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# THE URUGUAY ROUND AGREEMENT ON AGRICULTURE: AN OVERVIEW AND GENERAL ASSESSMENT OF THE IMPACTS ON AGRICULTURAL POLICIES AND TRADE

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## 1. THE INTERNATIONAL TRADE REGIME (GATT - WTO)

### 1.1. Basic Principles and Rules

The General Agreement on Tariffs and Trade (GATT) and its successor, the World Trade Organization (WTO) are based on four basic principles.

#### a) The principle of **Non-Discrimination**

Non-discrimination is one of the fundamental principles characterizing the international trade regime, according to which any discrimination of imported goods in relation to their origin is prohibited. In other words each contracting party to the GATT, as well as each WTO member, is obliged to accord, immediately and unconditionally, the same treatment with respect to customs duties and any other charges imposed on importation, to products of the same kind imported into its territory, regardless of their origin.

The non-discrimination principle is backed up by the General Most-Favoured-Nation (MFN) rule contained in Article I of the GATT.

#### b) The principle of **National Treatment**

The national treatment principle (Article III of the GATT) complements that of non-discrimination. Under this principle, contracting parties to the GATT as well as WTO member countries are obliged to accord imported products treatment which is no less favorable with respect to internal taxes and other internal charges, laws, regulations and requirements affecting internal sales than that accorded to products of the same kind of domestic origin.

#### c) The principle of **Reciprocity**

The reciprocity principle is contained in Article XXVIII bis. of the GATT, entitled "tariff negotiations", and it constitutes the basic principle under which multilateral trade negotiations take place. It has both an economic and a political aspect.

The economic aspect of the reciprocity principle is based on balance of payments and employment considerations. Obviously, any unilateral tariff reductions, i.e. a unilateral opening of the domestic market, will probably lead to an increase in imports, while leaving exports unchanged. Therefore, there is a real danger of running a trade deficit on the one hand and

suffering job losses on the other, due to increased competition from imports, as well as to inability to reallocate productive resources towards exporting activities, given that the latter are not expected to expand under the scenario of the unilateral opening of the domestic market.

In the framework of a regime of fixed exchange rates, such as the one that prevailed up to 1973, any trade deficit could be perpetuated and would lead initially to the imposition of exceptional measures under Article XII of the GATT to safeguard the balance of payments, and at a later stage, to a currency devaluation. Therefore, the reciprocity principle may prevent the abuse of measures applicable under Article XII on the one hand, and on the other safeguard the regime of fixed exchange rates.

However, in 1973, following the first oil crisis and international monetary disorder, the regime of fixed exchange rates collapsed and a system of floating exchange rates has been adopted. Hence, those aspects of the reciprocity principle related to balance of payments considerations have lost their significance. Nevertheless, considerations about probable job losses remained valuable, although some may argue that any imbalances in the employment market are the result of existing rigidities and would thus be better faced by deregulation rather than by trade measures.

The political aspect of the reciprocity principle has always been a critical one. Any successful conclusion of multilateral trade negotiations presupposes that national governments can convince their citizens that commitments undertaken on trade liberalization are beneficial to the national economy. There is a divergence of interests between exporters and consumers on the one hand, who are supposed to gain from any reduction of tariffs and liberalization measures adopted, and on the other the various producers' groups and labor unions who are supposed to lose out from the liberalization process. In this respect reciprocity can encourage the development of coalitions in favour of trade liberalization at national level.

#### d) The principle of **Liberalization**

This is contained in the preamble of the GATT and WTO agreements as well as in various GATT articles, the most important of which are:

Article XXVIII, which states that concessions already made by a contracting party cannot be modified or withdrawn without negotiations on compensation with its trade partners

Article XXVIII bis. which provides for periodical multilateral trade negotiations to reduce tariffs and other trade barriers

Article XI, which prohibits the use of non-tariff measures.

### 1.2. Exceptions from Basic Principles

The dispositions referring to the general principles are complemented by other dispositions which provide, under certain conditions, for exceptions or derogation from these basic principles. We can distinguish two categories of exceptions.

The first category includes all those dispositions that limit, for certain contracting parties and under certain conditions, the obligation to respect the basic principles. These exceptions, which could be characterized as permanent, include exception from the MFN clause which provides for the establishment of customs unions and free-trade areas (Article XXIV), exception from the

MFN clause and from the reciprocity principle in favour of developing countries (Part IV, on trade and development), and the general exception from GATT rules and obligations for reasons relating to national security (Article XXI).

The second category includes all those dispositions that provide for temporary derogations from the basic principles and obligations. The purpose of these is to permit the flexible implementation of GATT basic principles and rules, and in that sense to secure their credibility. Contracting parties have the right to take additional trade restrictive measures on imports and/or exports in order to:

Offset dumping and subsidies, provided that these threaten or cause serious injury to domestic producers (Article VI, WTO agreement on the implementation of Art VI)

Overcome temporary balance of payments difficulties (Article XII, WTO understanding on BoPs provisions of the GATT)

Prevent or remedy injury to domestic producers caused by an unforeseen increase in imports (Article XIX)

Protect human, plant and animal life or health as well as exhaustible natural resources and secure the domestic supply of basic products which are in short supply (Article XX, WTO agreement on sanitary and phytosanitary measures)

Overcome other exceptional circumstances, by waiving an obligation imposed upon a contracting party (Article XXV).

## 2. AGRICULTURE IN THE GATT BEFORE THE URUGUAY ROUND

### 2.1. Specific Exceptions in Favour of Agriculture

Although the original GATT applied to agricultural trade, it nevertheless contained various exceptions, either permanent or country-specific derogations, to the disciplines imposed upon the contracting parties.

The country-specific derogations are based either on waivers obtained under Article XXV of the GATT, or to the so-called grandfather clause contained in the protocol of temporary implementation of the GATT.

The permanent exceptions concerned two important aspects, closely related to the effective implementation of the agricultural policies applied since the Second World War. These were namely the exception of agriculture from the prohibition of the use of non-tariff measures (Article XI of the GATT) and the discipline provided in Article XVI of the GATT in relation to subsidies, and especially to the prohibition of the use of export subsidies.

Article XI, 2c established a clear linkage between the enforcement of domestic measures of agricultural policy on the one hand and the imposition of non-tariff measures to restrict imports of any agricultural product on the other. Such measures for trade restriction were allowed for the enforcement of governmental measures aimed: a) at restricting the volume of domestically produced goods or b) at removing a temporary surplus. In any case, the restrictions applied

should not lead to a reduction of the rate  $M_i/Q_i$  (where  $M_i$ =imports and  $Q_i$ =exports of the product concerned) in comparison to the rate which might reasonably be expected to prevail in the absence of restrictions.

In fact the exceptions in Article XI proved to be inadequate, basically because the conditions were so strict that they were met in rather few cases. Therefore, governments found other ways and in many cases they used a great variety of non-tariff measures (e.g. variable levies, voluntary restraint agreements, minimum import prices), not explicitly covered by the discipline of Article XI, to restrict imports.

According to paragraph 1 of Article XVI, contracting parties to the GATT were allowed to grant or maintain any subsidy, including any form of income or price support, on condition that such subsidies would not threaten or seriously prejudice the interests of other contracting parties. However, when a case of serious prejudice was determined, the contracting party providing the subsidy was not obliged to cease subsidization, but merely to enter into consultations with other interested parties, in order to examine the possibility of limiting subsidization.

