very high ceiling tariff bindings for most of the products included in the Agreement. Most bindings in India are at 100 percent or 150 percent, in Pakistan at 100 percent, in Bangladesh at 200 percent, and Sri Lanka at 50 percent. All the Sri Lankan and Pakistan bindings became effective from the beginning of the implementation period, and all except 5 of the Bangladesh bindings. The latter are being phased in by equal reductions from the base tariff levels in ten installments between 1995 and 2004. However, about a third of India's bindings are being reduced in installments, mostly from a base level of 140 percent to 100 percent. This meant that in July 1997, for example, that the bindings for these tariff lines were 128 percent and would continue to fall by four percentage points a year between then and 2004. The distributions in each country of the final bound tariffs for the approximately 670 6-digit tariff lines covered by the agricultural agreement are shown in Table 8.2.

(4) None of the South Asian countries tariffied pre-existing agricultural QR and they did not offer minimum access levels to imports under tariff quotas. This was because practically none of their agricultural tariffs were bound before the Round, and under the rules for Special and

Differential Treatment as laid down in the "Modalities", developing countries could offer ceiling bindings, rather than engaging in tariffication for products with previously unbound tariffs. Moreover, the countries in South Asia justified their QR under the balance of payments exception.

(5) As required, the South Asian countries submitted ceiling tariff bindings for all the tariff lines covered by the Agreement, with the exception of India which bound very few of their non-agricultural lines.

(6) According to the calculations in their supporting tables, the base period Aggregate Measurement of Support (AMS) values of India and Pakistan are negative. This was the result of apparently negative commodity-specific support, which outweighed positive general input subsidies. In both countries, these non-commodity specific subsidies were reported to add up to less than the allowable *de minimis* level of 10 percent of the value of agricultural production. The Sri Lanka tables show positive support under four headings, but no information is given on how these values are calculated. There are no calculations of commodity-specific support, and its AMS Schedule is left blank, presumably meaning that Sri Lanka considered the support levels to be less than the *de minimis* levels. Bangladesh, as a least developed country, is exempt from AMS reduction commitments, and did not submit AMS estimates. Consequently, like most developing countries, the South Asian countries have no AMS reduction commitments, but (except for Bangladesh and presumably Nepal when it joins the WTO) they are obliged to ensure that their AMS values do not go above the *de minimis* level during the implementation period.

(7) India and Pakistan notified a standard list of exempted "green box" support measures and Special and Differential Treatment (SDT) measures, but neither reported "blue box" measures associated with production limiting programs. The Sri Lankan Schedules contain no references to either SDT or "blue box" measures.

(8) None of the South Asian countries notified any export subsidies on agricultural products, apart from a general export incentive scheme in India which exempts profits earned by exporting from income taxes¹. Apart from permitted subsidies for the transport and marketing of agricultural products, they have therefore committed themselves to not pay any export subsidies in the future.

¹ Since farmers are generally speaking exempt from income taxes, this exemption would apply to the exports of trading firms or agro-industrial enterprises. The exemption assumes that profits from exporting are equal to the share of exports in total sales multiplied by total pre-tax profits.

(9) However, principally in India but to a lesser extent in Pakistan, some important agricultural products are subject to quantitative export controls. In India, some of these are implemented by parastatals, but the majority are implemented by export licensing and were not required to be notified.

In addition to the commitments and agreements just listed, the Round introduced a number of new multilateral disciplines which affect agriculture, notably on intellectual property rights and the Agreement on Sanitary and Phytosanitary Measures. These involve issues which are somewhat different from the traditional questions of openness versus protection and are not discussed in this paper.

8.4 The Impact on South Asian Policies and Issues for the Next Round of Negotiations

To what extent can the present Agricultural Agreement and the other WTO disciplines contribute to an economically efficient environment for South Asian agriculture, and to that end, what changes would one like to see introduced or foreshadowed in the next round of negotiations? This is first discussed below with respect to possible reemergence of high levels of anti-agricultural bias on the one hand, or agricultural protectionism on the other; and, secondly, with respect to domestic support and stabilization policies, and the South Asian countries' AMS commitments.

8.4.1 The future: anti-agricultural bias, agricultural protectionism, or rough neutrality?

(a) *Indirect anti-agricultural bias.* The high levels of anti-agricultural bias which existed in the pre-reform years in South Asia were principally the result of high protection of manufacturing and the related overvaluation of exchange rates, and to a lesser extent export controls and taxes which kept domestic prices of some important crops below world prices and more than offset the effects of the protection of import competing crops. Whether indirect anti-agricultural bias will reemerge principally depends on what happens to manufacturing protection. In this regard it is encouraging that a great deal of pressure has been exerted on the South Asian countries in recent years to disinvoke GATT Article XVIII:B (i.e. no longer to restrict imports for balance of payment reasons). This was evident in the November 1995 consultations with Sri Lanka, following which (in July 1996) Sri Lanka removed its QR on four agricultural products. Judging from the outcome of these consultations, it is now very difficult to legitimize existing QR or to introduce new ones under the cover of the balance of payments exception. This was confirmed during a

series of consultations with India between January and June 1997, at which the Balance of Payments Committee asked India to present a plan for phasing out its QR.² The abolition or phasing out of these QR would represent a major liberalization of Indian trade policies and would allow bound tariffs to set an upper limit to the protection of many manufactured products. But most of these tariffs (present maximum 42 percent) are quite high even though they are far lower than the prevailing pre-reform rates of 100 percent or more. Furthermore the bindings offered by India during the Round (mostly 40 percent or 25 percent to be effective in the year 2001/02), although capping them at about their present levels, will not do anything to reduce them further. Moreover, they are systematically escalated according to the degree of processing, and hence are capable of providing high levels of effective protection. Finally, many tariff lines are not bound, especially tariffs on consumer goods which are subject to India's consumer good import ban, and in these cases the GATT provides no constraint on the level of protection that can be provided by tariffs. In addition, in recent years local content or "indigenisation" programs are being used with increasing frequency and India has revived its long dormant anti-dumping and anti-subsidies legislation. Local manufacturing lobbies have become especially active in pushing for and obtaining, with little apparent trouble, substantial anti-dumping duties. All this suggests that realized manufacturing protection, i.e. the actual difference between the domestic and international prices of manufactured goods, is on the rise again in India, after a period following the 1991 devaluation during which it was quite low, and that indirect anti-agricultural bias is increasing again from the historically low levels which seem to have existed in the first half of the 1990s.

As noted already, Sri Lanka has ceased to use the balance of payments exception to justify QR, and it seems unlikely that Pakistan would be able to continue using QR if India agrees to phase them out following the next Balance of Payments Committee consultation. If it wishes, Bangladesh may possibly be able to use its status as a least developed country to use GATT Article XXVIII, justified QR, but this would probably be unlikely if the Indian QR are phased out. All of this underlines the importance for the region of the outcome of the Balance of Payments Committee consultations with India. For South Asia, the Uruguay Round Understanding on the removal of QR and how it is implemented in practice is potentially the single most important contribution of the Round to trade liberalization in the region.

² It has been reported that as of July 1997, India was offering to phase out its Article XVIII:B QR over six years, but that the USA and other countries were insisting on a phase out period of no longer than five years. Agricultural QR would be the last to go under the Indian proposal.

Having said this, it must also be recalled, however, that very few non-agricultural tariff lines have been bound by Bangladesh and Sri Lanka, and only about 35 percent by Pakistan. This means that even if QR are not used, there are no commitments with the WTO on upper limits to tariff protection. Until a much larger proportion of their non-agricultural tariffs is bound, there is consequently no effective formal WTO constraint on increases in manufacturing protection, and therefore no constraint to future increases in indirect anti-agricultural bias.

(b) *Direct anti-agricultural export bias.* During the pre-reform period the South Asian countries used quantitative restrictions, canalization through parastatal export monopolies and export taxes to control agricultural exports. As part of the reforms, export taxes were cut and eventually removed in all the countries, and the scope of export canalization and export licensing was reduced. By 1997 there were no agricultural products subject to export Non-Tariff Barriers (NTB) in Sri Lanka, only one (pulses) in Bangladesh, and primary product exports from Nepal were, in practice, unrestricted. In India, however, despite some important reforms, especially the freeing of rice exports, most major agricultural commodities were subject to some form of NTB or export canalization by a parastatal. A number of major agricultural products were also subject to export licensing in Pakistan. These export NTB are in direct contravention of the GATT Article XI, according to which WTO members agreed to eliminate export as well as import prohibitions and restrictions. This general position was strengthened in the Round by the provision that "export restrictions" include "restrictions made effective by state trading operations". On the other hand, exports channeled through export monopolies are recognized by the GATT, provided that they are made in accordance with commercial principles and do not discriminate between buyers and markets. Thus restrictions such as licensing over the activities of independent exporters are unambiguously GATT-illegal, whereas some – albeit uncertain – legal cover is available to shelter parastatal export monopolies. In both cases, however, the mercantilist nature of the GATT process makes it unlikely that either of these ways of restricting exports and depressing domestic prices will be challenged since competing exporters have no motive to challenge another country which voluntarily removes itself from, or diminishes its role in, export competition. Importers are also unlikely to object unless the effect is to perceptibly raise world prices or reduce availability. For these reasons the GATT and the Agreement are unlikely, in practice, to constrain the continued use of these distortionary policy instruments and, by the same argument, there would probably not be much GATT resistance to the introduction of new export controls or to the expansion of export canalization. In addition, it is relevant to note here that it will fortunately not be GATT-legal for the South Asian countries to move in the other direction and offset or partly offset direct taxation of agricultural exports by subsidizing the exports of some agricultural products, owing to the zero export subsidy commitments made during the Round. In this regard,

the subsidies currently being paid to exporters under India's SIL (Special Import License) arrangement are probably breaching its zero export subsidy commitment insofar as the products exported are covered by the Agreement.³

(c) *Agriculture and import protection.* It is apparent from the previous description of the commitments undertaken by the South Asian countries in the Round that they have made sure that they will have plenty of room to protect their domestic markets if they wish. In India, for example, there are a number of lines of defense against agricultural imports: firstly, the use of QR under GATT Article XVIII:B; secondly, very high ceiling bindings over most products, and thirdly, the parastatal import monopolies. The high ceiling bindings leave India the possibility, if it wishes, to introduce tariff quotas and *de facto* import licensing, by setting a prohibitive tariff and a lower within-quota tariff at which applications to import would be rationed by licensing. The high ceiling bindings also leave considerable scope for the parastatal import monopolies to push domestic prices above world prices by limiting their imports, and there is nothing in the GATT or the Agreement which would prevent India from canalizing new products. There is also scope for price band schemes with variable tariffs aimed at stabilizing domestic prices. Similar possibilities for increased import protection exist in Pakistan, Bangladesh and Sri Lanka, although the scope is much less in Sri Lanka owing to its lower ceiling bindings of 50 percent. In addition, in India GATT-compatible anti-dumping and anti-subsidies legislation is in place, and the introduction of safeguards legislation was foreshadowed in the 1997/98 budget. Since 1993, 41 anti-dumping cases have been initiated. All of these have involved industrial goods which, following the reforms, have lost their previous QR protection and are now subject to much lower tariffs than previously. This process could be extended to agricultural products if other means of protecting them are lifted, and could be used in the other South Asian countries. So far there has been no anti-dumping activity in these countries, probably, at least partly, because of the large number of unbound industrial tariffs and the very high levels of most of the agricultural ceiling bindings. Despite this, it is significant that the introduction of a GATT-compatible anti-dumping law is currently being discussed in Pakistan. These procedures, with their *ad hocism*, ideas of "fair competition", their nexus with local lobbies, and complex legalistic procedures, fit in very well with the operating modes and mind-sets of the bureaucracies that have traditionally run the South Asian import licensing systems, and as the recent Indian experience is showing, are likely to proliferate as other ways of protecting domestic markets are reduced.

³ SIL are import licenses which permit the import of limited quantities of otherwise banned or QR-restricted products. They have a market value and can be traded. The SIL entitlement and hence the subsidy rate is higher for fruits, vegetables and horticultural products.

Nevertheless the Round and its implementation is likely to limit the possibilities for increased protection of these markets in some ways. First, as already noted, the balance of payments loophole for QR has already been closed for Sri Lanka, and if the Indian QR are phased out and India disinvokes Article XVIII:B it is likely that the past unrestricted use of QR in the subcontinent that existed under the old regime will disappear. Second, even though many of the ceiling bindings are extremely high, in some cases they will truncate extremes of high protection that have been observed in the past. For example, in India in the late 1980s implicit protection of coconut oil went even higher than the Uruguay Round ceiling binding of 300 percent. Sri Lanka's ceiling binding of 50 percent for most products will be particularly effective in this regard. Third, the standard GATT bargaining process has proved effective in getting India to set much lower ceiling bindings than its general level for about 16 percent of its agricultural tariff lines (see Table 8.2). It is reasonable to suppose that determined bargaining by interested countries should be able to extend the Indian list, and to obtain similar concessions in the other South Asian countries. Finally, less important in the short and medium run but extremely significant for the longer run, the South Asian countries' zero export subsidy commitments will constrain domestic prices from being pushed up to the extent that surpluses are generated that can only be profitably exported with export subsidies, either in the form of direct payments to exporters or in the form of cross subsidization by parastatals such as the Food Corporation of India.

8.4.2 The future: domestic support and stabilization policies and the AMS

Price support policies exist in some form for nearly all major South Asian primary commodities, and are especially important for rice and wheat. Buffer stocks and direct controls over imports and exports have also been used to stabilize domestic prices. In India, domestic rice, wheat, pulses and sugar prices have been much more stable than international prices, but the domestic prices of most other major crops – including coarse grains and oilseeds – have fluctuated just as much, or in some cases more, than international prices, despite the measures taken to insulate their domestic markets from world markets. In India, with the exception of rice, wheat and sugar, the support price schemes are not operative in most years, because the support prices are *minima* which are set well below market prices, in addition to which the price support organizations do not always intervene when market prices for some commodities (e.g. certain coarse grains) fall below support prices in local markets. Nevertheless, the existence of minimum support prices is extremely important politically, and the South Asian countries will certainly wish to continue using them.

