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Preface

The primary purpose of this document is to present and explain the joint trade position of the five national organizations representing producers of commodities under supply management (SM5): Dairy Farmers of Canada, Canadian Broiler Hatching Egg Marketing Agency, Chicken Farmers of Canada, Canadian Egg Marketing Agency, and the Canadian Turkey Marketing Agency. This position is outlined in the second section.

This document is a comprehensive overview of international trade issues pertaining to agriculture. It provides background on the World Trade Organization (WTO) and its multilateral trade negotiations, past and future. Emphasis is placed mostly on the upcoming WTO negotiations.

The background sections consist of an explanation of the World Trade Organization (WTO), the broad achievements and drawbacks of the Uruguay Round, and the process adopted for the next round of WTO negotiations. The next three sections deal with what are known as the issues under the “built-in agenda”: Export Competition, Market Access and Domestic Support. Each of these latter sections contains the specific results of the Uruguay Round, an analysis of the current situation and a discussion that explains the SM5 positions. The following section addresses sanitary and phytosanitary measures, as well as trade and the environment. The last two sections of this document provide an outline of other agreements that affect agricultural trade, whether WTO related or not.

This document has also been designed to be evolutionary in keeping with the next negotiations, which are expected to last at least three to four years. To maintain this document as a basic reference tool, it will be updated from time to time as progress is achieved, new concepts introduced, or further details of the SM5 positions developed.

Updates will be developed as needed. If you are interested in receiving the updates to this document, please contact the International Trade Department at Dairy Farmers of Canada and your name will be added to the mailing list. The International Trade Department can be contacted by phone (613) 236-9997, fax (613) 236-7205 and through the Internet via www.dairyfarmers.org.

1. Introduction

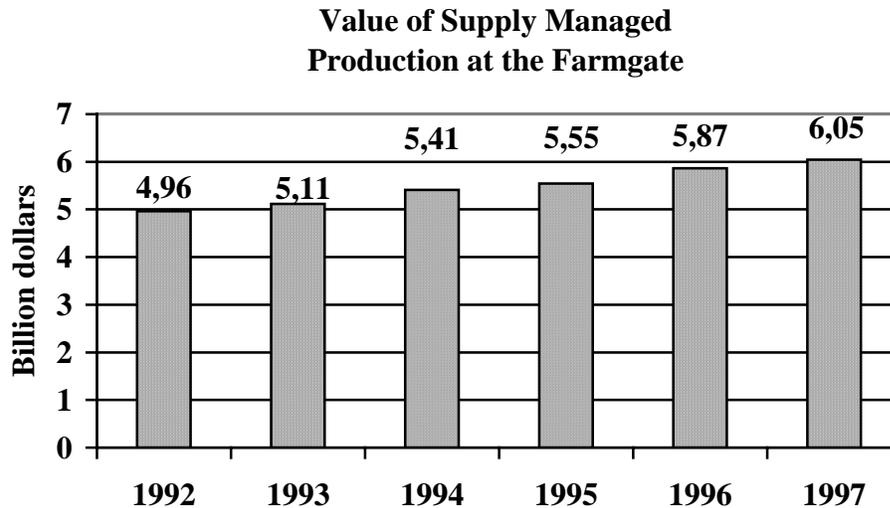
SM5: A Coalition for Fair Trade in Agricultural Products

The Supply Management Five (SM5) is made up of Dairy Farmers of Canada, the Broiler Hatching Egg Marketing Agency, the Canadian Egg Marketing Agency, the Canadian Turkey Marketing Agency, and Chicken Farmers of Canada. The SM5 has developed a unified position on agriculture in light of the next round of the World Trade Organization's negotiations on international trade. The SM5 believes that trade agreements must establish fair rules governing international trade and preserve the right of farmers to select the marketing system of their choice, including orderly marketing.

As preparations are made for the next round of World Trade Organization (WTO) agricultural negotiations, scheduled to begin in 1999, the 30,000 dairy, egg and poultry farmers across Canada, through their national producer organizations, have joined together to adopt a unified position to help guide the Canadian negotiating position.

This group of producers, known as the SM5, represents the interests of all Canadian farmers operating within a supply management system. They share common interests and have been working over the past few months on a common position that could lead to a consensus of Canadian commodities on trade. The SM5 believes that future trade agreements must preserve the right of Canadian farmers to select the marketing system of their choice, including orderly marketing. Farmers must continue to be given the necessary legislation, infrastructure and recognition to ensure a balance in the bargaining relationships they have with others in the marketing chain.

The Canadian dairy, egg and poultry sectors in 1997 generated approximately \$6 billion in farm cash receipts or 21% of total primary agriculture. In terms of value-adding, the Canadian dairy, egg and poultry sectors sustained approximately 40,000 jobs in the processing industry and accounted for more than \$13 billion in total retail sales during that year.