In addition, under the provisions of paragraph 3 of Article XVI, contracting parties were allowed to grant, directly or indirectly, export subsidies for agricultural products, on condition that they respected their "equitable share" on world market. However, the determination of the meaning of the "equitable share" requirement proved to be extremely difficult in practice due to the dynamic nature of trade and the great number of factors (e.g. exchange rates, quality differences, marketing and organizational aspects) that affect trade performance.

In summary, although agriculture has always been fully incorporated within the GATT in a formal sense, the regime applied to agricultural products, compared to that for industrial goods, was significantly different<sup>1</sup>.

a) The rules and disciplines were more latent and the governments were rather unconstrained in the formulation and implementation of national agricultural policies. In this context, only domestic considerations were taken into account while the international repercussions of agricultural policies were ignored.

b) Despite the loose character of the agreed discipline, governments usually opted to deviate from the rules either by using measures which were outside it (grey area measures) or through the abuse of legitimate measures (e.g. unbound tariffs, SPS measures).

## 2.2. From the 1982 GATT Ministerial Meeting to the Final Act

The November 1982 GATT Ministerial meeting established a comprehensive work programme covering most of the outstanding areas of international trade. That work programme provided the substantial basis for the 8<sup>th</sup> round of multilateral trade negotiations known as the Uruguay Round.

Even from this early preparatory stage, it became clear that agriculture would be one of the central, if not the central, issues in the envisaged trade negotiations. At that time, the major concerns stemmed from the conviction that the existing GATT rules and discipline were not

<sup>1</sup> The only exceptions were those of textiles and clothing which were totally excluded from the GATT discipline through the Multi Fibre Agreement (MFA).

precise enough for them to be useful either in preventing any violation or in resolving disputes once they had arisen. Against such presumptions, the approach followed by the Committee on Agriculture, appointed in 1982, was focused basically on rule changes. The aim was to find ways to make existing GATT rules, namely Articles XI and XVI, more operational and effective so as to define more clearly the limits of domestic agricultural policies<sup>2</sup>. More precisely the recommendations of the Committee on Agriculture called for actions on two levels:

- 1) That of market access, where the focus was to bring all non-tariff measures explicitly under the discipline of Article XI, together with the establishment of commitments on minimum access
- b) That of export subsidies, for which there were two divergent approaches. The one which had been put forward by the USA was based on a general prohibition of export subsidies subject to carefully defined exceptions (mainly for purposes of food aid). The other was recommended by the European Union and was based on the improvement of existing rules, basically through the predetermination of the notion of "equitable shares" for all significant exporters.

However, from the mid-1980s the situation in the area of agricultural trade changed dramatically. International prices for the basic agricultural products (cereals, meat, dairy products, sugar) reached their lowest historical level<sup>3</sup>. The annual rate of increase in the volume of agricultural trade retarded significantly, dropping from 4.5% in 1970-80 to zero in 1985 and to -1% in 1986<sup>4</sup>. The cost of agricultural support, as expressed by the PSE indicators, increased dramatically from 29% in the period 1989-81 to 50% in 1987<sup>5</sup>.

The national agricultural policies of developed countries were considered to be the main cause of the trouble both at domestic and international level, due to their tendency to isolate domestic from international markets. The systematic government intervention in the agricultural sector that had prevailed since the Second World War had stimulated the intensification of production processes, and therefore the accumulation of structural surpluses. Hence, the budgetary cost of agricultural policies rose rapidly while international prices were forced downwards, since surpluses were dumped onto the international markets through export subsidies. It was impossible to secure increases in agricultural income and the reduction of inequalities in intra-agricultural income through these kinds of policies. Furthermore, in many cases the intensification of production processes had negative environmental implications<sup>6</sup>. Therefore, the focus on domestic agricultural policies was necessary to resolve these fundamental problems and to advance the radical reform of agricultural policies so that the agricultural sector could be fully integrated into the market.

This link with domestic agricultural policies, although implicit, is clearly referred to in the Punta del Este declaration which launched the Uruguay Round of multilateral trade negotiations, where it is stated (inter alia) that:

<sup>2</sup> GATT (1985), "GATT Activities 1985", Geneva.

<sup>3</sup> FAO (1990), "The State of Food and Agriculture 1990" Rome, UNCTAD (1991) "Trade and Development Report 1991" UN, New York.

<sup>4</sup> GATT (1987), "International Trade 1986-87", Geneva.

<sup>5</sup> OECD (1987), "National Policies and Agricultural Trade" OECD, Paris, OECD (1991),

<sup>6</sup> OECD (1982), "Problems of Agricultural Trade" Paris, OECD (1987), "National Policies and Agricultural Trade" Paris, FAO (1983), "New Protectionism and Attempts at Liberalization in Agricultural Trade" Rome, S. Tangermann (1989) "International Coordination of Agricultural Policy Adjustments" Eur. Rev. of Agr. Econ. 15.

“Negotiations shall aim to achieve greater liberalization of trade in agriculture and bring all measures affecting import access and export competition under strengthened and more operationally effective GATT rules and disciplines”.

Moreover, the competitive environment was to be improved “by increasing the discipline on the use of all direct and indirect subsidies and other measures directly or indirectly affecting agricultural trade, including the phased reduction of their negative effects and measures dealing with their causes”<sup>7</sup>.

More precisely, the link between domestic agricultural policies and trade had been expressed in the OECD Ministerial Principles for agricultural policy reform adopted in 1987. The long-term objective of the reform agenda “is to allow market signals to influence by way of a progressive and concerted reduction of agricultural support, as well as by all other appropriate means, the orientation of agricultural production; this will bring about a better allocation of resources which will benefit consumers and the economy in general”. In addition, it is indicated that “farm income support should, as appropriate, be sought through direct income support rather than through price guarantees or other measures linked to production or factors of production”<sup>8</sup>.

The agricultural negotiations started in 1987 and the first phase was concluded with the so called Mid-Term Review which took place at Montreal in December 1988. At this first stage, an enormous divergence of views manifested itself between the major trading partners. The USA proposed the elimination of all domestic support measures, within a period of ten years, except for those that are decoupled i.e. those which do not bring about distortions in trade or production. The proposal of the Cairns group was almost identical to that of the USA<sup>9</sup>. The European Union, on the other hand, put forward a more cautious proposal aiming at a short-term solution, i.e. the conclusion of agreements on the stabilization of the international market for the basic agricultural products, while in the long-term the aim was to achieve a gradual and concerted reduction of agricultural support coupled with the rebalancing of external protection between cereal and cereal substitutes, as well as with the adoption of decoupled payments to compensate income losses.

The Mid-term package concluded at Geneva in April 1989, after difficult and prolonged negotiations between the major players, put the negotiations on a new basis. The agreement reached had a short-term aspect which aimed at freezing the current levels of support and protection, and a long-term aspect that provided the means for the substantial and progressive reduction of agricultural support through the adoption of reduction commitments at three different levels: market access, domestic support, export competition<sup>10</sup>.

Following the Mid-term agreement, in October 1990 the USA put forward a new proposal the main elements of which could be summarized as follows: reduction of export subsidies by 90% within a ten-year period and tariffication of all non-tariff measures and reduction of tariffs and tariff equivalents by 75%, also within a ten-year period, coupled with the undertaking of minimum access commitments, the distinction of domestic support measures into decoupled

<sup>7</sup> GATT (1987), BISD 33S/1985-86, Geneva.

<sup>8</sup> OECD (1987), “Ministerial Meeting 1987 - Press Communique” Paris.

<sup>9</sup> Group of 14 developed and developing countries who described themselves as fair traders.