As described above, the South Asian countries have no support reduction commitments, but on the other hand are required to ensure that their Current AMS values do not exceed *de minimis* levels during the implementation period, i.e. until 2004. As a matter of fact, with a zero AMS commitment, no individual product can have more support than at the *de minimis* level, as aggregation across products (into a sector-wide AMS) would otherwise result in a non-zero Current Total AMS. As a "least developed country", Bangladesh is not required to undertake any reduction commitments, and did not submit any base period AMS estimates. The first Current Total AMS estimates were supposed to have been submitted to the Committee on Agriculture in September 1996, but as of May 1997 none of the South Asian members had done so. This delay is reported to be in part to accommodate lags in the availability of statistics and varying fiscal and crop years, but it may also be that countries are now having to deal with some of the difficulties of the AMS concept, which does not appear to be well understood in South Asia. Some of the issues which will concern them, and other more general issues are discussed below.

Inflation, devaluation and changing world commodity prices. The most difficult and basic of these is the requirement that the key comparisons of the Current AMS with the base AMS are in nominal prices as regards commodity-specific support, with no allowance for inflation, changing exchange rates or changing world prices. That this is not well understood in South Asia is apparent from two studies⁴ which follow economic logic rather than the Agreement text, and incorrectly estimate Current AMS values for commodity support by comparing domestic support prices with border prices prevailing during the same period, rather than the 1986-88 average reference prices notified in the Uruguay Round AMS supporting tables, all of which were expressed in domestic currencies. South Asian inflation has generally been quite modest by the standards of some other developing countries, but the cumulative effect over even relative short periods has been considerable.

If the Current AMS turns out to be greater than allowable *de minimis* support, in theory they would then be obliged to reduce it by cutting or abolishing support prices, cutting back on input and other subsidies if, in the aggregate, these exceed the *de minimis* level, or replacing "amber" measures which are counted in the AMS with "green box"⁵ measures which are excluded. This brings out a basic problem with the AMS approach, which is that there is absolutely no economic basis for the use of historical border prices to indicate the appropriate direction of

⁴ Gulati and Sharma (1994) on India and Qureshi (1996) on Pakistan.

⁵ None of the South Asian countries have "blue box" measures which support the selling price of a product or otherwise subsidize its production, provided the producers undertake some production or capacity limiting commitments.

changes in current domestic support prices. Some recognition of this is in the Agreement on Agriculture (Article 18:4) which may suggest the possibility of making the base AMS calculations in a foreign currency (as some other countries have done in their supporting tables and Schedules). However this was not done by the South Asian countries, and from a GATT legal point of view it is questionable whether countries, having opted for one method, can change that method and use a different one in the Current AMS notifications. On the other hand, if they do not, the resulting Current AMS for domestic support will give economically meaningless results.

This brings out another issue which is independent of the inflation/devaluation problem, namely the possibility that the AMS levels of some commodities could go above zero just because domestic administered prices are adjusted upwards along with rising world prices. This is true of a number of Indian support prices, which were in the general region of border prices during the base period and have since increased with, but not exceeded world prices. Given the existence of support prices, this link to and approximate equality with world prices is desirable economically, but even without Rupee devaluation and inflation, the product support AMS would as a result go above zero and, subject to the *de minimis* rule, trigger downward adjustments in support prices and in agricultural incentives, insofar as the support prices actually influence market prices.

Of course all of the three difficulties in the application of the AMS rules discussed above would go away if there were no support prices and domestic agricultural markets were protected solely by tariffs and/or STE import monopolies. In that case the product-specific AMS would be zero regardless of the tariff or of the tariff-equivalent of the STE operations, provided there were no other interventions, especially by the STE, that could be interpreted as price support or administered pricing.

Regardless of the possibilities of supporting and stabilizing domestic prices in alternative ways in order to meet the AMS constraints, it is unlikely that the South Asian countries would be willing in the near future to give up their price support policies, certainly not for wheat and rice, nor for the majority of commodities for which, in most years, the support prices are well below market prices and there are no, or very small, purchases. In the first case, current policies, especially in India, are tied in with long established policies on food security and have the support of powerful farmer lobbies and entrenched bureaucracies. In the second case, the support prices are perceived to be important guarantees to farmers against generally low prices, and (more important in practice) against low prices in local markets that may result from localized events such as transport bottlenecks during large local harvests. All this means that, from the South Asian viewpoint, some way will need to be found around the apparent impasse to the AMS process which would result from the use of nominal base year reference prices. A simple partial solution

which would handle the inflation and exchange rate problems, but not the problem of changing world prices, would be to express both the Current AMS and the original base AMS calculations in US dollars. By definition, this would mean revisiting the base AMS notifications, especially the reference prices that were used, but this is likely to involve a separate set of issues.

How reliable are the base period notifications? "Dirty AMSification"? In preparing their Uruguay Round base period AMS tables, insofar as they wished to protect their policies from GATT constraints, the South Asian countries like everybody else had a motive to maximize their base period AMS estimates. A check on the base period reference prices reported in the Indian supporting tables reveals that they were, very considerably, overstated. In addition, Gulati and Sharma (1996) point out that there is at least one egregious error, in that the domestic support prices of seed cotton (kapas) are compared with the border prices of cotton lint! It is possible that errors such as this may just reflect lack of expertise or lack of understanding of the significance of the base AMS estimates, but it is also possible that during the Round, India, unconsciously, or consciously followed the dubious example of the major developed countries, which allowed each other to cheat ("dirty tariffication") in quantifying their agricultural non-tariff barriers.

8.5 Conclusions

General policies of economic and trade liberalization during the 1980s and the first half of the 1990s have greatly improved the situation of South Asian agriculture, both by reducing the formerly very high levels of generalized anti-agricultural discrimination and by reducing the dispersion of agricultural incentives. Despite the South Asian countries' very cautious commitments during the Uruguay Round, the new regime offers opportunities to both domestic reformers and the WTO community to further the liberalization process, and to keep policies from regressing back to the old patterns of anti-agricultural discrimination, or in the other direction towards agricultural protectionism of the kind that exists in some of the major developed countries. These opportunities can be grouped into general GATT rules and commitments which affect manufacturing, and those which principally impinge on agriculture.

As regards the first group, the immediate issue which is by far the most important, is the routine use of QR by India under GATT Article XVIII:B. Unless an agreement is reached on phasing these out in a relatively short period, India's commitments on non-agricultural tariffs and its commitment to a tariff-only regime for agriculture will be practically meaningless, especially if it reserves the right to routinely extend import licensing and other QR to previously uncontrolled

products, as was its practice before 1991. In terms of the criteria in the Round Understanding⁶ on the balance of payments exception, India would have had a case for imposing temporary QR during its balance of payments crisis of mid-1991, but its payments position has been strong since that time and effectively managed by fiscal, monetary and exchange rate policies. If Article XVIII:B is to have any teeth at all under the new WTO regime, it is essential that India be persuaded to disinvoke these QR. This would be a very strong precedent for Pakistan to follow suit. It would also be in Bangladesh's economic interest to help tie in its presently almost QR-free trade regime by doing the same, even though its "least developed" status in the GATT might allow it to keep the right to use QR in reserve.

Among other things, giving up their past permanent use of the balance of payments exception as legal cover for QR, will help protect the South Asian countries' agriculture sectors against the reemergence of the old high levels of anti-agricultural bias which resulted from QR protection of their manufacturing sectors. But this will need to be supplemented by binding the very large number of non-agricultural tariff lines which at present are unbound. In India, most of these are consumer goods including processed agricultural products which are presently subject to India's general consumer good import ban. Assuming that these balance of payments justified QR will be lifted in the near future, potential exporters to India have an interest to negotiate with India (and with the other South Asian countries) to ensure that high unbound tariffs do not block their exports.

A third set of general protective instruments in South Asia which should be of concern to both local liberalizers and to WTO members, are the various ad hoc measures, especially anti-dumping and local content programs, which are capable of providing very high levels of protection, and which are now being routinely used in India. The Indian use of these measures is likely to strengthen arguments for introducing them or using them more widely in the other South Asian countries, especially in Pakistan. There are strong arguments, but not much time, for persuading Pakistan, Bangladesh, Sri Lanka and Nepal when it accedes, to abjure the use of all these measures, or to just use the safeguards mechanism.⁷

⁶ Understanding on the Balance-of-Payments Provisions of the General Agreement on Tariffs and Trade 1994. Among other things, this states that "Members confirm their commitment to announce publicly, as soon as possible, time-schedules for the removal of restrictive import measures taken for balance-of-payments purposes".

⁷ On this see Finger (1993) and Hoekman (1995).

The new WTO regime also provides a number of liberalizing opportunities which are more specific to agriculture. These are:

- Negotiating, in the next round of agricultural talks, with India, Pakistan and Bangladesh to bring down their present extremely high and often prohibitive ceiling tariff bindings for agricultural products. Sri Lanka's general rate of 50 percent could serve as an interim target. In the same vein, it would be a mistake to agree to Nepal's accession at the high ceiling bindings presently prevailing in India, Pakistan and Bangladesh.
- Paying careful attention to how STE are used, especially in India. It has been suggested that STE operating as import monopolies for agricultural products could be considered to be, by their nature, QR and therefore GATT-illegal under the Agreement on Agriculture. Assuming that such a determination is unlikely, the restrictiveness of STE could nevertheless be limited by monitoring their behavior to ensure that their resale margins do not exceed bound tariffs, or if they do not import at all, that the implicit protection which results is below bound tariffs. It might also be possible to negotiate general standstill agreements with India and the other South Asian countries that preclude extending the scope of STE beyond the products at present subject to their influence or control.
- The zero export subsidy commitment of the South Asian countries with respect to Agreement products is of major significance, because it, in principle, sets a limit to domestic support or subsidies that would generate exportable surpluses. However, it needs to be monitored and implemented. Although they are minor in scope and effect, India's present SIL import license scheme which is available to exporters of Agreement products, is probably violating this commitment. If so, this ought at least to be recognized and noted at the WTO.
- As regards price support, the original negative AMS calculations of the South Asian countries means that they are committed to keeping their Current AMS at *de minimis* or below during the implementation period. But what this implies for their support price policies is poorly understood in South Asia, and the confusion is exacerbated by the inherent lack of economic logic of the AMS mechanism. In addition there is evidence of "dirty AMSification" along the lines of the "dirty tariffication" practiced by the EU and other developed countries during the Round. It will be important to clarify this situation during the next round of negotiations. One partial solution might be to retroactively revise the whole AMS mechanism by allowing countries to submit Current AMS estimates and revised base AMS estimates in US dollars or some other low inflation currency. But revisiting the base

submissions in this way would logically also involve checking the validity of the reference prices, and also the validity of the related calculations.

- By contrast, the input subsidies provided by the South Asian countries are well below the AMS *de minimis* limit of 10 percent, mainly because the largest and most distorting subsidy, the failure to capture any of the capital costs of canal irrigation, is excluded from the subsidy definition. The subsidies included by the South Asian countries in the "green" and SDT boxes are small in comparison with the major general agricultural input subsidies and would not make much difference to the AMS even if they were included. Overall, this aspect of the AMS at its present *de minimis* rate will not provide any external constraint to the level and structure of the highly distorting input subsidies which exist in South Asian agriculture. To have any impact, the capital cost of the canal irrigation subsidies would have to be included, the *de minimis* rate reduced, and agreement reached on the interpretation of "low income or resource poor" producers in these countries.

Table 8.1 Some Major Agricultural Commodities: Import QR, Tariffs and Tariff Bindings in South Asia in 1996 or 1997

	India April 1997			Pakistan April 1997			Bangladesh 1996			Sri Lanka April 1997			Nepal	
	QR status	Applied tariff	Bound tariff	QR status	Applied tariff	Bound tariff	QR status	Applied tariff	Bound tariff	QR status	Applied tariff	Bound tariff	QR status	Applied tariff
Paddy	QR(C)	0	0	F	25	100	F	0	50	F	35	50	F	0
Common rice	QR(C)	0	0	F	25	100	F	0	200	F	35	50	F	0
Basmati rice	QR(C)	0	0	F	25	100	F	0	200	F	35	50	F	0
Soft wheat	QR(C)	0	100	F	0	150	F	7.5	200	QR(C)	0	50	F	0
Hard wheat	QR(C)	0	100	F	0	150	F	7.5	200	QR(C)	0	50	F	0
Wheat flours	QR	32	150	F	10	100	F	15	200	QR(C)	0	50	F	0
Oilseeds	QR(C)	42	100	F	10/25/45	100	F	7.5/22.5	200/50	F	35/20	50	F	0
Edible oils	F/QR(C)	22/32	45/300	QR(C)/F	45/5/25	100	F/QR	30/45	200	F	15	50	F	10
Oil cakes and meals	QR(C)	42	150	F	25	100	F	15	200	F	10	50	F	5
Non-edible oils from seeds	QR(C)	32	300/100	F	45	100	F	30/45	200	F	35	50/R	F	10/20
Coarse grains	QR(C)	0	0/100	F/QR	25	100	F	0	200	F	35	50	F	0
Coarse grain flours	QR	42	150	F	10	100	F	15	200	F	35	50	F	0
Pulses	F	7	100	F	0	100	F	45	200	F	35	R	F	0

Table 8.1 continued

	India April 1997			Pakistan April 1997			Bangladesh 1996			Sri Lanka April 1997			Nepal	
	QR status	Applied tariff	Bound tariff	QR status	Applied tariff	Bound tariff	QR status	Applied tariff	Bound tariff	QR status	Applied tariff	Bound tariff	QR status	Applied tariff
Live animals	QR/F	0/22/42	100	QR	25/10/15/45	100	F/QR	7.5/30	200/50	F	10/0/35	R	F	0
Meat	QR	12	55/150	QR	15/45	100	F/QR	30	200	F	35	R	F	20
Hides and skins	F	0	25	F	10/0	100	F	7.5	200	F	10	R	F	5
Leather	F	0	25	F	15/10/0	100	F	7.5	200	F	10/20	R	F	10
Milk and cream	QR	0/32	100	F	0-45	100	F/QR	45	200	F	20/10	R	F	10
Other dairy products	QR/F	32	0/40/100/150	F	35/0	100	F	45	200	F	35	R	F	10
Vegetables	QR	12	100/35	F	35/0	100	F	30/0/15/45	200	F	35	50/R	F	0
Fruits	QR	42/32	100/30/55	F	45/0	100	F	30/45	200	F	35	50/R	F	0
Sugar	F	0	150	F	10	150	QR(C)	30	200	F	23	50	F	10
Cotton	F	0	150	F	10	100	F	0	200	F	10	R	F	0
Wood and wood products (O)	F	0-32	25-40	F	0-45	50	F	7.5/15/30	n.b.	F	0/10	n.b.	F	20
Fish and marine products (O)	QR	12	n.b.	F	45/35	n.b.	F	0/30	n.b./50	F	10/0	50/R	F	0
Spices (cassia, cinnamon, cloves)	QR(C)	32	100/150	F	35	100	F	30/45	200	F	35	50	F	20
Spices (other)	QR	32	150/100/35	F	0-45	100	F	45	200	F	35	50	F	5/20