1.1 Dairy Farmers of Canada (DFC)

Dairy Farmers of Canada (DFC) is the national lobby, policy and promotion organization representing Canada's 24,000 dairy producers. DFC is run for producers, by producers. It was founded in 1934 as the Canadian Federation of Milk Producers and became Dairy Farmers of Canada in 1942.

The dairy industry is the third largest agricultural sector in Canada, generating \$3.9 billion in farm cash receipts per year. Its contribution to the Canadian economy is substantial and approaches \$8 billion in sales. It also employs close to 50,000 people when both the farming and processing sectors are added together.

Over the last 30 years, Canadian dairy producers have worked towards the establishment and the improvement of a marketing structure -- supply management -- as a means of ensuring efficient producers receive a fair return for their labor and investment and providing Canadian consumers with a consistent supply of high quality dairy products. The domestic market continues to remain the primary focus of the industry with more than 90% of the Canadian market for dairy products supplied by Canadian dairy producers.

It should be noted, however, that the Canadian dairy industry is, despite the myth, a net contributor to the Canadian trade balance and has always been active on world markets. In 1997, exports of dairy products totalled \$376 million. Conversely, imports totalled \$278 million. The end result was a trade surplus of \$98 million. In addition to the \$376 million worth of dairy products that it exports, the Canadian dairy industry supplies 20% of the world market for dairy genetics in the form of cattle, embryos and semen. This represents an additional \$80 million worth of export revenues.

1.2 Canadian Broiler Hatching Egg Marketing Agency (CBHEMA)

The Canadian Broiler Hatching Egg Marketing Agency is the youngest of Canada's supply management agencies. Created in 1986, the agency represents nearly 300 producers in British Columbia, Alberta, Manitoba, Ontario and Quebec. As the foundation of Canada's chicken industry, the \$168 million hatching egg industry provides the hatchery sector with more than 554 million hatching eggs annually.

1.3 Canadian Egg Marketing Agency (CEMA)

The Canadian Egg Marketing Agency (CEMA) was established in 1972. This national producer-run organization ensures that Canadians are supplied with the best possible eggs at the best possible prices.

Today there are 1,300 producers across Canada who possess approximately 18 million birds that produce roughly 431 million dozen eggs annually. The egg industry involves not only production facilities but also hatcheries, grading stations and processing plants. Together these sectors provide approximately 4,700 jobs nation-wide and generate \$673 million dollars in retail sales. Egg farms also purchase approximately \$200 million dollars in feed annually, while on-farm cash receipts totalled \$472 million in 1997.

Approximately 82% of the eggs produced in Canada are sold directly to consumers on the retail market. The remaining 18% of the eggs are directed towards the industrial products program, which supplies eggs for further processing, including bio-medical research. This sector is continuing to experience growth and the Canadian Egg Marketing Agency provided approximately 84 million dozen eggs to this sector in 1998, with an approximate value of \$51 million.

During 1997 Canada exported \$20.9 million worth of processed egg product while importing \$34.9 million of shell and processed egg product. Consequently, the Canadian egg industry had a trade deficit of \$14.0 million dollars for 1997.

1.4 Canadian Turkey Marketing Agency (CTMA)

The Canadian Turkey Marketing Agency (CTMA) was established in 1973 and represents 560 registered producers in eight provinces.

The Canadian turkey industry in 1997 generated \$260 million in farm cash receipts and over \$520 million in retail sales. It employs, on a full-time basis, approximately 2,300 people throughout the farm and food processing sectors.

Turkey producers purchased roughly 464,337 metric tons of feed in 1997 at an estimated value of \$166 million, directly supporting both feed mill operators and grains producers throughout the country. An estimated \$33 million was spent on the purchase of turkey poults, again supporting rural Canadians employed in 19 registered turkey hatcheries.

In 1997, exports of turkey products totalled 17.4 million kilograms, 12% of domestic production, resulting in additional farm cash receipts in the order of \$22 million. Conversely, imports totalled 4.5 million kilograms for a net trade surplus of 12.9 million kg.

1.5 Chicken Farmers of Canada (CFC)

Chicken Farmers of Canada (CFC), established in 1978, is a national farmer-run organization representing Canada's 2,800 chicken farmers. The organization is completely funded through levies paid by farmers and does not receive any government subsidies. Over the past five years (1993-1997), production of Canadian chicken has grown 33%, and per capita consumption of chicken has climbed to an all-time high of 25.2 kg. Canadians, however, are not the only ones who value Canada's safe, nutritious and quality chicken. Since 1993, Canadian chicken exports have grown from 1.4 to 43.8 million kilograms, and now represent close to 6% of our total production. Our farmers generate \$1.3 billion in farm gate sales and buy \$736 million worth of feed. The industry employs 15,500 persons in processing plants and on chicken farms.