<sup>10</sup> GATT (1989) “Mid-Term Review: Final Agreement at Geneva”, Geneva.

and non-decoupled categories, and reduction of domestic support through non-decoupled measures by 75% within a ten-year period, using the Aggregate Measure of Support indicator (AMS) per product. The Cairns group broadly supported this approach. On the other hand the EU insisted on its initial approach of globality (e.g. no separate commitments on the three different levels but instead a single discipline based on a measure of domestic support) and in November 1990 offered: a 30% reduction of the AMS for the main agricultural products (sugar, cereals, oilseeds, animal products) within a ten-year period, 10% reduction of AMS for all other products within the same period, and tariffication of all non-tariff barriers conditional upon the acceptance of rebalancing by its trade partners. This obvious divergence of views between the basic players was a major factor in the collapse of the Brussels Conference held in December 1990.

In December 1991 Mr A. Dunkel, the Secretary-General of GATT at the time, presented a compromise text of proposals for agriculture which had been elaborated on the principle of undertaking separate commitments on the three levels (domestic support, market access, export competition) as outlined in the USA proposal but with much more moderate reduction commitments (tariffication with a conditional safeguard clause and a 36% reduction for tariffs and tariff equivalents compared with their 1986-90 levels, a minimum right of access of 5%, a 36% reduction in export subsidies, a 24% reduction in the volume of subsidized exports compared with their 1986-90 levels, and a 20% reduction in the AMS per product compared with their 1986-88 levels, excluding decoupled support from reduction commitments). The EU rejected this proposal. However, it was this text which served as a basis for the final compromise two years later.

In the meantime, the EU started once again to re-examine its agricultural policy with the aim of checking the budgetary cost of the CAP and reducing the structural surpluses. In 1992 Mr R Macsharry, the then Commissioner on agriculture, forwarded a proposal for the radical reform of the CAP based upon the combination of restrictive price policy (producer prices were reduced drastically to approach international levels) with management measures for supply (set-aside, extensification) and a gradual decoupling of aid from production (compensations for income losses through direct payments). By the 1992 CAP reform the emphasis had been moved from the price support towards direct income payments that are more or less unrelated to production. After tentative discussions the Macsharry plan was finally agreed by the ministers in May 1992 and this opened up the possibility of obtaining a compromise at the international level.

In the initial stage, such a compromise solution was settled bilaterally between the EU and the USA with the so-called Blair House agreement concluded in November 1992. This introduced a number of modifications into Dunkel's text of proposals:

- a) Where domestic support was concerned, aggregation was accepted. Therefore, reduction commitments were expressed for the whole agricultural sector on a per product basis. In addition, direct payments under the CAP reform were excluded from reduction commitments up to at least up the year 2000.
- b) For subsidized exports, the per volume reduction commitment was restricted to 21% instead of the initial 24% in Dunkel's text of proposals.

c) A “peace clause” was introduced, ensuring that agricultural policy measures will not be challenged before the GATT, as long as the disciplines and commitments are fully respected.

In the last minutes of the negotiations at Geneva additional modifications were introduced to obtain the final agreement, thus:

- a) The EU method of tariffication had been approved
- b) The “peace clause” had been extended for a whole nine-year period
- c) A consultation procedure for the participation of agricultural products in the normal growth of world trade had also been agreed upon.

### 3. THE URUGUAY ROUND AGREEMENT ON AGRICULTURE (AOA): AGRICULTURAL POLICY DISCIPLINE AND CONSTRAINTS

#### 3.1. A Brief Overview of the Main Elements of the AOA

The Agreement on Agriculture<sup>11</sup>, concluded in the framework of the Uruguay Round Multilateral Trade Negotiations, has been recognized as constituting a major turning-point in the evolution of agricultural policies and world agricultural trade<sup>12</sup>.

- The Agreement contains provisions that impose discipline on both trade policies as well as on domestic support. More precisely, rules and commitments undertaken cover three broad areas of agricultural and trade policies:
- **Market access** (Articles 4, 5 of the AOA)<sup>13</sup>, i.e. the rules and concessions contained in the country schedules, governing the protection against import competition
- **Domestic support** (Articles 6, 7, Annexes 2, 3 of the AOA), i.e. the rules and concessions contained in the country schedules relating to the use and the level of “non-border” measures implemented to support agricultural production
- **Export competition** (Articles 3.3, 8, 9, 10, 11 of the AOA), i.e. the rules and concessions contained in the country schedules relating to the subsidization of agricultural exports.

Tables 3.1.1., 3.1.2., and 3.1.3., summarize the main provisions of the AOA in each of the three areas referred to above.

<sup>11</sup> The AOA covers all agricultural products except fish and fish products, as well as forestry products. Annex 1 of the Agreement specifies explicitly the product coverage, as follows: Harmonized System (HS) Chapters 1 - 24, fewer fish and fish products, plus HS Codes: 2905.43, 2905.44, 33.01, 35.01 to 35.05, 3809.10, 3823.60, 41.01 to 41.03, 43.01, 50.01 to 50.03, 51.01 to 51.03, 52.01 to 52.03, 53.01, 53.02.

<sup>12</sup> For a comprehensive evaluation of the U.R. AOA see (et.al.), Delorme H. (1993) “Le Volet Agricole de l’Uruguay Round: Une Nouvelle Régulation Mondiale?” *Economy Rurale* 218, Paris; Delorme H. - Clerc D. (1994) “Un Nouveau GATT? Les Echanges Mondiaux apres L’Uruguay Round” Editions Coplexe, Paris; Tangermann S. (1994) “An Assessment of the U.R. Agreement on Agriculture” in OECD (ed) “The New World Trading System” Readings, Paris; Anderson K. (1994) “Agricultural Policies and the World Trading System” in OECD (ed) “The New World Trading System” Readings, Paris; FAO (1995) “Impact of the U.R. on Agriculture”, Rome, OECD (1995) “The Uruguay Round: A Preliminary Evaluation of the Impacts of the Agreement on Agriculture in the OECD Countries”, Paris; P. Konandreas - J. Greenfield (eds) (1996) “Implications of the Uruguay Round for Developing Countries” *Food Policy* Vol. 21, No. 4/5, Sept./Nov. 1996, Special Issue.

<sup>13</sup> Provisions governing market access are also contained in the text known as the “Modalities for the Establishment of Specific Binding Commitments under the Reform Programme” DOC, GATT, MTN.GNG/MA/W/24/20.12.93.

Table 3.1.1.