Table 8.1 continued

	India April 1997			Pakistan April 1997			Bangladesh 1996			Sri Lanka April 1997			Nepal	
	QR status	Applied tariff	Bound tariff	QR status	Applied tariff	Bound tariff	QR status	Applied tariff	Bound tariff	QR status	Applied tariff	Bound tariff	QR status	Applied tariff
Tea	QR	12	150	F	45	150	F	45	50/200	F	35	50	F	20
Raw tobacco	QR	42	100	F	45	100	F	15	200	F	75	R	F	10
Natural rubber (O)	QR	22	25	F	10	n.b.	F	22.5	n.b.	F	10	n.b.	F	5
Coffee beans, processed coffee	QR	12	100/150	F	45	100	F	45	200	F	35	50/n.b.	F	40
Cocoa beans/processed cocoa	QR(C)/F	42/32	100/150	F	25/35/45	100	F	45/22.5	200	F	35	50/n.b.	F	40
Jute (O)	F	0	40	F	25	n.b.	F	30	50	F	10	n.b.	F	5/20
Sisal, coir (O)	F/QR	32	40	F	25	n.b.	F	30	n.b.	F	10/35	n.b.	F	10
Flax, hemp	F	22/32	100	F	25	100/n.b.	F	30	200	F	10	50	F	10
Greasy wool	F	12	25	F	10	30	F	0	200	F	10	50	F	10/20
Raw silk	QR	32	100	F	25	100	F	0	200	F	20	50	F	5

Source: Tariffs: Customs Tariff Schedules

QR status: For India: Ministry of Commerce, ITC (HS) *Classification of Export and Import Items, April 1997- March 2002*. For Pakistan: Qureshi (1996) and *The Import Policy Order, 1996-97*. Tariq Najib Corp., Lahore. Bangladesh, Sri Lanka and Nepal: Chaudhury et al (1996), Athukorala and Kelegama (1996) and Pant (1996) supplemented by information from World Bank files. Tariff Bindings: Uruguay Round country schedules (15 April 1994) vols. 4,5,6 and 26.

Notes:

The products in this Table account for more than 90 percent of rural GDP in each of the five countries. They are listed in approximate order of the value of their production in India. Their relative importance in the other four countries is generally not the same as in India. Related products with differing QR statuses or tariffs are grouped as indicated.

QR there is some form of quantitative restriction.

QR(C) the restriction has been judged to fall within the Uruguay Round definition of state trading, usually in the form of a parastatal import monopoly, or in a few cases a private import monopoly enforced by the government. Not all of these apparent cases of state trading have been notified as such to the WTO, however.

F trade is free of quantitative restrictions as defined in the GATT, except for a few cases of tariff quotas.

When some products under a general heading are subject to QR and some are free, the status of the most important or the largest number is indicated first. Tariffs are indicated following the same principle. Tariffs separated by commas indicate the rates for different tariff lines under a general heading. Tariffs separated by a hyphen indicate a number of rates between the indicated minimum and maximum. The tariffs shown are for imports intended for consumption, not for imports of seeds or cuttings etc. intended for planting. In India tariffs on the latter are generally zero, and in many cases are also exempt or lower than the general level in the other countries. The rates shown are those actually applicable at the indicated dates. These are sometimes lower than the rates given in the official tariff schedules owing to exemptions or partial exemptions.

(O) Products not covered by the Uruguay Round Agreement on Agriculture.

n.b. Tariffs which are not bound.

R Tariff bindings being renegotiated under GATT Article XXVIII.

In Sri Lanka rice imports are subject to a tariff quota scheme under which licenses are allocated to traders which allow them to import at tariffs below the scheduled level. The zero rates for wheat and wheat flour are those applied in connection with the *de facto* state trading arrangements for these products, and are lower than the "official rates" of 20 and 35 percent respectively.

Sugar and milk imports are subject to a variable tariffs aimed at maintaining "remunerative" domestic prices. See Athukorala and Kelegama (1996).

Apart from this arrangement none of the five countries appear to use tariff quotas, and no tariff quotas were listed in their Uruguay Round Schedules. The Bound tariffs are the rates that will apply in 2004, at the end of the implementation period. Except for India, practically all of these also applied at the beginning of the implementation period, i.e. in 1995. A number of the Indian bindings are being reduced in stages from initially higher base period levels (see discussion in the text).

Table 8.2 Uruguay Round Tariff Bindings in South Asia: Agricultural Agreement Products

Agricultural schedule tariff lines	India	Pakistan	Bangladesh	Sri Lanka
Distribution of 673 lines				
Specific tariff	0.3	0.0	0.0	0.0
300%	3.9	0.0	0.0	0.0
200%	0.0	0.1	98.1	0.0
150%	33.1	1.2	0.0	0.0
100%	46.5	98.0	0.0	0.0
< 100%	16.2	0.7	1.9	94.5
Being renegotiated	0.0	0.0	0.0	5.5
Total	100.0	100.0	100.0	100.0
Bound rates: simple average	114.8	100.5	197.1	50.0
Average of rates < 100%	39.3	30.0	50.0	50.0

Source: From the Uruguay Round country schedule Part 1, Section t, Agricultural Products.

The bindings are those that will be in effect at the end of the implementation period in 2004. Except for five Bangladesh tariff lines, in Pakistan, Bangladesh, and Sri Lanka, all these bindings became effective at the beginning of the implementation period. But about a third of the Indian bindings are being reduced in stages from higher base levels than the end-of-period bindings summarized in this table. The percentage shown in the Table assume that the total number of Agricultural Agreement tariff lines in Pakistan, Bangladesh, and Sri Lanka is the same as in India (673).

9 Latin America

9.1 Introduction

This chapter examines the ways in which countries in Latin America are implementing the Uruguay Round Agreement (URA) on agriculture. The chapter examines the nature of the domestic trade policy reforms which have taken place in the region since about 1990, and documents the current status of tariffs and quantitative restrictions (QR) and the commitments by these countries under the URA. Under the impetus for broad based economic reforms, Latin America has implemented profound reforms in its trade regime. In fact, unilateral reforms in the region have proceeded further than is required by the Agreement and Latin America therefore emerged from the negotiations with relatively few mandated policy changes.

9.2 Trade Liberalization Initiatives

In a departure from past policies, over the last ten years the majority of countries in Latin America (LAC) have implemented a series of trade reforms which have amounted to a significant liberalization of trade, including agricultural exports and imports. Trade liberalization has been implemented in a larger context of structural reform which has included privatization, deregulation, macroeconomic stabilization, and a redefining of the role of the state. And although practically all the liberalization programs in the region were initiated unilaterally, trade reform would soon become an integral part of the new regional and bilateral integration arrangements that were launched in the early 1990s.

The process of trade liberalization in the LAC region predates the Uruguay Round, beginning in Chile in 1975, and followed by Bolivia and Mexico in the period from 1985 to 1988. These were the early reformers. Argentina, Brazil, Colombia, Costa Rica, El Salvador, Peru, and Uruguay initiated trade reform programs in the early 1990s, while Venezuela, Jamaica, and Trinidad and Tobago have begun the reform process only recently (Rajapatirana 1997).

On the import side, arguably the most important aspect of the trade liberalization program has been the replacement of most QR with tariffs, and a reduction in the number and level of tariffs. On the export side, the removal of export taxes, quotas, and licenses has been the central

policies of the liberalization process. In most of these countries the reform process was implemented across-the-board, not limited to particular sectors or activities. The advice and support received from the World Bank, InterAmerican Development Bank, and International Monetary Fund, against the backdrop of the ongoing Uruguay Round negotiations, loaned considerable direction and encouragement to reformers in the region during the early 1990s.

In previous GATT rounds, a number of LAC were not yet members of GATT, and among those who were members, the emphasis was on seeking preferential treatment for their exports to developed country markets, while resisting any requirements that they liberalize policies toward imports - a negotiating position very much in keeping with the import-substitution strategy they were pursuing. The Uruguay Round negotiations signaled a dramatic reversal of this position, with several LAC taking a very pro-active role in the negotiations, and welcoming dialogue, particularly on agriculture. Latin America in general consists of a number of efficient agricultural producers which are active in agricultural export markets. By 1994 some thirty LAC, almost the entire region, were members of GATT and expressly committed to a multilateral system. The impetus of the negotiations on agriculture came from the Latin American members of the Cairns Group, Argentina, Brazil, Chile, Colombia, and Uruguay. But more generally, there was an interest in linking domestic across-the-board liberalization strategies with multilateral negotiations in order to obtain tariff reductions and an end to nontariff barriers (NTB) on exports to OECD countries. Accordingly, many countries in the region were prepared to make significant concessions in the URA locking in their unilateral trade liberalization. Though many other countries in other parts of the world maintained a significant share of unbound tariffs on non-agricultural products, eight LAC (Argentina, Brazil, Chile, Colombia, Jamaica, Mexico, Peru, and Venezuela) bound tariffs on 100 percent of their imports under the Uruguay Round Agreement (Rajapatirana 1997). In the seventeen major LAC countries examined by Carson (1997) now 100 percent of all agricultural tariffs are bound.

The pace and degree of liberalization, of course, varies among the countries in the region. Bolivia, Chile, and Colombia maintain the lowest average tariffs. Argentina, Brazil, Mexico, Peru, El Salvador, and Uruguay fall into the middle group, while Venezuela and Jamaica, among others, continue to maintain more QR on imports.

The majority of countries in the region now belong to regional integration arrangements (RIA), in particular Mercosur, the Andean Pact, the Central American Common Market, the Caribbean Community, the North American Free Trade Agreement, the Latin American Integration Association. There is also a wide network of bilateral arrangements, such as those between Chile and Mexico, and between Colombia and Venezuela. The ambitious Initiative of the

Americas seeks to eliminate all trade barriers between Alaska and Patagonia by 2005, although little progress has been made in negotiations to date. Most analysts agree that the existing RIA have oriented trade liberalization outward, beyond unilateral programs. To date, the new RIA have for the most part not raised trade barriers against nonmembers, and have complemented integration efforts among their members by encouraging joint reforms in financial services, foreign investment, and infrastructure investment. The bulk of trade reform that has already taken place has been economy wide, and the pace of further liberalization of agricultural trade in the region is likely to be determined largely by these RIA. A characteristic of RIA in the LAC region is that they have all included agriculture.

9.3 Market Access Commitments: Tariffs and QR on Agricultural Products

By 1993 most countries in the region had implemented a bold program of unilateral trade liberalization, eliminating most QR on agricultural imports, removing taxes, quotas, and licenses on exports, and dramatically reducing or eliminating state trading in agricultural trade.

In their commitments under the Uruguay Round Agreement (URA), an overwhelming majority of the countries in the LAC region have adopted the "ceiling bindings" modality, in which a binding level was proposed for previously unbound tariffs, and where the new tariff bindings were not necessarily related to base period levels of protection. Most of these countries had already removed explicit quotas and licenses in their unilateral reforms, and by 1995 all agricultural tariffs in the seventeen LAC countries considered here were bound under the URA.

Proper "tariffication" under the URA (that is where existing nontariff measures were previously in place) took place in only seven of the seventeen major LAC countries examined. This led to the establishment of about 200 tariff rate quotas (TRQ) under minimum access requirements (Carson 1997). The majority of these new TRQ were, however, introduced in only two countries. And even among the seven countries that tariffied existing barriers, less than 20 percent of agricultural products were tariffied, while the rest were covered by ceiling bindings. Thus, minimum access provisions do not apply to most countries in the region as they opted for ceiling bindings, and most importantly, they also have no recourse to the special safeguard provision because that is available only for products that were tariffied.

Table 9.1 presents the base period tariffs and the bound tariff commitments for the first year of the implementation period of eight countries for their principal agricultural products. The base tariff is the tariff equivalent that prevailed during the base period (1986-88) as it was reported to

the GATT by the governments. The bound tariff is the ceiling applied to imports at the beginning of the implementation period as committed under the URA. Argentina, Chile, the Dominican Republic, and Paraguay offered bindings lower than or equal to 40 percent, while Brazil and Uruguay chose somewhat higher bindings, for some products at about 55 percent. In many cases, tariff bound levels are significantly below those used in the base period. Overall, this commitment to relatively low tariff bindings will impose considerable discipline against any inclination to reinstate higher levels of protection in the future. Colombia followed a different strategy, allowing itself considerable flexibility to raise tariffs by binding exceptionally high tariffs, many of them in the order of 125 percent and even higher. It should be noted that although members of Mercosur currently have a common external tariff, their commitments under the URA were made on a country-by-country basis.

9.4 Implementation of Tariffs

With few exceptions these countries have not, so far, applied the maximum tariffs to which they are legally entitled. In contrast to South Asia, where state import monopolies continue to create mark-ups between border prices and domestic prices, the practice has virtually disappeared in Latin America. The removal of state trading of agricultural imports was an important dimension of the unilateral economic reforms made before the conclusion of the URA, and it will hopefully remain in effect. State trading will presumably come under close scrutiny in future WTO negotiations, and this should reduce the risk of policy reversals to the common practices prior to the 1990s.

Nevertheless, constraints on the use of QR have created pressures for new contingent measures against imports. Technical barriers to trade, sanitary and phytosanitary measures, and antidumping and countervailing duties can be imposed at least occasionally in a fashion that provides some protection from imports. Two other methods of contingent protection appear to be specific to the region and deserve special attention: minimum customs values, and a fluctuating tariff that is applied as part of price stabilization schemes (such as price bands).

Box - The Sequence of Unilateral Trade Liberalization in Brazil

Before 1989, quantitative restrictions were a dominant feature in agricultural trade in Brazil. Import and export licences and quotas, embargoes on exports, imports by state agencies were all part of the battery of the prevailing trade restrictions. In 1989, most quantitative restrictions on agricultural products were removed, and in 1990 the administration of President Collor removed QR on all traded goods and an across-the-board reform to reduce tariff rates was initiated. The average tariff on agricultural and processed goods was reduced from an average of 62 percent to 12 percent, ranging from 0 percent on cotton, and edible beans to 10 percent on most other products except powder milk (at 32 percent). All three marketing boards for coffee, sugar and wheat were closed down, state monopolies on trade for these products was eliminated and government procurement was handled through private traders.