2. SM5 Principles and Positions

2.1 SM5 Principles

Make the Rules Fair – Eliminate Export Subsidies

The SM5 members want a trade system that is based on clear and fair rules. The trade system must ensure good value for Canadian consumers and improve the way Canadian farmers operate in international and domestic markets.

The SM5 supports:

- the elimination of all government export subsidies
- the development of clear rules governing market access
- the placement of a cap on total domestic support, and
- sanitary and phytosanitary measures that are based on science, not trade politics.

The SM5 wants the following principles to be included in Canada's trade policy for the upcoming WTO negotiations:

1. Canadian egg, dairy and poultry farmers believe that Canada should approach the next WTO round of multilateral negotiations with the objective of achieving positive results for Canadian farmers.
2. Egg, dairy and poultry farmers support further trade negotiations for agriculture only if they result in a better functioning of international and domestic markets and contribute to the improvement of Canadian farm incomes.
3. The WTO should be the principal vehicle for the establishment of fair and effective trade rules.
4. Trade commitments affecting egg, dairy and poultry farmers, in other trade agreements into which Canada may enter, must not go beyond WTO commitments and disciplines.

5. There must be no trade-off between Canadian agricultural sectors, as well as no trade-off between agriculture and another industrial sector.
6. The next WTO negotiations in agriculture must focus primarily on the elimination of export subsidies.
7. Canada must obtain full equivalency of rules-based minimum access levels.
8. Tariff-Rate Quota (TRQ) administration must be subject to rules that ensure the level of access committed is achievable.
9. Sanitary and Phytosanitary (SPS) measures that are not science based must be eliminated.
10. Canada must seek greater discipline governing domestic support.

2.2 SM5 Positions

2.2.1 Export Subsidies

- Egg, dairy and poultry farmers support the elimination of all government financed export subsidies being the primary focus of trade negotiations since they constitute the most significant distortions to trade.
- Where international food aid, export credit and export promotion programs are permitted, fair, effective and stringent WTO trade rules should govern their practices.

2.2.2 Market Access

- The tariffs applying to Canada's over access commitments (tariff equivalents) must be maintained at their current levels to ensure no more access than the committed level of the Tariff-Rate Quota (TRQ). TRQs were implemented as part of the Uruguay Round to convert non-tariff barriers into transparent tariffs of equivalent effect, including border measures consistent with GATT Article XI.

- Canada seeks the development of clear and precise rules governing market access in order to ensure that all countries' commitments on market access are equivalent (i.e. based on rules applicable to all: e.g. a fixed percentage of domestic consumption).
- Canada must pursue the elimination of all country-specific TRQ allocations so that access is available to all WTO members.
- Canada must pursue the establishment of transparent, effective and binding rules governing TRQ administration to ensure the committed level of access is achievable. Countries should not use administrative measures to circumvent their within access commitments. Administrative measures which are designed to take account of domestic market conditions and infrastructures, including the right to designate the market segments that receive these imports, should be allowed provided they do not impede the level of committed access.
- Tariffs applying to a country's WTO within access commitments should be reduced to zero.

2.2.3 Domestic Support

- Canada must seek greater discipline governing domestic support and seek the imposition of a cap on total domestic support including all amber, blue and green programs, measured as a percentage of total value of production.
- The special consideration for "Blue Box" programs must be eliminated.
- The definitions of "green programs" must be clarified to ensure that trade distorting programs do not qualify under the Green Box. These definitions must be made universal and a WTO system for the prior determination of the "green status" of a specific domestic program must be established.

- The measurement of domestic support must remain at the aggregate level, as measured by the Aggregate Measurement of Support (AMS), to ensure Canada preserves its flexibility to fund domestic support programs.

2.2.4 Sanitary and Phytosanitary (SPS) Measures and Environment

- Sanitary and Phytosanitary (SPS) measures must be based on sound science and not used as disguised trade measures.
- Recognizing that there is an interaction between trade and environmental issues, Canada should insist that the Committee on Trade and Environment become a permanent WTO body; and that trade provisions in international environmental agreements be subject to full WTO discipline.

3. The World Trade Organization¹ (WTO)

The World's Major International Trade Coordinator

The World Trade Organization (WTO) is the only international body that deals with the rules of trade between countries. In 1995 the WTO replaced the General Agreement on Tariffs and Trade as the institutional framework. In its aim to liberalize trade it follows key principles:

- Trade without discrimination
- Freer trade through negotiation
- Predictability through binding commitments
- Promotion of fair competition
- Encouragement of development and economic reform

The WTO is made up of 134 countries and is run by its member countries. All decisions are made by the membership as a whole. Trade disputes are settled through the Dispute Settlement Body using a system of clearly defined rules and procedures.