## Summary of the Main Provisions of the AOA in the Area of Market Access

Market Access	Developed Countries	Developing Countries <sup>1</sup>
Implementation period	1995 - 2000	1995 - 2004
Base Period	1986 - 1988	1986 - 1988
Non-Tariff Barriers (NTBs) <sup>2</sup>	<p>a) Tariffication</p> <p>All non-tariff barriers (NTBs) have to be converted into ordinary customs duties in the form of tariff equivalents, based on the difference between average 1986-88 domestic prices (<math>p_i</math>) and international prices (<math>p_w</math>) i.e. <math>TE_j = (p_{ij} - p_w)</math>.</p> <p>b) Binding of all tariffs.</p> <p>c) No restoration of, or reversion to, any NTB measures which have been tariffied.</p>	<p>a) Tariffication, Ceiling Bindings.</p> <p>All NTBs have to be converted into ordinary customs duties. Countries applying unbound tariffs have the option to offer "ceiling bindings" which are not necessarily equal to the base period tariff equivalents of the NTBs or the base period level of unbound tariff applied.</p> <p>b) Binding of all tariffs.</p> <p>c) No restoration of, or reversion to, any NTB measures which have been tariffied.</p>
Reduction Commitments	<p>Ordinary tariffs and tariff equivalents have to be reduced by 36% (simple arithmetical average) with a minimum 15% per tariff line from their base period levels. Reductions should be carried out in equal instalments during the implementation period</p>	<p>Ordinary tariffs and tariff equivalents have to be reduced by 24% (simple arithmetical average) with a minimum 10% per tariff line from their base period levels. Reductions should be carried out in equal instalments during the implementation period</p>
Current Access	<p>For tariffied commodities countries are obliged to maintain the existing conditions for market access, including existing preferential arrangements granted to specific exporting countries, if these were already in excess of minimum access commitments during the base period. Any increase in current access should</p>	<p>For tariffied commodities countries are obliged to maintain the existing conditions for market access, including existing preferential arrangements granted to specific exporting countries, if these were already in excess of minimum access commitments during the base period. Any increase in current</p>

	be on a Most Favoured Nation (MFN) basis.	access should be on a Most Favoured Nation (MFN) basis.
Minimum Access	For tariffied commodities, imports of which in the base period were below a minimum level, countries are obliged to establish minimum access opportunities by opening, on an MFN basis, tariff-quotas representing 3% of the base period domestic consumption in the first year of implementation (1995), rising to 5% in 2000. The in-quota tariff rates should be equal to the 32% of the MFN tariff applicable each year. These generally have to be established at the 4 digit level of the Harmonized System (HS).	For tariffied commodities, imports of which in the base period were below a minimum level countries are obliged to establish minimum access opportunities, by opening, on an MFN basis, tariff-quotas representing 1% of the base period domestic consumption in the first year of implementation (1995), rising to 2% in 1999 and 4% in 2004. The in-quota tariff rates should be equal to the 32% of the MFN tariff applicable each year. These generally have to be established at the 4 digit level of the Harmonized System (HS).
Special Safeguard Clause	Applicable only to tariffied commodities, specifically designated in countries' schedules. Additional duties may be imposed in the case of an import surge (volume trigger) or of low prices based on an established trigger price equal to the average 1986-88 reference price for the product concerned.	Applicable only to tariffied commodities, specifically designated in countries' schedules. Additional duties may be imposed in the case of an import surge (volume trigger) or of low prices based on an established trigger price equal to the average 1986-88 reference price for the product concerned.

1. The least-developed countries are exempt from reduction commitments, but should tariffy all NTBs and may not increase their support to agriculture beyond the 1986-88 level.

*Source: GATT, Final Act embodying the results of the Uruguay Round of Multilateral Trade Negotiations, Agreement on Agriculture.*

Table 3.1.2.

Summary of the Main Provisions of the AOA in the Area of Domestic Support

Domestic Support	Developed Countries	Developing Countries <sup>1</sup>
Implementation Period	1995 - 2000	1995 - 2004
Base Period	1986 - 1988	1986 - 1988
Measures Affecting Production, Consumption and Trade (Red Box)	Market price support, non-exempted direct payments, and any other non-exempted subsidy are summarized in AMS indicators, product specific if the support is product specific, or in a non-product specific AMS indicator if the support is non-product specific.	Market price support, non-exempted direct payments, and any other non-exempted subsidy are summarized in AMS indicators, product specific if the support is product specific, or in a non-product specific AMS indicator if the support is non-product specific.
Reduction Commitments	TAMS to be reduced by 20%. Reductions should be made in equal installments during the implementation period.	TAMS to be reduced by 13,3%. Reductions should be made in equal installments during the implementation period.
Constraint on the level of per product support	The due restraint provision (peace clause) implicitly constrains the per product support offered via the red box measures included in the AMS calculation, plus the red box measures. Such support should not exceed that in the historical marketing year of 1992.	The due restrain provision (peace clause) implicitly constrains the per product support offered via the red box measures included in the AMS calculation, plus the red box measures. Such support should not exceed that in the historical marketing year of 1992.
Direct Payments Relating to Production-Limiting Programmes (Blue Box)	Such payments are exempted from the AMS calculations and are not subject to reductions. However, they are included in the per product support calculations under the due restraint provisions.	Such payments are exempted from the AMS calculations and are not subject to reductions. However, they are included in the per product support calculations under the due restraint provisions.

De Minimis Clause	<p>a) Product specific support which does not exceed 5% of the total value of the product is excluded from AMS and reduction commitments.</p> <p>b) Non-product specific support which does not exceed 5% of the value of total agricultural production is also excluded from TAMS and reduction commitments.</p>	<p>a) Product specific support which does not exceed 10% of the total value of the product is excluded from AMS and reduction commitments.</p> <p>b) Non-product specific support which does not exceed 10% of the value of total agricultural production is also excluded from TAMS and reduction commitments.</p>
Non- or Minimally Trade-Distorting Measures (Green Box).	Policies complying with the general and specific decoupling criteria (see Table 3.2.2.1).	Policies complying with the general and specific decoupling criteria (see Table 3.2.2.1) <sup>2</sup> .

1. The least-developed countries do not have to make any reduction to their TAMS, but cannot exceed their base TAMS.
2. For the developing countries, investment subsidies, inputs subsidies, and aid for diversification from the growing of illicit narcotic drugs are included in the green box.

Source: GATT, *Final Act embodying the results of the Uruguay Round of Multilateral Trade Negotiations : Agreement on Agriculture.*

Table 3.1.3.

Summary of the Main Provisions of the AOA in the Area of Export Competition

Export Competition	Developed Countries	Developing Countries
Implementation Period	1995/96 - 2000/2001	1995/96 - 2004/2005
Base Period	1986 - 1990	1986 - 1990
Prohibition of Export Subsidies	Export subsidies for products not specified in the countries' schedules are prohibited.	Export subsidies for products not specified in the countries' schedules are prohibited.
Export Subsidies Subject to Reduction	Direct export subsidies, disposal for export of public stocks at subsidized prices, subsidization of marketing costs of exportables, transport subsidies for exports, self-financed export subsidies if based on public action, subsidies on primary products contingent to their incorporation into exports.	Direct export subsidies, disposal for export of public stocks at subsidized prices, subsidization of marketing costs of exportables, transport subsidies for exports, self-financed export subsidies if based on public action, subsidies on primary products contingent to their incorporation into exports.
Reduction Commitments	<p>a) Expenditures To be reduced by 36% from their base period level.</p> <p>b) Subsidized Quantities To be reduced by 21% from their base period level.</p> <p>c) Reductions made in equal annual installments on a commodity-specific basis. Limited flexibility is allowed at any time during the second to the fifth year of the implementation period. However, final levels should reflect full compliance. 27.</p>	<p>a) Expenditures To be reduced by 24% from their base period level.</p> <p>b) Subsidized Quantities To be reduced by 14% from their base period level.</p> <p>c) Reductions made in equal annual installments on a commodity-specific basis. Limited flexibility is allowed at any time during the second to the fifth year of the implementation period. However, final levels should reflect full compliance.</p>
Prevention of	Food aid should not be tied,	

Circumvention	directly or indirectly, to commercial exports and should be carried out in conformity with the FAO "Principles of Surplus Disposal". In addition internationally agreed disciplines for export credits, export credit guarantees or insurance programs should be developed.	
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Source: GATT, *Final Act, embodying the results of the Uruguay Round of Multilateral Trade Negotiations: Agreement on Agriculture*.