During the same period, and largely as result of fiscal pressures, public expenditures in agriculture were reduced from 4.2 percent of agricultural GDP in 1986 to 1.7 percent in 1991. Credit allocations to agriculture from state-owned banks and other official sources were reduced drastically during the same period. The only items which have experienced an increase in government expenditures between 1986 and 1996 have been rural education, agrarian reform, and natural resource management.

The process of tariff reductions continued under the Mercosur Treaty, and a final common external tariff schedule (CET) for agricultural products was established ranging from 6 percent to 20 percent. The CET for selected products at the end of the transition period are: 10 percent for wheat, rice, soybean oil, and all meat products; 8 percent for maize, soybean, and barley; and 16 percent for sugar, butter, cheese, and milk powder.

Increasing trade at lower tariffs amongst Mercosur members made Brazil's minimum farm price support program unsustainable at the historic support levels, and this program is being phased out. Government purchases of soybeans and cotton were eliminated and purchases of staples such as rice, edible beans, maize and manioc flour were significantly reduced, and the option of the marketing loan under the Federal Government Loan Program allowing the sale of crops to the government was eliminated. During the transition period, small farmers have benefitted from a special program consisting of a minimum price guarantee program and a subsidized price insurance program.

Source: Lopes (1997)

Developing countries are granted a five year period in which they are permitted to continue to use minimum customs values, under which the prevailing ad valorem tariff is applied to the (higher) pre-determined minimum value rather than the (lower) actual border price (Low, 1997, p.17). During this period they are probably less inclined to use contingency measures against imports. Chile for example has in place a minimum customs value scheme in which the Commission on Trade Distortions submits a proposed price to be approved by the President of the Republic, which can remain in place for a maximum of one year. The scheme was applied to milk powder, rice, wheat flour, and corn before December 1995 but has not been applied since. In compliance with an agreement with the WTO, the government has announced that the scheme will be eliminated in the year 2000.

The variable import tariff scheme (price band) is a contentious domestic and international issue in Latin America. Under the new rules and commitments accepted in the URA, duties charged under price bands are legal only when the sum of the basic tariff and the surcharge does not exceed the bound tariff level; that is, the price band mechanism can be interpreted as merely an ordinary custom duty (i.e. a tariff), albeit one that changes often due to changes in border prices. Under the price band agreements in operation, the floor and ceiling prices are established based on the moving average of a world reference price after eliminating the top and bottom (say 15 percent) of the price distribution (Cordeu, Valdes, and Silva 1997). However, given that the specific duty is charged according to the difference between the domestic price band and the c.i.f. price of each shipment, it could happen that imports from different countries (with different c.i.f. prices) are charged different tariffs, possibly amounting to discriminatory treatment - a violation of the most favored nation clause (Article I of the GATT 1994). No legal judgment can be made at this stage about the consistency of such a price band with the Agreement on Agriculture and other GATT rules. But unless the scheme is applied with sufficient transparency, which has not always been the case, there are clearly potential legal problems on the horizon. The United States has already publicly expressed its concerns about the possible protective effects of such schemes in Latin America.

Balance of payments provisions also have the potential to restrain imports. GATT Article XVIII:B allows the use of quantitative restrictions to avert a payment crisis. However, the member countries of the WTO collectively monitor and discourage the use of such measures, particularly among middle income countries, and at any rate the application of such restrictions would be contrary to unilateral reforms these LAC countries have already made. Thus, none of the seventeen LAC countries examined apply them (Carson 1997).

Low (1997) reported that the use of antidumping, countervailing action, and the general safeguard has not at all been prevalent in the region; attributing this in part to the existence of other trade measures that were available in the past. Now, with the removal of most QR, there is likely to be more use of such measures. However, the risk of retaliation by larger economies and the option to use minimum customs values for five years reduces the pressure to use contingency measures. Moreover, the "peace clause" may guard against excessive use of these measures.

9.5 Export Subsidies

Latin American countries have, for the most part, refrained from using agricultural export subsidies. Only two or three countries in the region maintain any significant level of export subsidies, and only five declared in their schedules that they had subsidized agricultural exports in the base period (for a total of US\$1.2 billion) and submitted 25 percent reduction commitments. These are Brazil (sugar, fruits, and vegetables), Colombia (rice, cotton, and fruits), Mexico (mainly sugar), Venezuela (rice and coarse grains), and Uruguay (rice and butter). These subsidies were a significant share of the value of agricultural exports only in Colombia and Mexico (29 and 14 percent respectively) during the base period. Sugar accounted for 52 percent and cereals for 23 percent of the total agricultural subsidy in the five countries listed (Konandreas and Greenfield, 1997).

Budget austerity requirements at the macroeconomic level greatly reduce the possibility of subsidizing exports in Latin America, at least during the next three to four years. Moreover, export subsidies would run counter to the zero commitments of most LAC countries under the Agreement. However, concessions to developing countries permitting the use of subsidies to reduce export marketing costs could allow for some, albeit minor, recourse to some subsidies.

Another matter to consider with respect to export policies is the use of draw-back schemes for tariff charges on intermediate inputs. These schemes cover agricultural and nonagricultural goods. The draw-back is not, strictly speaking, a true economic subsidy.¹ However, countries with such schemes in the LAC region are revising their commitments on this matter under the URA, and some, such as Chile, have informed the WTO of the removal of the draw-back scheme on exports in the year 2003.

¹ Except when the rebate is applied on a fixed percentage of the freight on board value at a base period, at higher tariff rates, rather than on the actual share in costs now at lower tariff levels.

9.6 Domestic Support Measures (AMS)

The majority of LAC countries reported zero AMS in their schedules. Only five countries submitted non-zero AMS in their schedules, namely Brazil, Colombia, Costa Rica, Mexico, and Venezuela, a list coinciding with those countries that declared export subsidies, with the exception of Costa Rica. Venezuela is the only one of these countries for which the base period AMS is relatively high, at 36.3 percent of agricultural GDP. Mexico has the second largest at 13.5 percent, while the rest are all at 5 percent or less.

Most observers have concluded that the primary discipline on public support comes from budgetary constraints associated with domestic adjustment policies. Moreover, AMS commitments under the URA would not represent a significant constraint for the region, it is argued, considering the measures that are excluded from the AMS reduction commitments. These include (i) measures under the *de minimis* clause (support equivalent to less than 10 percent of the value of production), giving countries some latitude to continue or implement policies which are considered to be distorting, and (ii) domestic stockholding and consumer support policies (such as subsidies in years of exceptionally high world prices). However, since most countries committed very low levels of support, and since in many cases they defined their AMS commitments in national currencies, in the event of high rates of inflation this could raise their current AMS levels beyond their commitments. The Agreement recognizes the problem by stating that due consideration will be given to the impact of high rates of inflation on the ability of the countries to fulfil their AMS commitments. However, it is not yet clear how this provision will be used in practice.

9.7 Contentious Issues Faced by Latin America's Exporters

Aside from the two traditional issues faced by agricultural exporters - the height of tariffs and competition from subsidized exports in third markets - exporters of agricultural products in the LAC region continuously express concern about four major issues, namely the administration of the TRQ, antidumping measures, sanitary and phytosanitary measures, and technical standards.

Each country appears to be handling the administration of TRQ differently and, some exporters argue, some countries do so in violation of their URA commitments. The case of exports from Argentina to the United States serves as an illustration. For example, the country-specific import quota for peanuts and peanut paste resulting from current access provisions is

being administered without requiring a certificate of origin issued by Argentinian authorities and as a result some imports under the quota often come from other sources (such as Rotterdam) with no guarantee that it was actually exported from Argentina. To this they add that the quota rent is being captured by importing firms, and that the way it is being implemented does not enhance the establishment of commercial relations between exporters in the country and processors in the United States. Without generalizing about the region, concerns about the untransparent administration of the TRQ imports in the developed countries are becoming widespread in Latin America. Hopefully this is an issue which will be reexamined in future negotiations.

Contingency measures, and, particularly, charges of dumping by the major developed countries against imports from the LAC region remain an extremely contentious issue. This is clearly an area which requires revisions in the next round of negotiations. As it stands in the URA, it can clearly lead to arbitrary and protectionist outcomes against which small economies (most LAC) have little defense in the face of large economies such as those of Europe, the United States or Japan. In the case of recent antidumping measures against agroprocessed imports from South America, the determination by US officials that dumping had occurred, and at what level, suggests how extraordinarily flexible the interpretation of dumping can be - including for example the (albeit minimal) export promotion activities which some LAC countries had used in the past. Referring to price discrimination between segmented markets as "dumping" ensures that the charge will be made all too often. But in addition, the calculation of the margins, the use of constructed cost, whether the duty charged should only cover the injury to the domestic industry or all dumping margin, are all contentious areas (Low 1997). Although in the past antidumping and countervailing actions tended to be used little in the agriculture sector, more recently, perhaps owing to constraints on the use of quantitative measures, there is an increasing pressure for using contingent measures on agricultural products—particularly antidumping—in developed countries. Developing countries were granted a five-year period to use minimum customs values, and fear the possible retaliation from the larger economies, so they are less inclined to revert to antidumping measures at this stage.

9.8 Concluding Remarks

Did countries in the LAC region have to make significant changes in their policies in order to honor their commitments under the URA on agriculture? For most Latin American countries, the answer is no. They did not need to reduce agricultural protection or domestic support levels, most QR had already been removed before the URA, and only two or three countries in this region

maintained export subsidies of some significance. Furthermore, the commitments made under the Agreement will help guard against significant backsliding toward reintroducing some import restrictions in this region.

There are, however, various forces in place pushing in the opposite direction. On the one hand the exchange rate appreciation phenomenon observed in several LAC countries during these last years is creating strong pressure for relief measures for producers of import-competing agricultural activities. In Colombia for example, a 25 to 50 percent real appreciation of the peso relative to its five year average before the reforms were introduced in 1991 caused a significant decline in profitability in agriculture, and one observes a tendency in the country to reintroduce trade restrictions on imports which raise protection. This appreciation phenomenon is also occurring in Brazil, Chile, El Salvador, and more recently in Mexico and Peru (and until recently in Argentina). On the other hand the various regional agreements have contributed to further opening of borders for imports from member countries, considerably reducing the average tariff on farm products.

The most coherent and forceful expression of the interests of this region in future negotiations is likely to be conveyed through the active role of the five LAC countries of the Cairns group. As in other regions, the areas of particular interest for Latin America in future negotiations are those related to market access for their agricultural exports. From the perspective of LAC countries, priority should be given to eliminating exports subsidies, further cuts in tariffs, disciplining contingency protection measures (particularly antidumping), re-examining the contentious issue of the TRQ administration, and reducing the considerable latitude given to countries in implementing sanitary and phytosanitary measures.

Table 9.1: Base Period and Bound Tariffs of Selected Countries and Selected Agricultural Products ^{a,b} (percent, unless otherwise specified)

Commodity	Argentina ^c		Brazil		Chile ^d		Colombia		Dom. Rep		Paraguay		Uruguay	
	Base	Bound	Base	Bound	Base	Bound	Base	Bound	Base ^e	Bound	Base	Bound	Base	Bound
Apples									40		35		^f	35
Banana													25	35
Beans														
Beef			25	55			120	108					25	55
Chickpea			55	20			100	70						
Cocoa			85	35			100	70					15	35
Corn	5	3.8	37	35			277	194					25	35
Cotton			55	55			110	99					60	35
Coffee			60	35			100	70					50	35
Milk			70	55	35	31.5	177	159					40	55
Rapeseed			37	35			204	143						
Rice			45	55			210	189					25	55

Table 9.1: continued

Commodity	Argentina ^c		Brazil		Chile ^d		Colombia		Dom. Rep		Paraguay		Uruguay	
	Base	Bound	Base	Bound	Base	Bound	Base	Bound	Base	Bound	Base	Bound	Base	Bound
Sorghum	5	3.8	55	55			147	132					25	55
Soybeans					35	31.5	139	125					25	35
Sugar			35	55	35	31.5	130	117					60	35
Tobacco			20	18			100	70					^f	20
Tomato													60	35
Wheat			45	55	35	31.5	138	124					42	35

Source: A. Valdés (1996)

Notes:

- a. Base period tariffs are the tariff equivalents that actually prevailed for the period 1986-88, as reported by the government to GATT.
- b. "Bound" represents the ceiling binding of tariffs for the first year of implementation.
- c. All import tariffs are bound at the uniform rate of 35 percent ad-valorem unless otherwise stated. If previous bound tariffs were lower than 35 percent they are maintained without changes.
- d. Binding at a rate of 25 percent ad-valorem for all agricultural products unless otherwise stated.
- e. The Dominican Republic did not submit agricultural tariff equivalents for the base period to GATT.
- f. Binding renegotiated.

10 Agreement Implementation: A Mid-Term Perspective

As the implementation period of the Uruguay Round Agreement on Agriculture approaches its mid-term, a lot of experience accumulates on how to live with the new arrangements for agriculture in the WTO. Overall, this experience is positive in the sense that the Agreement "sticks". Most countries take their new commitments seriously, and find that their trading partners generally do the same. On the other hand, as expected from the beginning, in many cases the new constraints on national policies are not yet very demanding, and the real test for the validity of the new rules and commitments in agriculture may still come. However, the situation differs from country to country, as seen in the preceding chapters. A brief overview of the experiences made so far in the countries covered in this study is provided in the following section. In addition to the country-specific commitments and the general rules on how to live with them, the Agreement has also resulted in a notable institutional innovation, in the form of the new WTO Committee on Agriculture and its important contribution to making sure that the reform process is kept on track. The second section of the present chapter will take a quick outsider look at work done so far in that Committee.¹ Though many minor problems were successfully settled in the Committee on Agriculture, some more prominent issues have resulted in formal WTO complaints and dispute settlement procedures. The last section of this chapter will therefore review some of the agricultural disputes that have arisen since the end of the Uruguay Round.

10.1 Overview of Country Experience

The Uruguay Round has resulted in fundamental changes in the nature of international rules and commitments governing agricultural trade and policies. One must assume that the negotiators directly involved in the six years of Uruguay Round talks on agriculture were well aware of the important arrangements they agreed to at the end. However, it is less clear whether all other players in the worldwide agricultural policy game also fully appreciated the far reaching legal changes which were made to the environment in which they used to operate. Against this background it is reassuring to note that, overall, the new WTO arrangements for agriculture have generally been taken seriously and have been implemented properly in the countries covered in this report (and, it appears, in other countries as well). No cases have been reported in this study

¹ Work in the Committee on Sanitary and Phytosanitary Measures will not be reviewed in this study.

where governments have deliberately chosen to disregard their new commitments in one way or another.² Also, the number of cases appears to be relatively limited where governments have opted for implementation approaches which deliberately used loopholes or vagueness in the new rules. This is not to say that there have not been cases where countries disagreed about each others' policies and their legality. Such disagreements have resulted in discussions in the Committee on Agriculture, and in more severe cases have led to formal disputes (see below). However, overall experience with implementing the Agreement so far can be said to have been relatively smooth and uncontroversial. If this situation does not change fundamentally in the years to come, the drafters of the new rules can be reasonably happy with what they have achieved.

Most controversies which have arisen so far were in the area of market access, and in particular related to administration of the many new TRQ.³ Different countries have adopted rather different approaches to administering their minimum and current access commitments, as evidenced in the country chapters above. Another outcome found in many cases is that the tariff-reduced quotas have not been completely filled, indicating that within-quota tariffs may still be (too) high and/or TRQ administration (too) restrictive, though a lack of import demand has also been observed in a number of cases.

Tariffication has required major technical adjustments of border regimes in many countries. For example, the USA had to give up on its "Section 22" import quotas, and the EU had to convert its variable levies into tariffs. However, as expected, tariffication has not so far resulted in a significant growth of imports in most cases. The new minimum access commitments have in many cases not resulted in actual imports much above traditional levels. Moreover, above-quota tariffs in many cases are still prohibitive. In some cases (e.g. in the EU, for cereals, fruit and vegetables; in Japan for pork) and for differing reasons, tariffication has not fundamentally changed the nature of the previously existing non-tariff measures. Developed countries have generally tended to make full use of their bound tariffs (with New Zealand being an exception), while developing countries, with their often high ceiling bindings, have in many cases applied tariffs below bound levels, with a tendency, in particular in Latin America, to adjust tariff levels inversely to fluctuations in world market prices in order to stabilize landed prices of imports. In

² Subsidized exports deliberately in excess of commitments, as occurring in Hungary (a country not directly covered in this report), might fall in that category.

³ This impression may, though, be somewhat biased by the fact that the first notifications to be made in the Committee on Agriculture were those on TRQ administration, while notifications on export subsidies and domestic support keep coming in during 1997. Hence more frequent discussions and disagreements on the latter areas may still arise.

South Asia, residual quantitative restrictions based on the balance of payments exception still play a major role. In some cases, different reduction rates of tariffs for individual products along a processing chain have significantly raised or reduced (or even made negative) the levels of effective protection provided to processing activities in the food industry. The Special Safeguard Provisions have occasionally been used, mainly by the EU and Japan. However, except for the case of pork in Japan, no major controversies have so far arisen out of these provisions.

Experience made with rules and commitments regarding domestic support differ significantly among countries. In developed countries, the Aggregate Measurement of Support (AMS) commitments were generally not binding so far. The major reason is that domestic policy reforms, either before, during, or after the Uruguay Round have reduced domestic support to an extent that the commitments accepted in the Uruguay Round now have much slack. In addition, the "blue box" has allowed the USA and the EU to place a significant part of their support in a safe haven, though in both cases support levels were so low already at the beginning of the implementation period that this specific provision might not even have been necessary in practice. In Canada, in addition to budget cut-backs, high world market (and hence domestic) prices in recent years have allowed the reduction of direct payments. It is, however, interesting to note that in a significant number of cases, a re-instrumentation of domestic support policies has either been implemented or begun to be considered, in a way which is consistent with the "green box". The FAIR Act of the USA is an important case in point, though it has been argued above, in the chapter on the USA, that this reform of US agricultural policies had nothing to do with the Uruguay Round Agreement. Developing countries have in most cases stated their base period AMS to be below the *de minimis* threshold. As a result they now find themselves committed to very low levels of support. This could turn out to be a rather serious constraint in the future. Moreover, in many cases they have defined their AMS commitments and its elements (external reference prices) in national currencies, and with significant inflation they may now have current AMS levels far beyond their commitments.

The full binding power of the new export subsidy commitments, expected by most observers to be the most effective element in the new WTO framework for agriculture, has already been felt in some cases (e.g. cheese in the EU). However, high world market prices for cereals in much of the implementation period so far have meant that policies in this important product sector have not yet been much constrained since 1995. Irrespective of current market conditions, Canada has, though, already decided to eliminate its transport subsidies for grains. In two cases (Australia and Canada), previous dairy policies have been re-instrumented, without much harm to domestic producers, such that they, arguably, no longer involve export subsidies as defined under the

Agreement. However, in the case of Canada's new dairy regime, consistency with the WTO rules on export subsidies has already been questioned in the WTO.

An important lesson of recent years is the fact that the new WTO rules for agricultural trade have done nothing to prevent countries from imposing export taxes in order to keep domestic prices below booming world market prices.

Another outcome of the implementation so far, not at all unexpected, is the experience that the operations of the many state trading enterprises still involved in agricultural trade have not been fundamentally changed in most cases. For example, in Japan private traders are now, in principle, allowed to import those products which have undergone tariffication. However, in practice the volumes imported by them have remained small compared to imports of the same products effected by the Agriculture and Livestock Industries Corporation. In South Asia, too, state trading enterprises still play a major role in agricultural imports. On the export side, the Canadian Wheat Board and the various state trading enterprises in Australia and New Zealand were not expected, and did not see a reason, to change their operations as a result of the Agreement.

In summary, the country reports presented above appear to confirm the expectation of most observers that, with the possible exception of export subsidies, the Uruguay Round Agreement was not going to have major direct effects on agricultural policies in most countries, at least during the current implementation period. However, there is one other message also contained in the country reports. In all parts of the world, agricultural policies have been put on the track towards reform. In developed countries, policies are moving away from market interference, and towards direct payments. In developing countries, domestic markets are increasingly opened up to international competition. The relationships between these national policy reforms and the international framework as established by the new WTO rules for agriculture differ from case to case. In some cases, the reforms pre-date the Uruguay Round. In some cases they were made during the multilateral negotiations, and it is a hen-and-egg question of cause and effect. In still other cases, major reforms were initiated after the Uruguay Round, and well in line with the spirit (and sometimes closely designed in accordance with the letter) of the Uruguay Round Agreement. Finally, in some countries the debate on future reforms is in full swing, and is being conducted very much with the new WTO constraints in mind. It is reassuring to note that there is now a growing number of cases where policy reforms have either been triggered by the existence of the Agreement, or where the way they are laid out is guided by the new WTO rules for agriculture.

Rules in all three areas covered by the Agreement play a role in this regard, as a few examples may show. Market access commitments have led Japan to allow for at least some private trade in the importation of agricultural products. Tariff bindings and reductions suggest to the EU that dairy quotas may one day no longer help to support high prices. Export subsidy commitments were an important factor in Canada's decision to eliminate transport subsidies, are about to trigger further reform of cereals policies in the EU, and guard against export subsidization in developing countries. The domestic support provisions, and in particular the "green box", may have helped to lead the USA to further decoupling of payments, have influenced policy thinking in Canada, and played a role in the design of subsidies in Japan.

Whatever the influence may be which the Agreement has had on agricultural policy reform in any particular case, one important point, transpiring from the country reports, is that the Uruguay Round provisions on agriculture have now locked in those national reforms implemented before and during the Round. Further reductions to be made during the remainder of the current implementation period will, by definition, lock in those policy changes which they will require. And the next round of negotiations will have to make sure that further policy reforms are made.

10.2 Work in the Committee on Agriculture

The Committee on Agriculture (the Committee) was established by the Agreement, to review implementation of the commitments negotiated in the Uruguay Round, and as a forum for consultation on matters relevant in this context. The Committee meets around four times a year (four times in 1995, five times in 1996), and all WTO Members (can) participate in this new Committee. The agenda for the meetings regularly contains two major parts. In Part I, the country notifications are reviewed and discussed. Countries can also submit counter-notifications on other countries' policies, which would then also be discussed in this part of the meeting. Moreover, any other matters relating to the way in which individual countries implement their commitments can be raised. In Part II of the Committee meetings, more general issues not related to individual countries' policies are discussed.

A crucial basis of work in the Committee are the notifications to be submitted regularly by governments. The process of notification had generally been determined in the Agreement, and was then specified in more detail by the Committee. In general, what countries have to notify are the policies for which they have accepted commitments. The type of information to be provided

was defined in significant detail, and the Committee agreed to the format of tables to be used in the notification process. Notification requirements are extensive.

In the area of market access, all countries with TRQ commitments in their Schedules were expected to notify, in 1995, their arrangements regarding administration of the quotas for each individual product. Any later changes in quota administration also have to be notified. On an annual basis, countries then have to notify quantities imported within TRQ. Regarding use of the Special Safeguard Provisions, application of the volume-based special safeguard has to be notified immediately. For the price-based special safeguard, countries could either provide "up-front" notification of the trigger prices they intend to use, or can notify trigger prices on a case-by-case basis when that provision is first used for any particular product. An overview of the use of the Special Safeguard Provisions has to be provided by all countries concerned on an annual basis.

All Members which have base and annual commitments on domestic support have to notify, on an annual basis, their current AMS, with detailed information to be provided in supporting tables very much like the format used for the offers made during the Uruguay Round. Countries with no base and annual commitment levels also have to notify their current AMS, but with less detail. Whenever a country modifies or introduces a new support measure for which it claims exemption from reduction commitments, under either the "green box", the "blue box" or the provisions for certain measures in developing countries, it is also required to make a notification.

Regarding export subsidies, countries must notify, on an annual basis, their quantities of subsidized exports and outlays, with details to be provided in a supporting table. Countries with zero commitments have to confirm that they did not subsidize exports. Moreover, all countries with export subsidy commitments and all other significant exporters (with exports above five percent of total world exports of the products concerned) also have to provide information on the total volume of their exports (whether subsidized or not) of all those products which fall under the export subsidy provisions of the Agreement. Food aid donors also have to notify volumes of food aid provided. Export prohibitions and restrictions have to be notified whenever adopted. Finally, countries are expected to notify actions they take and aid they provide under the Marrakesh Ministerial Decision on Measures Concerning the Possible Negative Effects of the Reform Program on Least-Developed and Net Food-Importing Developing Countries.

The notification process took a while to come into full swing, and there were and still are many cases in which Members delayed notifications. However, the notification process now begins to generate an enormous wealth of information on countries' policies. Fortunately, the decision

was taken to make the notifications available to the general public, and this will also provide useful information for research.⁴

In the meetings of the Committee, Members are making much use of the opportunity to discuss each others' policies. Many detailed questions are being asked regarding the notifications received, and the countries concerned are then expected to provide additional information and explanations. In 1995 and 1996, discussions concentrated very much on the administration of TRQ, and a large number of very specific issues were raised regarding the procedures adopted in this area. As notifications began to come in, later in 1996 and 1997, on domestic support and export subsidies, measures in these areas also were discussed. Ample use is also being made of the opportunity to address issues related to measures not (yet) notified or any other matters relevant to the implementation of commitments under the Agreement.

In its report for the Singapore Ministerial Meeting in December 1996, the Committee reported that "good progress has been made in implementing the commitments negotiated under the Uruguay Round reform program, even though some implementation issues remain to be resolved. ... Many of the matters raised ... have been satisfactorily clarified in the Committee or have been subsequently resolved following discussion in the Committee. However, in a number of cases matters raised ... remain outstanding. Such matters include, for example, late or inadequate implementation, the introduction or maintenance of non-tariff border measures, and non-compliance with export subsidy commitments. ... The Committee's review process has also generated issues of a more general nature relating to the manner in which commitments are implemented. These issues include allocation of access under Most Favored Nation (MFN) tariff quotas to preferential suppliers or to non-Members, the allocation of import access to state-trading enterprises or to producer organizations, the auctioning of tariff quota licenses, limitations on imports of particular products under broadly defined tariff quota commitments, making imports under tariff quotas conditional on absorption of domestic production of the product concerned, the relationship between the Agreement on Agriculture and the Agreements on Import Licensing Procedures and on Trade-Related Investment Measures, and export restrictions."⁵ The particular countries, measures and products concerned were (of course) not named in that report, but some of them can be easily identified in the country chapters presented above in the present study.

⁴ The WTO Secretariat, commendably, now also makes the notifications accessible through the internet on the WTO website.

⁵ WTO document G/L/131, 7 November 1996.

Overall, the review process in the Committee appears to be an extremely useful exercise in generating transparency and exposing governments to the concerns other countries have about their policies. It is probably still too early (and, for an outsider, difficult⁶) to say how effective this process is in terms of making governments more sensitive to the international implications of their policies. However, it would be surprising if this continuous process of exchanging information and discussing each others' policies did not, in the longer run, have positive effects in terms of making countries better aware of the effects their policies have in other parts of the world. Hence, even if it were not for monitoring implementation of the Agreement, the continuous activity of discussing, in considerable detail, each others' agricultural policies in the newly created Committee is, as such, a rather positive outcome of the Uruguay Round. Moreover, discussions in the Committee can serve the useful purpose of addressing and solving bilateral issues below the level of formal consultation and dispute settlement procedures in the WTO. Finally, work in the Committee will generate an important basis for the next round of agricultural negotiations. Indeed, the process of "analysis and information exchange" agreed to in Singapore (instead of an early start of the next round of negotiations as desired by some countries) started in the Committee in mid-1997, based on non-papers prepared by Members on selected issues considered important for future negotiations.

10.3 Agricultural Disputes Since the Uruguay Round

Agriculture has always been a sector where trade frictions were particularly frequent, and under the "old" GATT this resulted in a large number of disputes. According to a count by Hudec (1993, p. 327), out of a total of 207 GATT disputes between 1948 and 1989, 89 disputes (i.e. 43 percent) related to agricultural products. After the Uruguay Round, agriculture has continued to keep the dispute settlement machinery busy under the new WTO regime, though to a somewhat lesser extent. At the time of writing (July 1997), the WTO Secretariat listed 62 trade disputes on distinct matters⁷ which have arisen after the Uruguay Round.⁸ Out of these 62 cases, 18 disputes

⁶ Reports on the meetings of the Committee of Agriculture are restricted documents, and outsiders do not normally have access to them.

⁷ Procedurally separate disputes which, though, involve complaints against the same trade measure in a given country are counted as only one distinct matter. For example, both the USA and Canada have filed complaints against the ban on beef hormones by the EU. Legally the two cases are separate disputes, but they relate to the same matter.