### 3.2. Implications for Agricultural Policies and Trade

#### 3.2.1. Overview of Assessments

Following the conclusion of the Uruguay Round of Multilateral Trade Negotiations, several attempts have been made, by independent researchers as well as international organizations, to assess the impact of the AOA<sup>14</sup>.

All relevant analyses may be grouped in four main categories.

(a) Analyses of qualitative character which try to make a global evaluation of the Agreement on Agriculture, mainly focusing on basic qualitative characteristics and on innovations<sup>15</sup>. The main conclusion of those analyses may be summarized as follows: The degree of liberalization of agricultural trade achieved is limited, but the importance of the Agreement is great, since it brings agriculture under GATT regulation, makes border protection measures more transparent, turns agricultural policies towards direct income support measures, reduces the possibilities for export subsidies and, finally, facilitates future negotiations.

(b) Quantitative analyses which try to evaluate specific aspects of the agreement, i.e. the importance and the consequences of tariffication<sup>16</sup>. The main conclusion is that tariffication is not expected to exert significant influences on trade flows and on the prices of agricultural products in the coming years. There are three main reasons for this. Firstly, most countries have already set the tariff equivalents, for most products, at levels higher than the actual ones in the base period. Secondly, in certain cases, they have turned to so-called «dirty tariffication».

<sup>14</sup> Prior to the U.R. conclusions, attempts were made to assess the effects of the liberalization of agricultural trade, based on various assumptions concerning the level of liberalisation. For a review of those studies see Goldin I, Knudsen O. (1990) "Agricultural Trade Liberalization: Implications for Developing Countries" OECD, Paris.

<sup>15</sup> see Tangermann S. (1994) "An Assessment of the U.R. Agreement on Agriculture" in OECD "The New World Trading System: Readings" Paris; Delorme H. Clerc D. (1994) "Un Nouveau GATT? Les Echanges Mondiaux apres L'Uruguay Round" Editions Complexe, Paris; Anderson K. (1994) "Agricultural Policies and the World Trading System" in OECD op cit.

<sup>16</sup> see Ingco M. (1995) "Agricultural Trade Liberalization in the U.R.: One Step Forward, One Step Back? World Bank Conference on "The U.R. and the Developing Economies" January 1995; Hathaway D., Ingco M. (1995) "Agricultural Liberalization and the U.R." World Bank Conference op. cit.

Thirdly, they have chosen to apply, in the case of «sensitive» products, the minimum allowable reduction percentage.

(c) Quantitative analyses of partial equilibrium which try to evaluate the effects of commitments on the level and stability of international prices, on production and consumption, and on trade flows<sup>17</sup>. Although there are deviations between the various results of the evaluations, due to different methods of analytical approach, the general trend of the results may be summarized as follows:

\* Tariffication is not expected to exert significant influence in the six-year period following the Agreement. It is expected that commitments on minimum access will exert limited influence only.

\* Commitments on domestic support, due to total aggregation, are also not expected to exert any significant influence in the years following the Agreement.

\* Direct effects are expected only from commitments on subsidized exports and especially commitments on volume reductions.

\* International prices are generally expected to increase in comparison to prices which would have prevailed without the existence of the Agreement.

\* No substantial influence on the volume of international trade is expected. On the contrary, it is expected that a significant rearrangement of trade flows will take place. W. Europe and Japan are expected to increase their net imports on basic agricultural products, while N. America and Oceania are expected to make export gains.

(d) Quantitative analyses which, in the framework of general equilibrium models, try to make a global evaluation of the effects of Uruguay Round and of its agricultural aspect, from the view point of social welfare<sup>18</sup>.

Although there exist significant methodological differences between the analyses that inevitably affect the results, the main conclusions may be summarized as follows:

The Agreement on agriculture, seen from a social welfare point of view, constitutes one of the most important components of the Uruguay Round, since its implementation is expected to lead to significant benefits at the international level. However, those benefits are expected to be concentrated in the developed world, mainly in the USA, EU and Japan. Developing countries and especially net food importers are expected to suffer losses, due to restrictions on subsidies in the USA and W. Europe.

Overall, the degree of liberalization obtained by the agreement is rather moderate. In that sense it could be characterized as a "partial liberalization" agreement. It is not expected to have any significant influence on global trade. However, there will be shifts in trade flows as well as in production patterns. The influence of the agreement on the level and variability of world prices

<sup>17</sup> see Meyers W. (1994) "Impacts of the U.R. Agreement on Agricultural Commodity Markets: Implications for NIS and CEECs", Paper presented at the OECD ad-hoc group on East/West Economic Relations on Agriculture, Paris, FAO (1995) "Impact of the U.R. on Agriculture" Rome; OECD (1995) "The Agricultural Outlook 1995-2000" Paris.

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<sup>18</sup> Goldin I., van der Mwnsbrughe D. (1995) "The U.R.: An Assessment of Economywide and Agricultural Reforms" World Bank Conference op. cit., Harrison G., Rutherford T., Tarr D., (1995) "Quantifying the U.R.." World Bank Conference op. cit.

is also expected to be moderate. Nevertheless, the agreement is significant in that it contains innovative elements with important and permanent consequences for the choice of policy mix.

### 3.2.2. *Implications for Domestic Support*

There are two kinds of restrictions on domestic support :

(a) **Indirect restrictions.** These are related firstly to quantitative or other commitments on the level of market access (tariffication, reduction on the tariff, and tariff equivalent level) on the one hand, and on the competition level of exports (reductions on subsidized exports) on the other, and secondly to the obligation that within the framework of the «peace clause», the annual product-specific support that is given via «non-decoupled» and «quasi-decoupled» measures does not exceed the level of support determined for the 1992 marketing year.

As a result, the possibilities for isolation between domestic and international market are limited, while deviation margins between domestic and international prices are reduced along with tariffs and export subsidies. Certainly, this aspect is expected to have significant consequences in the future, since the level of tariff support, according to the present Agreement, is expected to remain high.

(b) **Direct restrictions.** These relate to qualitative and quantitative commitments on the domestic support measures. It is therefore important to distinguish among them those that constitute the «Green Box» (decoupled) and the «Blue Box» (dummy decoupled), for which no reduction commitments are undertaken, from those that constitute the «Red Box» (non-decoupled), and are subject to reduction.

#### **The «Decoupled», «Non-Decoupled» and the «Dummy Decoupled» Domestic Support Measures**

The distinction among «decoupled», «non-decoupled» and «dummy-decoupled» domestic support measures is apparent across the whole text of the Agreement, and it constitutes a **basic innovation** which influences agricultural policy making by appointing the «decoupled» and non-decoupled» measures as the only ones eligible for income support.

«Decoupled measures» (green box) include all measures and policies that have zero or minimum effect on production and trade. **According to Article 6, paragraph 1, those measures are explicitly exempted from reduction.** In addition, according to Article 13 on «due restraint», otherwise known as the «peace clause», those domestic support measures that conform fully to the provisions of Annex 2 of this Agreement cannot cause application of countervailing duties, shall be exempted from actions based on the Subsidies Agreement, and shall be exempted from actions based on non-violation, nullification or impairment of the benefits of tariff concessions accruing to another member.

Annex 2 of the Agreement determines «decoupled» measures and policies, as well as general and specific decoupling criteria. However, reference to «decoupled» measures and policies is

only indicative. Therefore, more measures may be added to the list, providing that all general and specific criteria are met<sup>19</sup>. General decoupling criteria are:

- (a) The support measures (including tax exemptions) should be financed by the national budget and not constitute income transfer from consumers to producers
- (b) The support in question shall not have the effect (direct or indirect) of providing price support to producers. Table 3.2.2.1. gives the elements and assumptions for applying «decoupled» measures and policies.