⁸ The source of this information is the Overview of the State-of-Play of WTO Disputes as provided by the WTO Secretariat on the WTO website, update of June 12, 1997.

(i.e. 29 percent) had to do with agricultural products. Based on this preliminary statistic it appears that the share of agriculture in dispute settlement has declined after the Uruguay Round, though it is still much larger than the share of agricultural and food products in world trade.

The agricultural disputes under the WTO have reached different stages in the dispute settlement procedures. Out of the 18 agricultural cases, at the time of writing 3 had already resulted in panel reports (against Japan, regarding taxes on alcoholic beverages, complaint by the EU, Canada and the USA; against Brazil, regarding countervailing duties on desiccated coconuts, complaint by the Philippines; against the EU, regarding its banana regime, complaint by Ecuador, Guatemala, Honduras, Mexico, and the USA). In all of these three cases, the panel reports were appealed, and in two of them (Japan, alcoholic beverages; Brazil, desiccated coconuts) the reports of the Appellate Body have already been adopted by the Dispute Settlement Body. In two other cases, panels had been established and were still active (against the EU on beef hormones, complaints by Canada and the USA; against Hungary, regarding export subsidies, complaints by Argentina, Australia, Canada, New Zealand, Thailand, and the USA). In one further case, the establishment of a panel had been requested (against the EU, regarding implementation of a TRQ for poultry products, complaint by Brazil). Out of the remaining twelve agricultural disputes, eight had not (yet) gone beyond the stage of consultations. Finally, four agricultural disputes had either been settled bilaterally, or the panels dealing with them were no longer active.

As far as implementation of the Uruguay Round Agreement on Agriculture is concerned, it is interesting to note that only a minority of the 18 agricultural disputes under the WTO have to do with the new agricultural provisions and commitments which have resulted from the Uruguay Round. Only two cases relate directly, in legal terms, to provisions of the Agreement. One of them is the dispute over Hungary's agricultural export subsidies, where the claim is that Hungary has violated its obligation not to exceed its commitments with respect to subsidized exports, where it has an (implicit) zero commitment (Agreement on Agriculture, Article 3:3 and Part V). The other case is the complaint by the USA that the way the Philippines administers its TRQ for pork and poultry violates, among others, Article 4 of the Agreement. However, several other cases have to do with the way in which commitments contained in the Schedules resulting from the Uruguay Round are implemented. These disputes include the complaints against the banana regime of the EU; implementation of the TRQ for poultry products by the EU; implementation of safeguards for pork by Japan (complaint by the EU); implementation of the TRQ for butter by the EU (complaint by New Zealand); and duties on cereal and rice imports by the EU (complaints by Canada, Thailand, Uruguay and the USA). Administration of TRQ was the single most disputed issue among these complaints.

Some other disputes about agricultural products relate to provisions of the Sanitary and Phytosanitary Measures (SPS) agreement. The most spectacular case in this category is the complaint against the EU ban on beef hormones, but the complaints against Korea regarding the testing and inspection of agricultural products (complaint by the USA), against Japan regarding quarantine procedures for agricultural products, and against Korea regarding the shelf-life of products (complaint by the USA) also belong in this category. Moreover, one dispute not involving an agricultural product (in the definition of the Agreement on Agriculture) also relates to the SPS Agreement, namely the complaint against Australia's quarantine procedures for salmon (complaint by Canada).

Many of the agricultural disputes under the WTO had little or nothing to do with the new agricultural provisions and commitments established in the Uruguay Round or with the SPS Agreement. These more "traditional" cases included complaints against domestic taxes (on alcoholic beverages in Chile, Japan and Korea), against countervailing duties (desiccated coconuts in Brazil), and against anti-dumping investigations (US imports of tomatoes from Mexico).

As far as countries involved are concerned, 5 of the 18 agricultural disputes were directed against the EU⁹, three each against Japan and Korea, and two each against Brazil and the USA. Among the complainants, the USA holds the record with ten complaints¹⁰, the EU filed five complaints, Canada four, and Mexico and New Zealand two each.¹¹

Overall, experience with agricultural disputes in the first roughly two years since the Uruguay Round can be said to have been reassuring, in three regards. First, the new agricultural provisions and commitments which were established in the Uruguay Round have not (so far) resulted in a sudden upsurge of complaints. Indeed, a number of complaints had remained in the waiting line until the Uruguay Round was finished, and in that sense the number of complaints which had to be dealt with recently may not be representative of the longer run amount of agricultural disputes in the WTO. Second, the new SPS Agreement has allowed some cases to be brought before the WTO which it might have been very difficult to resolve bilaterally. Third, the new rules on dispute settlement agreed in the Uruguay Round have been successful in the sense of

⁹ In comparison with pre-Uruguay Round disputes, where 50 percent of all agricultural disputes were directed against the EU and its member states (Hudec, 1993, p. 330), the EU's share is now significantly reduced.

¹⁰ The share of the USA among all complainants (10 US complaints among 34 agricultural complainants after the Uruguay Round) is slightly below that before the Round, where the US share was 37 percent (Hudec, 1993, p. 329).

¹¹ The number of complainants exceeds the number of disputes as many disputes involve more than one complainant.

reducing the time required to reach conclusions, and of not allowing countries which were found in violation of their obligations to block the adoption of panel reports. The improved effectiveness of the new dispute settlement process in the WTO may, also, have helped to avoid some formal disputes and to settle differences bilaterally through consultations. However, the real test for the validity of the new regime will come only when countries have to adjust those measures which were found to be inconsistent with their obligations. The time elapsed after the Uruguay Round is still too short to tell whether this test will eventually yield positive results.

11 Looking Forward to the 1999 Round of Negotiations

11.1 Introduction

This chapter attempts to list the issues and discuss the options available to countries as they prepare for the next round, due to begin in 1999.¹ A caveat is needed in any such attempt to look ahead. Major economic disruptions or political conflicts could arise which would shift the focus of domestic and trade policy. Instability in world markets for agricultural goods could also divert attention from the reform process: a period of high prices could reduce the urgency of reducing protection whereas a period of low prices may make it politically impossible to remove trade barriers. Political leadership could falter, or legislative authority to negotiate might be difficult to achieve in some major countries. Moreover, prospects for further agricultural trade reform rest on the continuation of the current paradigm of economic policy which follows the path of deregulation of financial markets and of trade liberalisation in place of protection of industries at the border. It is the inclusion of agriculture in this process of liberalisation which has made possible the changes in policy of the past ten years.

11.2 The Agenda for the 1999 Round

The Uruguay Round itself initiated the next steps for the multilateral process of trade liberalization in agriculture. The Agreement on Agriculture (in Article 20) calls for talks to be initiated no later than 1999 (the last year of the implementation of the scheduled reductions in protection, at least for developed countries) on the continuation of the process of reform of the trade system for farm products. The Agreement establishes "the long-term objective of substantial, progressive reductions in support and protection resulting in fundamental reform." The WTO Ministers Meeting in Singapore in December 1996 confirmed the timetable and recognised the need to firm up the agenda and begin the process of analysing alternatives. The agenda itself will be decided by countries within the next year or so, initially by informal contact among the major

¹ For a fuller discussion of the future agenda issues for the WTO see Josling, Tangermann and Warley (1996) Chapter IX, Tangermann (1997) and Miner, Josling, MacLaren and Tangermann (1996).

actors in the context of meetings of the Committee on Agriculture. This chapter reviews some of the issues that will most likely form the basis for these discussions on agriculture in the next round.

The items on the agenda fall into three categories. First are those items which essentially improve and refine the workings of the Agreement on Agriculture. The Singapore ministerial meeting in December 1996 considered a report from the Committee on Agriculture which highlighted a number of potential problems with the Agreement. These include the administration of the Tariff Rate Quota (TRQ) system, as discussed fully above, as well as the operation of the Special Safeguards mechanism for commodities subject to tariffication and the implementation of the export subsidy restraints. But the next round will also have to deal with the remaining anomalies which survived the Uruguay Round, such as the postponement of tariffication for rice for Japan, Korea and the Philippines and for some products in Israel. In the same category could be placed the negotiation of an agreement constraining export credits. The Agreement on Agriculture mandated that countries work toward such an accord, and it is likely that the Cairns Group will insist on more progress in this area. In addition, it is possible that the provisions of the Sanitary and Phytosanitary (SPS) Agreement may also need some reconsideration, though until the panel reports from such disputes as the beef-hormone case are completed it is a little too early to tell whether the new rules are workable.

Secondly, the next round will have to decide on the next step toward the greater market-orientation promised at Punta del Este. The strategy for the continuation of the reform process will need to encompass additional market access provisions, further reductions in (or even elimination of) export subsidies, and more discipline in the area of trade-distorting domestic subsidies if it is to lead to a freer agricultural marketplace. In addition, countries will need to confront the issue of state trading in agriculture and may have to react to pressures from environmental and labor issues which could impinge on agriculture. The question of quantitative export restraints is also likely to surface, in part as a reaction to the concern over food security in importing countries.

A third category of issues are more structural in nature. These structural issues include the entry of China, Russia, the Ukraine and other countries into the WTO. The question of accession is not likely to be part of the next round itself: China could be admitted as a member before these talks begin. But the progress of the enlargement negotiations will have a significant influence over the preparation for the next round. In all cases the issue of the terms of accession and the agreed schedule will have a major impact on conditions of agricultural trade. The other major structural issue is the relation between regional trade groups and the multilateral process. This also is important in agriculture, where the conditions under which agricultural products are traded within

trade blocs has a potentially significant impact on the location of production and the volume of trade for the world as a whole.

11.3 Revisions to the Agreement

11.3.1 The Administration of TRQ

Perhaps the most urgent area of the Agreement for revision is the administration of the Tariff-Rate Quotas which were intended to open up previously closed markets. The TRQ for agricultural trade are hardly the jewel in the crown of the Uruguay Round Agreement. They created a slew of bilaterals which seems likely to keep agricultural trade a question of governmental involvement for years to come. Moreover, they have created a new wave of governmental interference with agricultural trade through licensing procedures, and provided a playground for rent-seeking traders, who will in turn have an incentive to lobby for the continuation of the high above-quota tariffs. The question is how to prevent the TRQ from interfering any more than necessary with the competitive development of trade.

The negotiations will no doubt focus on developing a more uniform system for the administration of the TRQ. One issue is whether to allow them to be auctioned. This would seem an economically sensible solution to the problem of the capture of rents and the incentives to keep the system in place to provide lucrative trade opportunities without competition. But if the TRQ were auctioned to the exporter the impact would be somewhat like the tariff that the quota was designed to avoid: the exporter would bid some amount (up to the height of the tariff concession, if imports enter at the above-quota tariff rate) for the right to make that much profit in the import market. The dilemma is not easy to resolve. In order to fill the quota there has to be an incentive. The incentive can only be maintained by allowing (public or private) firms to make profits.² These profits can then engender the wrong long-term reactions and tend to keep the system from becoming more competitive. The best solution may in the end be to steadily increase the TRQ, as suggested below, rather than fine-tune the administrative process too much.

² If imports come in above the quota then the problem of maintaining an incentive is not relevant. The quota will be filled if there is any profit to be made from importing even if the whole of the tariff concession is absorbed by the auction price.

11.3.2 Special Safeguard Mechanism

The Special Safeguard system is also in need of some patching and more uniformity. Though subject to abuse, trade safeguards are generally considered by governments to be a necessary concomitant to trade liberalisation and market access. The issue that is likely to arise with respect to agricultural safeguards on the agenda for the next round is the possible use of the Special Safeguard Provisions by developed countries to try to maintain protection against imports. As far as the misuse of the Special Safeguard Provisions are concerned, agreement should be sought on the level of trigger prices. One view is that, wherever technically possible, trigger prices should be identical (or equivalent) to the external prices used by the governments concerned in calculating initial tariff equivalents in the Uruguay Round. Governments had a tendency to use the lowest feasible external prices for calculating tariff equivalents. Hence, using the same prices as trigger prices for the Safeguard Provisions would make sure that additional duties are not used too often, and are not set too high. It will also be important to phase out the use of the Special Safeguard Provisions after the period of transition. This could be done by gradually adjusting the percentages in both the quantity trigger provision and the price trigger provision year by year so that the safeguards are less and less likely to cut in.

11.3.3 Export Credits

In addition to the overt export subsidies identified in the Uruguay Round, agricultural exports are often assisted by export credits and credit guarantees. These are clearly forms of export subsidy, given to export firms by governments trying to expand trade. The practice was criticized in the Uruguay Round, and as part of the Agreement an understanding was reached that governments should "work towards the development of internationally agreed disciplines." Discussions on the subject of export credits in general have been continuing in the OECD, and it is possible that agricultural export credits will eventually be brought into conformity with those in other areas of trade. The question of export credits is still a thorn in the flesh of several of the

smaller exporting countries. The question for the next round will be the extent to which the terms of an OECD pact can be multilateralised and incorporated into the WTO structure.³

11.3.4 Completion of Tariffication

The Uruguay Round allowed both Japan and Korea to delay tariffication for an initial period, though they had to give access for somewhat higher imports than they would have to have done under tariffication. Though this political concession was necessary in order to get a deal, the pressure will be on these countries to step into line and remove the anomaly as a part of the next set of negotiations. Japan has begun the process of preparing for eventual liberalisation of rice imports. The Basic Food Law which mandated state purchase and sale of rice is being changed, and the amount of rice privately traded is increasing. Imported rice is finding its way into the Japanese food system despite predictions that it would be rejected by consumers. Korea, partly as a result of joining the OECD, has shown a greater willingness to modify its own domestic practices in the light of outside pressure. The question is more when the major policy decision will be taken. It should be noted that the "default" position in the Agreement on Agriculture is that tariffication will be adopted: to delay further the step will require Japan and Korea to offer "additional and acceptable concessions" and these might prove costly at the bargaining table. The other countries that maintained non-tariff measures on the coat-tails of Japan and Korea, namely the Phillipines and Israel, will not be in a strong position to resist the implementation of tariffication.

11.4 The Next Steps in Policy Reform

11.4.1 Market Access

Tariffication, as was intended, has made the conditions of market access in agricultural trade significantly more transparent. What is now visible is the level of protection long hidden by non-

³ Strictly speaking the Uruguay Round Agreement mandated countries to reach an accord on export credits within the implementation period, that is by the year 2000. It seems likely however that this item will in effect be treated as a part of the continuation.

tariff barriers. This level of protection in agricultural markets is exposed as very high relative to the trade barriers in manufactures. It is as if the agricultural sector still has pre-Kennedy Round tariff protection. The question for the next round is what process can one initiate that would lead to a removal of this discrepancy in any but the longest time period. How does one get from tariffs of 100-200 or even 300 percent to levels of 5 - 15 percent found in many areas of trade? This looks to be a tall order; it implies a continued period of significant tariff cuts extending well beyond the timeframe of the next round.