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<sup>19</sup> According to Annex 2, point 5, the level of support for any year after the base period should not be related to : the kind or volume of production, domestic or international prices, or the factors of production.

TABLE 3.2.2.1

DECOUPLED MEASURES AND POLICIES & SPECIFIC DECOUPLING CRITERIA

Description	Specific decoupling criteria
<b>1. General Services</b>	No direct payments to producers or processors are included
Research	
Phytosanitary control	
Training	
Advisory services	
Inspection services	
Marketing and promotion services	Excluding subsidies towards cost
Infrastructural services	Excluding subsidized provisions of on-farm facilities, subsidies to inputs, operating costs, or preferential user charges.
<b>2. Public stockholding for food security purposes</b>	The volume and accumulation of such stocks shall correspond to predetermined targets, be financially transparent, and be made at current domestic market prices
<b>3. Domestic food aid</b>	Eligibility shall be subject to clearly-defined criteria related to nutritional objectives. Aid shall be in the form of direct provision of food or the provision of means to allow the recipient to buy food. Food purchases are made at current market prices. Financing shall be transparent.
<b>4. Direct payments to producers</b>	The amount of payment in any given year shall not be related to the type, volume, the prices (domestic, international), or the factors of production.
<b>5. Decoupled income support</b>	The criteria of (4) above. Eligibility is determined by criteria such as the income, status of producer or landowner, factor use or production level in a defined and fixed base period.
<b>6. Income safety net</b>	An income loss exceeding 30% of average gross income derived from agriculture in the preceding 3-year period. Coverage less than 70% of the loss. The amount relates solely to income. Total amount

	(income losses and relief from natural disaster) no more than 100% of the total loss.
<b>7. Payments for relief from natural disasters</b>	Formal recognition of the disaster. Loss exceeding 30% of the average production in the preceding 3-year period. Payments applied to losses of: income, livestock, land or other production factor. Total amount (together with (6) above) not more than 100% of the total loss.
<b>8. Producer retirement programmes</b>	Payments conditional upon the definitive permanent retirement from agricultural production.
<b>9. Resource retirement programmes</b>	Payments conditional upon the retirement of land for a minimum of 3 years. For livestock: slaughter or definitive permanent disposal. Payments shall not relate to the type or the quantity of production, or to the prices (domestic or international). No specification of alternative uses.
<b>10. Investment aid</b>	Payments should not relate to type or volume of production (including livestock units), or to prices (domestic or international). Possible requirement not to produce a particular product. The payment shall be limited to the amount required to compensate for the structural disadvantages. The payments shall be given only for the period necessary for the realization of the investment.
<b>11. Payments under environmental programmes</b>	Eligibility dependent on the fulfillment of specific conditions, including those related to production methods or inputs. The amount of payment shall be limited to the extra costs or loss of income involved.
<b>12. Regional assistance programmes</b>	Clearly defined criteria of permanent disadvantages. Payments not related to the type, volume of production, or to prices. Payments limited to the extra costs or loss of income.

SOURCE: GATT, *Final Act embodying the results of the Uruguay Round of Multilateral Trade Negotiations Agreement on Agriculture, Annex 2*

According to the explicit provisions of Article 6, par. 4 and 5, «**Dummy decoupled measures**» (**blue box**) are also excluded from any reduction commitment. However, measures relating to production reduction programmes (Article 6, par. 5) are calculated in connection with the

amount of support for each product, according to the «peace clause» provisions (Article 13, due restraint). They may, therefore, be confronted by GATT provisions, either through the Subsidies Agreement, or through actions based on non-violation nullification or impairment of the benefits of tariff concessions accruing to another Member, or even through the imposition of countervailing duties, if an injury or threat thereof is determined. The above first and second cases come into force when the total, product-specific support offered by «decoupled» or «dummy decoupled» payments exceeds the level of support which was decided during 1992.

Table 3.2.2.2. summarises the «dummy decoupled» measures and policies.

**TABLE 3.2.2.2**  
**«DUMMY-DECOUPLED» MEASURES AND POLICIES**

Type of measure	Preconditions
<b>1. De Minimis Clause</b>	
<b>1.1. Non-decoupled payments specific to a product.</b>	Payments should not exceed 5% of the total production value of the product.
<b>1.2. Non-decoupled payments, non product-specific.</b>	Related payments should not exceed 5% of the value of total agricultural production in each country.
<b>2. Direct payments within the framework of programmes related to the reduction of production.</b>	
<b>2.1. Farm production.</b>	Such payments are based on fixed area and yields, or are made on 85% or less of the base level of production.
<b>2.2. Livestock production.</b>	Such payments are made on a fixed number of head.

Source: GATT, Final Act embodying the results of the Uruguay Round of Multilateral Trade Negotiations Agreement on Agriculture.

The concept of «non-decoupled» payments (red box) includes all policy measures which affect producer decisions on what, how much and how they will produce.

All measures of the category are summarized in a single indicator, named «Aggregate Measure Support» (AMS). This indicator constitutes a measure of how to express and calculate commitments on domestic support.

### 3.3.2. The AMS Concept

Following extensive discussions between the major participants in the Uruguay Round of agricultural negotiations, the Aggregate Measure of Support (AMS) has been adopted as a means to quantify the levels of support and to monitor the reduction commitments.

According to Article 1 of the AOA, the AMS is defined as “the annual level of support, expressed in monetary terms, provided for an agricultural product in favour of the producers of the basic agricultural product, or non-product-specific support provided in favour of agricultural producers in general, other than support provided under programmes that qualify as exempt from reduction under Annex 2 of the Agreement”.

In the case of agricultural products for which calculation of the AMS indicator is not practicable the Equivalent Measurement of Support (EMS) is used. According to Article 1(d) of the AOA the EMS is defined as “the annual level of support, expressed in monetary terms, provided to producers of basic agricultural products through the application of one or more measures, the calculation of which in accordance with the AMS methodology is impracticable, other than support provided under programmes that qualify as exempt from reduction under Annex 2 of the Agreement”.

- As already indicated, Annex 2 of the AOA contains a detailed, non-exhaustive list of measures which, if they are in conformity with the basic and specific criteria outlined therein, are considered to be non- or minimally trade distorting. Such measures are excluded from the AMS and EMS calculations. Furthermore, Article 6 of the AOA provides for two additional exemptions from the AMS/EMS calculations, namely product-specific support which amounts to less than 5% of the value of production of the product concerned, and non product-specific support which amounts to less than 5% of the total value of a country’s agricultural production (de minimis provision) and direct payments under production-limiting programmes, if such payments are based on fixed area and yields for crops and fixed number of head for livestock products or payments are made of up to 85% or less of the base level of production (the so-called “blue box”).

Therefore in the AMS/EMS emphasis is given to the trade distortions arising from agricultural policies. The AMS/EMS indicators are calculated on a product-specific basis. However, for non-product specific support a separate AMS indicator is calculated.