One way to engineer this reduction of trade barriers in a shorter time-frame is to negotiate a major "across the board" tariff reduction, perhaps aiming for a 50 percent cut in all tariffs over a five year period. This would however, still leave some tariffs at a very high level. Alternatively, agricultural tariffs could be reduced on a formula basis, with higher tariffs being reduced at a greater rate. The "Swiss Formula" which was used for tariff reductions in industrial goods in the Tokyo Round would be a candidate. This could be a faster and fairer way to the same end, with much of the "water" being squeezed out of the high tariffs (and the element of "dirty tariffication" being removed) in the first stage.⁴

Another benefit of using such a formula approach is that it would reduce tariff dispersion among products. The process of tariff reduction in the Uruguay Round may have increased the dispersion of tariff levels.⁵ The Agreement provided for a simple unweighted average reduction of 36 percent, with a minimum cut of 15 percent for each tariff line. Many countries took advantage of the option of cutting tariffs on sensitive commodities by the minimum and making bigger percentage cuts on items of less domestic sensitivity. As an alternative approach to the problem of tariff dispersion, a maximum level of tariff could be agreed to which all higher tariffs would have to be reduced over an agreed period. This could be combined with an across the board cut to give both a general reduction as well as a consolidation of rates.

A somewhat different approach to the issue of tariff reduction has had some success in other areas of trade, such as information technology. This approach is to negotiate "zero-for-zero" agreements which would eliminate tariffs and other trade restrictive measures completely on

⁴ The "water" in a tariff is the unused protection when no imports can sell at the tariff inclusive price. The "dirty" element in the agricultural tariffs refers to the use of price gaps between domestic and world markets which overstated the existing protection at the time of tariffication. Tariff bindings were also often above the actual tariff in operation, giving an element of discretion to governments which one might call "policy water". Thus a reduction in the high rates of tariff removes the water, cleans up the tariff and removes the discretionary element of ceiling bindings.

⁵ This was the case, for example, in the EU, Japan and the USA. See Tangermann (1995).

particular goods.⁶ Clearly there are advantages as well as disadvantages in such an approach. Political sensitivities restraining liberalisation in some products such as dairy and sugar would not hold up a move to competitive markets in others such as oilseeds and pigmeat. Trade would therefore be expanded in the latter markets as protection was reduced. However the benefit of this trade created from the point of view of both the importing country and the world as a whole could be offset by the costs of trade diverted as zero-tariff items replaced the lower-cost but higher-priced goods still subject to tariffs.⁷ The strategic attraction of the zero-for-zero approach rests heavily on the notion that the isolation of the markets that are presently highly protected will force them eventually to come into line. Unfortunately it is equally likely that one might "let off the hook" the sensitive commodities unless the sector-by-sector reductions were in a framework which ensured no long-term exclusions from the liberalisation process.

An alternative to tackle the problem of the high levels of tariffs resulting from tariffication is to expand the guaranteed market access which form a part of the provisions of the Agreement on Agriculture. Removing the TRQ, as discussed above, may not be an attractive option for the exporting countries. Expanding them however is one simple way of reducing their importance, and gradually increasing competition, at the same time lessening the impact of the high "above-quota" tariffs. Doubling the minimum access quantities, for instance, would make many of the high bound tariffs irrelevant. An increase in TRQ, say, of one percent of the level of domestic consumption in each year over a five year period would remove much of their negative effect. In most markets the quotas would become non-binding before the five-year period was over. In effect, tariffication would have taken place at the level of the reduced tariff applicable to the TRQ. The main political objection to this could be that the "within quota" tariffs have never been negotiated: they were left to the discretion of the importing country to fix at levels which would attract the guaranteed access quantity. This implies that some form of negotiation might have to take place on the level of these tariffs. This in fact gives a possibility to start at a viable level in relation to other goods. All "within quota" tariffs could be bound at, say, 20 percent, and not reduced until they became the operative tariff for the bulk of agricultural trade.

⁶ This approach is discussed more fully in Miner *et al* (1996).

⁷ The economic analysis of uneven liberalisation among sectors is in many ways analogous to the uneven liberalisation among trading partners involved in free trade areas. "Good" trade creation is potentially offset by "bad" trade diversion. As with FTAs, it is ultimately an empirical question whether a zero-for-zero tariff deal is economically desirable. The EU knows well the problem of "unbalanced" protection as a result of the liberal access for oilseeds negotiated in the Dillon Round.

11.4.2 Removing Export Subsidies

The practice of subsidizing exports of agricultural products survived the Uruguay Round, albeit in a reduced form. Countries which import agricultural products may have gained from cheaper food prices from the subsidies, but even among these countries the disturbance of the domestic market has often caused problems. In the next round of negotiations, it will be more difficult than ever to persuade countries who export agricultural goods with little or no subsidy to allow countries such as the EU and the USA to continue their market-distorting practices. A further push to rein in these subsidies is likely to be high on the agenda of the Cairns Group.

Elimination of export subsidies altogether would clearly have significant advantages. The pre-requisites for dispensing with export subsidies are a renewed confidence in world markets, with firmer and more stable price levels for the major products, and reduced dependence on intervention buying in domestic policies. The former condition depends on the success of the Agreement in increasing trade and reducing protection. As for domestic programs, it is possible that practice and sentiment in both the USA and to some extent also in the EU may have moved from the use of market support policies to other instruments by the turn of the century. If that were the case it could be politically easier to get effective curbs on the use of export subsidies by the time of the next round. A new set of negotiations could, say, set the target to phase out export subsidies altogether by 2010. If such a move was successful, export subsidies for agricultural products would have been relegated to an inglorious place in trade policy history.

11.4.3 Domestic Support

It is one of the ironies of the Uruguay Round that although the biggest conceptual breakthrough was the acceptance by countries that domestic policies were a legitimate concern of trade talks the actual disciplines in those policies were weak. The question for the next round is therefore whether to strengthen or to abandon the attempt to constrain domestic policies. In one sense the issue is less crucial than in 1986. Most developed countries have modified their domestic agricultural programs in recent years to improve the targeting and reduce the output-increasing nature of farm income supports. The AMS constraints are as a consequence not binding in most cases. A case could therefore be made that it is better to concentrate negotiating efforts on the border issues of market access and export competition.

However the fact that the AMS limits have not been binding does not mean that the constraints on domestic support have been ineffective. The role of the Agreement in supporting this domestic reform process in many countries should not be underestimated. This suggests that the AMS constraint could in fact be tightened to avoid the temptation of backsliding and to promote further reforms. The present agricultural policy reforms are in general less secure and easier to reverse than trade rules.⁸ This tightening would make the "green box" much more effective, as exemption from the AMS is one reward (avoidance of challenge is another) of making policies conform with the green box criteria.⁹

The "blue box" containing the US and EU direct payments which were granted exemption from challenges under the Blair House Agreement underscores the view of many that this bilateral deal was designed to avoid the task of modifying domestic programs. Such an anomaly can surely be removed in the next round. The policies of the USA and the EU themselves are changing for internal reasons. The new US Farm Bill goes further than ever before to make the payments to farmers decoupled from output and therefore compatible with the "green box". The EU is considering a similar move as a continuation of the reform started in 1992. The task for the next round will be made much easier if the EU and USA have both modified their payments such that they meet the conditions laid down in the "green box". The "blue box" can essentially be emptied and locked.

11.4.4 State Trading

State trading poses another set of issues for the members of the WTO as they prepare for the next round. The tariffication of non-tariff barriers has highlighted the difference between import systems based on private trade, where tariffs directly influence trade decisions, and parastatal import arrangements, where the decisions are made on other grounds.¹⁰ On the export side, the specification of export subsidies has made more apparent the difference between private trading and government sponsored export monopolies. This has surfaced in recent months in particular with regard to the Canadian Wheat Board, a state controlled single-desk selling agency

⁸ The reform of the CAP is not yet in "permanent" form, and the US Farm Bill only lasts for the next seven years, at which time Congress may decide that direct decoupled payments are not enough to support rural incomes.

⁹ The criteria themselves may also need some revision to the extent that countries are finding ways in which to continue production-increasing subsidies.

¹⁰ The introduction of TRQ has also increased the scope for state trading, as the lucrative quota rents can be distributed to parastatal organisations.

for much of Canada's exported grain, which is thought to have some commercial advantage over private traders in world markets. Lurking in the wings is the entry of China, Russia and the Ukraine to the WTO, bringing with it the fear that these countries have state control of imports (and in some cases exports) which will frustrate attempts to reform the trade rules. The issue of state trading will therefore be high on the agenda at the multilateral level. There will clearly be an attempt to regulate the use of market power in trade by parastatals. The question is what can one do and how can one do it?

The first choice is whether to address the existence of state trading agencies or to regulate their behavior. Despite widespread adoption of neo-liberal trade policies, in particular in Latin America, it seems implausible that the members of the WTO would opt for an outright ban on managed trade. Too many countries would have to abandon too many powerful domestic agencies.¹¹ Currently WTO articles try the second approach, though without notable success. Article XVII of the GATT, clarified by, but not essentially changed in the Uruguay Round, states that such state trading enterprises that exist should be notified to the WTO. These enterprises are expected to take decisions based on commercial considerations. Besides the ambiguity of what constitutes a "commercial" consideration (after all, making use of market power is intrinsically commercial), the admonition is somewhat unrealistic. If a government establishes a state trading monopoly, one can assume that it intends to use its monopoly power.¹² Given that market advantage, a state trader is unlikely to conduct itself in the same way that a private firm would. As one might expect, little use has been made of this article to modify the behavior of parastatal agencies.

Just as tariffication has exposed the issue of state importing it might also have clarified its solution. In particular the abolition of non-tariff barriers has reduced the legitimate functions of the parastatals. A little-used article in the GATT/WTO states that no mark-up from a state trading importer should be larger than the bound tariff (GATT Article II:4 of 1947). In the past, countries were able to circumvent this by claiming that the parastatal was administering a non-tariff barrier. In any case, relatively few agricultural tariffs were bound. In a regime of bound tariffs and no non-tariff barriers this defense collapses. It should be fairly straightforward to compare mark-ups with

¹¹ The most one could hope for is an agreement, in principle, that such agencies should not be created anew without some form of compensation to affected parties.

¹² Other reasons are given for the single-desk selling agencies, such as the ability to provide producers with a pooled price for all sales. It is doubtful whether such price pooling in itself would be objectionable to competing exporters if it were delinked from the activity of the agency in overseas markets. Note however that in the chapter on Australia and New Zealand in this study it is argued that some exporting state traders operate like commercial firms.

bound tariffs in the future and hold state traders to sell imports on the domestic market at no more than the border prices plus the tariff.¹³ Moreover, in this situation countries are obliged, under GATT rules, to abide by the language of the Havana Charter which mandated full disclosure of import costs and profit margins of state import firms, and stated that the agencies themselves must import supplies adequate to meet "full domestic demand" for the product. A strict interpretation of this provision would make it very difficult for countries to use such agencies for substantive protection of the domestic market.¹⁴ This approach may not require further negotiation, as it rests on the vigorous application of current trade rules.

A third approach to reduce the incidence of managed trade by parastatals is to challenge the source of their power rather than their existence or behavior. For instance, one could agree to end the monopoly on imports by state trading agencies and ensure competition in acquiring supplies for domestic sale. They could continue to exist but not have exclusive import rights. Countries could, for instance, agree to allow private firms to compete with the state trading body as a component of the further liberalization of trade. This would incidentally improve the ability of other countries to monitor the performance of parastatals and generate some vested interest in liberal trade within the importing country.

Yet another way to reduce the market power of a state importer is to expand the quantity of imports until the monopoly power has no effect. Expanding the TRQ, for instance, could well prove an effective approach to the issue of state-controlled imports. The key is to expand the TRQ beyond the quantity which the state trader would choose to import. Expanding TRQ weakens the parastatals' ability to keep prices high; the lower tariff of the TRQ becomes the determinant of the quantity imported. Moreover the TRQ arising from tariffication and the minimum and current access provisions could be allocated to the private sector and not to the parastatals. Parallel imports would in this way erode the quantity control aspect of managed trade.

Despite the trade frictions which seem to surround exporting state traders, such as the marketing boards for wheat and dairy products, the application of current trade rules should be

¹³ This approach highlights the importance of reducing the very high rates of tariff, there is little point in holding state traders to such disciplines if the tariffs are too high to allow any trade.

¹⁴ This would move far beyond the binding of the mark-up as already incorporated for countries such as Japan and Korea in the Uruguay Round Schedules. Indeed the process of tariffication should have already done this for most countries. So long as the quantities of imports do not respond to the reduction of the tariff or mark-up, the benefits are not felt by other countries. Only the size of the transfer between domestic consumers and taxpayers is affected. But by comparing import and domestic prices and requiring imports until the difference does not exceed the bound tariff means that the state importer will in effect be acting as if there was private trade over a fixed import tariff.

even more straightforward in this case. The concern about state trading exporters that is likely to be high on the agenda for the next round arises from the suspicion of covert subsidisation of exports through pricing policies. The resolution should therefore be a straightforward matter of measuring and restricting export subsidies. The practice of financial assistance to exporter boards is explicitly included as an export subsidy in the Uruguay Round Agreement, and the sums involved in the past should have been entered into the Schedules. Countries can continue to subsidise up to this level with impunity. If the process of restricting such expenditures continues then the issue of the subsidised marketing board will vanish.¹⁵ Somewhat more tricky is the situation where marketing boards define "domestic" and "export" grades as a way of charging a higher domestic price. Such two-price schemes might need to be specifically included in the definition of export subsidies and therefore controlled. But some clarification may be needed either to the Agreement itself or in a subsequent code on parastatal behavior.