The following policies and measures are included in the AMS/EMS calculations<sup>20</sup>:

a) Market Price Support (MPS). This is calculated by taking the price gap between the administered price and a fixed external reference price (average 1986-88 external price)<sup>21</sup> and multiplying it by the quantity of production eligible to receive the price administered. Obviously, the aim of using fixed external reference prices was to introduce stability into the AMS over time by eliminating the effects of short-term fluctuations in exchange rates and world prices. Additionally, the notion of eligible production permits the effects of production quota policies to be taken into account to a certain extent.

b) Non-exempt Direct Payments (NEDPs). If such payments are dependent on a price gap they are calculated either by taking the price gap between the fixed external reference price and the relevant administered price and multiplying it by the quantity of production eligible to receive

<sup>20</sup> Annexes 3 and 4 of the AOA specify the method which is to be used to calculate AMS/EMS indicators for each individual product as well as for the AMS indicator relating to non product-specific support.

<sup>21</sup> The fixed external reference price shall generally be the average 1986-88 FOB price for a net exporting country and the average CIF price for a net importing one.

the administered price ,or by using the budgetary outlays. The latter are used if they are based on factors other than prices.

c) Non-exempt Reduction in Input Costs (NERICs). Budgetary outlays are used to calculate the value of such measures.

In mathematical terms the expression is:

$$AMS_i = (P_{di} - P_{wi}) * Q_i + D_i - L_i$$

Where:

i = product,  $P_d$  = administered price,  $P_w$  = fixed external reference price (average 1986-88),  $Q_i$  = production eligible to receive administered price,  $D_i$  = Non-exempted, product-specific, direct payments,  $L_i$  = levies on producers

#### 4. OTHER URUGUAY ROUND AGREEMENTS RELATING TO AGRICULTURE

##### 4.1. The SPS Agreement

The Sanitary and Phytosanitary (SPS) Agreement was negotiated during the Uruguay Round. The new Agreement is based on the GATT Article XXb and further elaborates some parts of the Tokyo Round TBT Code. Its aim is to reconcile legitimate public policy objectives in the area of the protection of human, plant and animal health or life, including wild fauna, with the least possible trade interference.

According to the Preamble of the Agreement, the Parties agree to «adopt or enforce measures necessary to protect human, animal or plant life or health, subject to the requirement that these measures are not applied in a manner which constitutes a means of arbitrary or unjustifiable discrimination between Members where the same conditions prevail, or a disguised restriction on international trade».

The notion of SPS measures includes all relevant laws, decrees, regulations, requirements and procedures, including product criteria, process and production methods, testing, inspection, certification and approval procedures, quarantine treatments, provisions on relevant statistical procedures and risk assessment methods, and packaging and labeling requirements directly related to food security.

WTO members are encouraged to base their national SPS measures on international standards, guidelines or recommendations, if these exist (Article 3, harmonization concept). They are also encouraged to follow the principle of equivalence (Article 4) through bilateral or multilateral agreements of mutual recognition.

The agreement requires that SPS measures are based on sound scientific principles and evidence. In a case where relevant scientific evidence is insufficient, a Member may provisionally adopt sanitary or phytosanitary measures on the basis of available pertinent information with a view to a more objective assessment of risk, and review the sanitary or phytosanitary measures accordingly within a reasonable period of time (precautionary principle).

The interesting point about the SPS Agreement is that together with the TBT Agreement it provides a new regime of a multilateral trading system which goes beyond the nature and quality of the product itself, and also covers the way in which a product is produced or processed (PPMs).

#### 4.2. The TBT Agreement

Until the conclusion of the Uruguay Round, certain types of environmental measures based on technical standards and regulations could be justified under the Tokyo Round Standards Code<sup>22</sup>.

The new Agreement on Technical Barriers to Trade (TBT) is based on GATT Article XXb and it constitutes a radical revision of the above-mentioned Standards Code.

Contrary to Article XXb, it explicitly refers to environment, «recognizing that no country should be prevented from taking measures necessary to ensure the quality of its exports, or for the protection of human, animal or plant life or health, of the environment, or for the prevention of deceptive approaches».

The TBT Agreement is primarily aimed at ensuring transparency in the preparation, adoption and application of technical regulations and standards and conformity assessment procedures, but some substantive provisions, concerning non-discrimination and the notion of least restrictiveness of trade are also included.

One of the main issues of the TBT Agreement is the promotion of international harmonization of standards and technical regulations. However, harmonization towards the highest level of environmental protection is very difficult to achieve because of the vastly different conditions, priorities and levels of economic development prevailing in each country. Accordingly, the TBT Agreement contain provisions allowing countries not to apply international standards if they would be ineffective or inappropriate to achieve a more stringent product-related domestic environmental requirement.

Further to the above, the TBT Agreement has gained increasing importance in relation to the extension of technical regulation to include "product characteristics or their related processes and production methods, including the applicable administrative provisions, with which compliance is mandatory. It may also include or deal exclusively with terminology, symbols, packaging, marking or labeling requirements as they apply to a product, process or production method (Annex I)".

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<sup>22</sup> A technical standard differs from a regulation in that the former is voluntary, defined usually by an industry or a non-governmental standardization body, while the latter is mandatory and it is usually imposed to safeguard public or animal health or the environment.

### 4.3. The Agreement on Subsidies and Countervailing Measures (SCM)

The Agreement on Subsidies and Countervailing Measures (SCM) was initially introduced during the Tokyo Round, in the form of a Code, with the aim of clarifying and complementing the GATT Article XVI. 4 , which would later on, during the Uruguay Round, become the SCM Agreement.

In contrast to what was the case in the GATT 1947 as well as in the 1979 Tokyo Round Code, the new agreement defines the term "subsidy". Agricultural subsidies are generally excluded from the disciplines of the agreement as they are covered by the AOA. However, the Agreement includes important environmental dimensions. It distinguishes three categories of subsidies, the non-actionable, the actionable and the prohibited.

The Non-Actionable subsidies are GATT legal measures and are not subject to countervailing or actions of nullification. They include all non-specific subsidies i.e. those that do not benefit a firm or industry or a group of industries but are generally available (global in nature and horizontal in their application). In addition, they include certain specific subsidies that are important for the environment, namely (a) assistance for research activities, (b) assistance for disadvantaged regions within the territory of a Member given in pursuance of a general framework of regional development, and (c) assistance to promote the adaptation of existing facilities to meet new environmental requirements imposed by law/or regulations which result in greater constraints and financial burden on firms.

Actionable subsidies are those that are permitted but may, under certain circumstances, cause adverse effects on trade. Therefore, such subsidies are subject to countervailing and nullification or impairment procedures.

Prohibited are the subsidies that (a) are contingent upon export performance (export subsidies) and (b) contingent upon local content requirements.

Discussions on these issues have revealed the need for further analysis. Possible areas of further investigation include (a) the relationship between the Agreement on Subsidies and Countervailing measures (SCM) and various forms of environmental incentives, (b) the extent to which WTO provisions may encourage subsidization that could be environmentally harmful, and (c) the use of environmental subsidies in relation to the Agreement on Agriculture, particularly Annex 2, point 12.

Here, there are two areas of interest. One concerns the need for environmental reviews by national governments of trade agreements likely to have significant effects on trade, and the other concerns the need to examine the relationship and comparability of general trade and environmental principles, including those on sustainable development, as in Principle 12 of Rio Declaration.

### 4.4. The Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs)

According to Article 7, the aim of the Agreement is "the protection and enforcement of intellectual property rights that contribute to the promotion of technological innovation and to the transfer and dissemination of technology, to the mutual advantage of producers and users of

technological knowledge and in a manner conducive to social and economic welfare and to a balance of rights and obligations”.

Relating to the above objectives, Article 8 determines that members may (a) “adopt measures necessary to protect public health and nutrition and to promote the public interest in sectors of vital importance to their socio-economic and technological development” and (b) “need to prevent the abuse of intellectual property rights by right holders or the resort to practices which unreasonably restrain trade or adversely affect the international transfer of technology”.