The practice of export restraints through quantitative controls is likely to be addressed in the next round. Within the GATT, export controls are generally disallowed. Article XI of GATT 1947 prohibits quantitative export restrictions but makes an explicit exception for "export prohibitions or restrictions temporarily applied to prevent or relieve critical shortages of foodstuffs or other products essential to the exporting contracting party". As exporters do not usually complain about quantitative restrictions imposed on their competitors, most export restrictions go unchallenged. But there is a clear conflict between the ability of exporters to withhold supplies to relieve domestic shortages and the reliability of the world market as a source of supplies for importers. In periods of general tight supply the effect of quantitative export restrictions could be to exacerbate the shortage. As a result, importers such as Japan may lead a movement to constrain the ability of exporters to restrict supplies. After all, such QR on exports are no less inconsistent with an open trade system than QR on imports. In addition it could be argued that it is inconsistent with the intention of the Food Security Declaration appended to the Uruguay Round Agreement (the Ministerial Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries) to leave in place the one quantitative restriction that has an immediate and harmful impact on developing country food importers.

¹⁵ Some state export activity arises from the presence of state importers and some from the existence of export subsidies in other countries: removing the monopoly power of the importing parastatal and curbing export subsidies may reduce the attractiveness of the export board as a marketing device.

11.5 Structural Issues

The application of China for entry into the WTO (it withdrew from GATT membership in 1950) poses certain problems and possibilities for agricultural trade, as for other aspects of the international system. The problems are caused in particular by China's internal political and economic structure, where state-owned firms still produce much of the output and the ability to trade internationally is still tightly controlled. The opportunities are the result of the huge market potential as a result of strong economic growth. China could become a major player in agricultural markets; the issue is under what conditions and rules such trade will take place.

The negotiations have reached the point where the terms of accession could be agreed by the end of 1997. Some transition period could follow before full application of all rules to China's trade occurs, and the schedule of tariffs for China may also be phased in over time. The height of the tariffs that China binds will help determine the attractiveness of the import market and have an indirect impact on the pressure for import liberalisation in other Asian countries. In particular, a China with a relatively open market for agricultural goods could lead the way to a more liberal regime by a number of other countries in the region. The treatment of the state trading firms will also be an important part of the overall arrangements for dealing with state trading in the WTO.

11.6 Regionalism and Multilateralism

The interaction between the regional and the multilateral trade liberalisation process is one of the most important structural issues facing the WTO. Many regional trade agreements have in the past left all or part of agriculture out of the free-trade provisions, in deference to the political sensitivity of the sector and the potential conflict with domestic policy objectives.¹⁶ The situation is rapidly changing. NAFTA, MERCOSUR, the Andean Pact, CARICOM and the CER between Australia and New Zealand all include agriculture to a significant extent in their free trade

¹⁶ Some Regional Trade Agreements (RTA) have found that the significance of agricultural trade to one or more parties was too much for the sector to be ignored. The most prominent example of this was the European Economic Community which in the 1960s developed the Common Agricultural Policy (CAP) on the principle of free internal trade in agricultural products, albeit subject to high levels of protection from outside supplies. The result was to generate significant trade diversion as high cost European production replaced lower cost imports from other parts of the world. This illustration of the dangers of trade preferences in RTA serves as a reminder that partial free trade can have untoward consequences. Fortunately, no other RTA has come close to replicating the structure and protection levels of the CAP.

provisions. The Europe Agreements between the Central and Eastern European countries and the EU also include agriculture, albeit with some temporary quantitative limits. Only ASEAN of the most active trade blocs has been unable to incorporate agriculture as an integral part of the internal market. This gives a new significance to these agreements in the process of liberalising agricultural trade and necessitates some coordination with the multilateral process.

The issue of the treatment of agriculture in a world of trading blocs is likely to become even more important in the future. In part this is because the blocs themselves may begin to assume a role in the negotiation of agricultural rules. There are reasons to believe that such blocs will tend to adopt uniform policies toward third countries even if they remain free-trade areas rather than customs unions.¹⁷ But the most important link between RTA and the multilateral process may be through the impact of freer regional trade on the reform of national domestic policies. Countries will be under additional pressure to modify these policies so as not to cause tensions among regional trading partners. In other words, regional agreements could stimulate and "lock in" the reform of domestic policies more rapidly than the multilateral process.

Freer regional trade in agricultural products is, in most cases, consistent with, and hence a step towards, global trade liberalisation. The only additional requirement is that each member of a Regional Trade Agreement should reduce tariffs on third-country agricultural trade so as not to increase regional preferences and generate trade diversion. This could either be done jointly, with other members, in the case of a customs union, or independently, as in the case of a free trade area. In turn, the reductions could be the result of unilateral decisions by the country or the regional agreement, or be the result of multilateral negotiations. In this sense the multilateral negotiations are necessary to keep down the level of protection on non-partner imports so as to avoid trade diversion.

Is there an even more ambitious role for regional trade pacts that could be exploited by the multilateral process? Set against the scenario of the tantalizing but unfulfilled promise of agricultural trade liberalisation at the multilateral level, the regional initiatives have begun to look like useful building blocks for the future of the trade system. By the year 2005 there will be virtually no agricultural trade barriers left between the USA and Mexico, though Canada will have to catch up with that schedule by means of steep reductions in tariffs for some high-tariff agricultural commodities on intra-NAFTA trade. The same would be true in Latin America, Central America, and the Caribbean if current timetables for liberalisation are followed. The rather

¹⁷ For an elaboration of this argument see Josling (1993).

optimistic plans for a Free Trade Area of the Americas (FTAA) by 2005 include removing agricultural trade barriers. Indeed for many countries in the region better access for agricultural products is a prime goal of the negotiations.

If several of the countries of Central Europe become members of the EU early in the next century, and the same "instant accession" arrangements as were negotiated with the recent EFTA countries are followed, there could be an agricultural free-trade zone of perhaps 21 countries in Europe. In the Asia-Pacific region the APEC (Asia-Pacific Economic Cooperation) process calls for "coordinated unilateral" trade liberalisation, extended to non-APEC members through the "most-favored nation" rule of the WTO, by 2010 for developed and 2020 for developing countries. Agriculture is not excluded from this process, though some countries will have to change their attitudes to agricultural protection markedly if this target is to be met.

There is therefore the possibility that the pace of liberalization of agricultural trade may in fact be set by these regional agreements and processes. A liberal trade system may come about quicker from the incorporation of agriculture in the timetable of the regional agreements and supra-regional blocs than in the traditional negotiation of reductions in high tariffs. The positive aspect of these developments could be embraced and internalised within the framework of the WTO.

12 Conclusions

Throughout the Uruguay Round, governments worked for a substantial outcome from the negotiations on agriculture, convinced that increased trade would stimulate global economic growth and help to improve the well-being of the world's people. Agriculture had trailed behind other sectors in the progressive trade liberalization achieved through previous GATT Rounds. The growing integration of the world's economies, the pace of technology changes within agriculture, and the emergence of more diverse and sophisticated food markets added urgency to the task of developing a stronger rules-based system for the agriculture and food sectors. The Consortium membership, through a series of Commissioned Papers, examined options for progress¹ to stimulate the negotiations in order to move the vital food sector substantially along the path of trade liberalization, and to help it to operate more effectively in an increasingly open and competitive world economy.

The outcome of the Uruguay Round through the Agreement on Agriculture, when combined with other results, particularly the Sanitary and Phytosanitary (SPS) Agreement and the Dispute Settlements Agreement, provided for more far-reaching changes to agricultural protectionism than realistically could have been anticipated before the Round began. The negotiations made solid progress in reducing the distortions caused by widespread use of export subsidies. While they can still be applied, export subsidies are now curtailed, providing a more beneficial and predictable environment for agricultural production and trade. Substantial progress was made in reaching agreements on domestic support programs and policies that should have little or no effect on trade. While the aggregated commitments are not yet binding in most cases, the extensive treatment of internal policies marks the first such outcome for any sector and the results are already evident in farm policy evolution. The agreement to convert all non-tariff barriers to tariffs and to ensure that at least a minimum of access to markets is provided was an unprecedented result. Although the immediate improvements in access were quite modest overall, there were important gains for many products and countries. However, the adoption of tariff rate quotas as the primary mechanism to deliver these access results, detracted from the outcome. The new tariff quotas injected a new level of government interference and managed trade into world agriculture. The high, and in many cases excessive, levels of bound tariffs that were accepted in country schedules also continue to be extremely trade-restrictive.

¹ See IATRC Commissioned Papers No. 1-8, 1988-1991.

While the SPS Agreement represented an important advance in providing a sound scientific basis for managing trade problems in the increasingly complex food sector, it is probably too early to judge its benefits. In the modern era of food research, biotechnology and new techniques of processing and distributing food world-wide, the SPS Agreement provides an essential tool to try to manage the growing concerns and issues relating to food trade. The greater clarity and efficiency achieved for handling trade complaints through the Dispute Settlements Agreement was particularly important for agriculture which had been responsible for a disproportionate number of trade grievances. While most observers agreed that the results in agriculture constituted a historical breakthrough in the sector, it was only a first step along the path of progressive trade reforms.

This relatively optimistic assessment of the outcome for agriculture from the Uruguay Round should not mask the remaining problems for agricultural trade that continue to confront the sector and limit the potential benefits from increased exchange of goods and services. The country chapters identify a long list of concerns about the implementation of commitments. Export subsidies are constrained but they can still be used under prescribed conditions and this is creating uncertainty. Export subsidies are banned in the WTO for other goods. An agreement on the use of export credits for agricultural products continues to elude negotiators. There is some evidence that governments are inventing new mechanisms to compete abroad in agriculture that may strain or conflict with the trade rules. The domestic support disciplines, while useful and pointing in the right direction, are not biting today. Some tariffs are unacceptably high and there is much "water" in the tariff schedules of most countries. The shift to tariffs was necessary to convince countries to base their agricultural legislation, in the longer run, on market prices rather than imposing supply management regimes to raise domestic returns, backed by border quotas and other restrictions. While market management policies and significant border protection still exist in many countries, these systems are under persistent pressure to adjust to international prices and global competition.

The new Round will have to deal with demands for additional market access, more disciplines in the use of trade distorting subsidies and countervail remedies, and quantitative export restrictions. The issue of state trading must be addressed in future agricultural trade negotiations. The Special Safeguard mechanism is identified as requiring adjustments if it is to be continued after the transition period. The accession negotiations relating to the entry of large agricultural countries such as China, Russia and the Ukraine will raise additional structural issues

The integration of markets within regions, and the emergence of regional trade agreements is helping to shape the multilateral trade liberalization agenda. Increasingly agriculture is being included in regional trade agreements. These agreements expose differences in national policies

that influence trade, and create new pressures for reforms. The trade implications that arise often require multilateral solutions. Freer regional trade in agricultural products is in most cases consistent with WTO rules, and provides a catalyst in the global trade liberalization process.

Will the emergence of regional trade groupings, and plans for even broader alliances through EU enlargement, negotiations toward a Free Trade Area of the Americas, and an Asia Pacific free trade area, change the nature of multilateral trade negotiations in the future? In the Uruguay Round, the grouping of Cairns Group countries brought a new dimension to the negotiating table. In their most recent meeting, Ministers of the Cairns Group countries resolved to intensify their coordination to press for a "far reaching and ambitious reform of world agricultural trade" and steps to ensure that the next negotiations will commence in 1999 as mandated under Article 20 of the Agreement. Will this group whose membership spans all of the regions of the world become even more influential in the upcoming negotiations, or will the regional trade groupings establish new alliances as negotiations proceed in those areas? Already the MERCOSUR countries are beginning to operate as one group in relation to trade negotiations. Will trade legislation allow the USA to take a leadership role in upcoming negotiations since the FAIR Act has placed them in a strong position to again pursue free trade in agriculture? Will the EU advance its CAP reform agenda and become more aligned with other exporters? Or will the final trade-offs once again be shaped by separate bilateral negotiations between the USA and the EU as occurred with the Blair House agreement? New trade alliances are emerging but at this time it is difficult to foresee the extent to which they may alter the nature of the outcome.

Will the size of the negotiating package be adequate to establish the basis for a substantial deal in agriculture? On its own, the agriculture and food sector may not provide sufficient benefits for some countries to accept difficult political concessions. The WTO Ministerial Declaration from Singapore in December 1996 referred to the built-in agenda resulting from Marrakesh, requiring further negotiations on agriculture, services, and aspects of Trade Related Intellectual Property Rights. Reviews have been agreed to in the WTO covering a wide range of issues including anti-dumping, customs valuation, dispute settlement, import licensing, sanitary and phytosanitary measures, safeguards, subsidies and countervailing measures, technical barriers to trade, textiles and clothing, the Trade Policy Review Mechanism and Trade Related Investment Measures.² Working groups are already addressing trade and the environment, and state trading. Ministers in Singapore agreed to establish separate working groups on the relationship between trade and investment, and issues concerning trade and competition policy, including anti-competitive

² See WTO (1996).

practices. A study will also be undertaken in the WTO on transparency in government procurement practices. All of these issues are of great significance for agriculture and promise to broaden the agenda.³

Is trade liberalization losing its political support, as some fear? Will another Round be stalled by a back-lash against further comprehensive negotiations leading to freer trade? Some groups attribute rising unemployment, poverty, widening income disparities, food insecurity and a host of other concerns to freer trade. The political difficulties faced by the US Administration in obtaining fast-track negotiating authority are associated with these concerns, as well as pressures to link trade agreements to protecting the environment and improving labor standards. While most analyses trace these broad policy concerns to much more basic economic, technological and social developments associated with global change and adjustment pressures all of which must be addressed, it has become popular to attribute many current difficulties to freer trade. Will it be necessary to bend the trade rules and weaken them to confront issues associated with globalization, or will nations seek more direct means to address them? Most countries are pursuing positive and balanced economic growth, often stimulated by trade, and developing appropriate safety nets, to deal with these structural problems.

Will other issues not currently on the policy horizon emerge to overtake the trade negotiating agenda? Should another period of low or high agricultural prices occur, what would be the impact on the negotiations? Since trade agreements tend to follow longer-term shifts in policy directions, and are intended to adjust border regimes to the emerging situation, can countries afford to delay formal negotiation of an adequate trade framework due to short-term events?

In the case of agriculture, the commitment to begin in 1999 has been accepted. The Peace Clause expires at the end of 2003, providing a strong incentive to keep to the negotiating timetable. The agenda for agricultural negotiations is already crowded and compelling as revealed by the work of the Committee on Agriculture. But of greater importance, the role of expanding trade to stimulate economic development, create employment and raise incomes has been accepted world-wide. While governments may need to pay more attention to the impact of the freer movement of trade and investment on more vulnerable sectors of societies, they cannot ignore the opportunities and benefits that will flow from more open trade.

³ For a fuller discussion of these questions, see Miner, Josling, MacLaren, and Tangermann (1996).

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