Concerning the nature and scope of obligations, Article 1 determines that members may, but shall not be obliged to, implement under their own law more extensive protection than is required by the Agreement, provided that such protection does not contravene the provisions of the Agreement.

The successful conclusion of the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPs) constitutes a major milestone in the efforts of the industrial countries to bring the level of IPR protection of developing countries to an international level. This is expected to boost investment in new technologies, including those which can be beneficial to the environment, and constitutes the basis for technology transfer.

The TRIPs Agreement allows for necessary measures to be taken under certain conditions against the use of technologies detrimental to the environment.

More specifically, Article 27 of the Agreement provides that WTO members may exclude from patentability inventions whose commercial exploitation needs to be prevented, in order to protect public order or morality, human, animal and plant life or health, or to avoid serious prejudice to the environment. Exclusions from patentability may also include plants and animals other than micro-organisms and essential biological processes for the production of plants and animals. However, plant varieties should be protected by patents and/or an effective sui generis system.

Alongside the TRIPs Agreement in the WTO, the issue of intellectual property rights has been addressed in a number of fora, the most prominent being the Convention on Biological Diversity. Access to, and transfer of, technology are important aspects covered by Article 16 of the Convention. Article 16.5 states that contracting parties, recognizing that patents and other intellectual property rights may have an influence on the implementation of this Convention, should co-operate in this regard, subject to national legislation and international law, in order to ensure that such rights are supportive of, and do not run counter to, its objectives. Furthermore, Article 16.2 of the Convention recognizes that transfer of and access to technology shall be provided on terms which recognize and are consistent with the adequate and effective protection of intellectual property rights<sup>23</sup>.

However, while it is governments which have subscribed to the obligations under the Convention on Biological Diversity, most of the relevant technology and related intellectual

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<sup>23</sup> While it is governments which have subscribed to the obligations under the Convention on Biological Diversity, most of the relevant technology and related intellectual property rights which could be transferred to developing countries in order to solve the problems addressed by the Convention resides within the private sector. It is therefore worth considering how to involve the private sector efficiently in order to address the issues which arise, taking also into account the supportive role that the governments of industrialized countries have to play in particular in the framework of their development co-operation programmes.

property rights which could be transferred to developing countries in order to solve the problems addressed by the Convention resides within the private sector. It is therefore worth considering how to involve the private sector efficiently in order to address the issues which arise, taking also into account the supportive role that the governments of industrialized countries have to play, particularly in the framework of their development co-operation programs.

## 5. FUTURE NEGOTIATIONS

The Uruguay Round of Multilateral Trade Negotiations proved to be excessively lengthy and complicated. Although solutions have finally been found for many issues, others remain to be addressed and resolved. According to Article 20 of the Agreement on Agriculture, future negotiations for continuing the reform of agricultural policy and liberalization of agricultural trade will be initiated in 1999. Although this constitutes a "continuation clause" specifically for agriculture, there are many reasons to expect that the new round will additionally focus on many other important issues, among which is that of environment.

Among the purely agricultural issues, there will be pressure for further reductions on tariffs and tariff equivalents, as well as for the enlargement of minimum access opportunities in order to achieve a greater market access<sup>24</sup>. Given that the tariff schedules of different countries deviate considerably from their mean value, it is expected that certain methods of reduction of upper tariff levels may be proposed in order to reduce this high deviation.

The "Special safeguard clause" is also expected to gain attention if there is a systematic and expanded use of it during the implementation period.

Regarding export competition, it is expected that further reduction in export subsidies will be discussed, aimed at deeper and more stringent discipline. Given that for certain countries (e.g. the EU) pressure for reductions on the volume of subsidized exports will force further reforms in agricultural policies, the overall negotiation on this issue is expected to be tough.

Where domestic support is concerned, it is not only its overall reduction that will be at the centre of future discussions. Additional areas of concern are:

- \* Product by product fixing of commitments and the subsequent reduction in existing flexibility
- \* Re-examination of decoupled payments and of their decoupling criteria
- \* The existence of income support measures, including deficiency payments that relate to management measures for supply. In addition to the above-mentioned purely agricultural issues, the agriculture-environment-trade relationship is expected to become a main issue in future negotiations. The emphasis which is today put on the protection of the environment in relation to agriculture and trade is expected to create new areas for agricultural policies, as well as new grounds for debate between those who believe that free trade and environmental policies can work in tandem to achieve social benefit, economic growth and environmental quality, and

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<sup>24</sup> In this framework, it is expected that the issue of EU "entry prices" for fruits and vegetables will be discussed in relation to its compatibility with the Agreement.

those who insist that there is no simple or automatic link between trade liberalization and environmental protection and that market mechanisms could only lead to both an economically and ecologically optimal allocation of production resources if full internalization of environmental costs were achieved.

In fact, the effects of agricultural activity on the environment create externalities that cannot always give a market value. The only way to face this market failure is intervention. However, in order to assure the effectiveness of certain measures, it may be necessary to apply appropriate border measures, which inevitably affect trade flows. This is very much so in a case where a country applies unilateral measures for the protection of the environment which result in increases in production costs and a loss of comparative advantage against competing partners. If these measures affect production and/or trade, there will be additional indirect effects on trade. Furthermore, non-tariff barriers may be applied (e.g. import bans on certain products), either to protect those products or because the methods of production of the said product are not environmentally friendly.

Future negotiations will have to relate environmental protection with international competitiveness, i.e. they will have to distinguish between different agri-environmental policies and their trade effects, as well as between differing trade measures that secure environmental policies. The aim will be to examine how full implementation of U.R. commitments has the potential to yield benefits for both the multilateral trading system and the environment.

The basis for such investigation exists along the lines of the report of the Committee on Trade and Environment (CTE), which was addressed at the first WTO Ministerial Meeting in December 1996.

Among the issues emerging from the CTE report, the following ones are expected to be at the centre of future negotiations:

- \* How WTO regulations will include specific reference to the environment (reform of GATT Article XX, the role of CTE).
- \* The relation between MEAs and WTO regulations (how trade measures may be considered for application to the non-parties to a MEA, possible reform of Article XX, relation between MEAs and the TRIPs Agreement).
- \* The relation between WTO regulations and the TBT Agreement (coverage and application of the TBT Agreement on voluntary eco-labelling schemes/programs, including those based on life-cycle, criteria concerning non-product related PPMs, possible trade effects of eco-labelling schemes, and the role of the Code of Good Practice in the TBT Agreement to enhance transparency of eco-labelling schemes).
- \* The principle of «common but differentiated responsibilities» for developing countries (schedules for compliance, de minimis clause).

TABLE  
GATT MULTILATERAL TRADE ROUNDS

YEAR	PLACE	SUBJECTS COVERED	PARTICIPATING COUNTRIES
1947	Geneva	Tariffs	23
1949	Annecy	Tariffs	13
1951	Torquay	Tariffs	38
1956	Geneva	Tariffs	26
1960-1961	Geneva (Dillon Round)	Tariffs	26
1964-1967	Geneva (Kennedy Round)	Tariffs and Anti-dumping Measures	62
1973-1979	Geneva (Tokyo Round)	Tariffs, non-tariff measures, "code" agreements	102
1986-1993	Geneva (Uruguay Round)	Tariffs, non-tariff measures, GATT rules, services, TRIPs, TRIMs, dispute settlement, textiles, agriculture, SPS, SCM, establishment of WTO etc.	123