3.1 What is the WTO?

The World Trade Organization (WTO) is an organization of 134 countries (see Annex D) working together for the purpose of liberalizing world trade. “The WTO is the only international body dealing with the rules of trade between nations”². The WTO develops the international rules and regulations within which member countries trade in goods, services, and “ideas” or intellectual properties. These trade rules are in the form of legal binding texts which together make up the WTO Agreement.

The WTO was established on January 1, 1995, after the completion of the Uruguay Round of the General Agreement on Tariffs and Trade (GATT). On April 15, 1994, at a meeting in Marrakesh, Morocco, Ministers from Contracting Parties of the GATT signed the “Final Act Embodying the Results of the Uruguay Round of Multilateral Trade

¹ This section is based on the WTO document entitled: “Introduction to the WTO: Trading into the Future,” WTO, second edition, 1998.

² Idem, p.4.

Negotiations.” The participating countries had resolved to develop an integrated, more viable and durable multilateral trading system, which would encompass the GATT 1994 and previous GATT arrangements, and in which all such trade agreements would be binding on all Members. The WTO is still young, but it should be remembered that it is the result of a half-century-old trading system that was the GATT.

The WTO is therefore the successor to the General Agreement on Tariffs and Trade and provides a proper institution with its own secretariat to facilitate the implementation, administration, and operation of the trade agreements.

The functions of the WTO are:

- To administer WTO trade agreements;
- To provide a forum for trade negotiations;
- To handle trade disputes;
- To monitor national trade policies;
- To provide technical assistance and training developing nations; and
- To cooperate with other international organizations.

3.2 Principles of the WTO

The basic aim of the WTO is to liberalize world trade. In pursuing this aim, the WTO embodies the following key principles³:

Trade without discrimination: A fundamental principle of the WTO is that all countries must be treated equally. Countries cannot give special trading privileges or apply special trading restrictions that are not applicable to all WTO Members. This is known as the “most-favoured-nation” (MFN) clause which binds members to treat the products of other members no less favorably than that accorded to the products of any other country. Exceptions are allowed only in special circumstances such as in the case of regional trading arrangements and for developing countries⁴. The principle of non-discrimination also includes the concept of

³ The principles are explained in the WTO document entitled: “Introduction to WTO: Trading into the Future,” WTO, second edition, 1998, pages 5-7.

⁴ The WTO respects regional trading arrangements in which a group of countries enter into agreements which liberalize trade between themselves to a greater degree than with other member countries (e.g. the European Union (EU) or the North American Free Trade Agreement (NAFTA)). Such regional agreements must meet criteria established by the GATT to ensure that the regional agreement does not lead to greater trade barriers with other member countries.

equal treatment between imported and locally produced goods and services. This is known as “national treatment,” and means that the same rules should apply to domestic and foreign goods and services as soon as they have entered a national market.

Freer trade -- gradually, through negotiation: Lowering trade barriers is a means for encouraging trade. The WTO agreements allow countries to introduce changes gradually, through “progressive liberalization.”

Predictability -- through binding: “The multilateral trading system is an attempt by governments to make the business environment stable and predictable. Sometimes, promising not to raise a trade barrier can be as important as lowering one, because the promise gives businesses a clearer view of their future opportunities.”⁵ In the WTO, when countries agree to open their markets for goods or services, they “bind” their commitments, which means their commitments are fixed.

Promoting Fair Competition: The WTO rules on non-discrimination, as well as those on dumping and subsidies are designed to create fair and undistorted trading environments among member countries. The WTO discourages “unfair” practices such as export subsidies and dumping products at below cost to gain market share.

Encouraging development and economic reform: Since more than 75 per cent of WTO Members consist of developing countries and countries in transition to market economies, an important principle of the WTO is the encouragement of the like participation of these nations by giving them more time to adjust, greater flexibility, and special privileges. The provisions of the GATT intended to favour developing countries remain in place in the WTO.

⁵ Idem: footnote 3.

3.3 Organizational Structure of the WTO

The WTO is based in Geneva, Switzerland. It has an annual operating budget of \$127 million (Canadian dollars in 1998)⁶ and employs approximately 500 people. The current Director-General of the organization is Renato Ruggiero, however a new director general is scheduled to be chosen soon.⁷

“The WTO is run by its member governments. All major decisions are made by the membership as a whole, either by ministers (who meet at least once every two years) or by officials (who meet regularly in Geneva). Decisions are normally taken by consensus.”⁸

The highest authority of the organization is the Ministerial Conference, which is composed of ministers of all WTO member countries. The Ministerial Conference is required to meet at least once every two years to make decisions on all matters under any of the multilateral trade agreements. (Ministers met in Singapore in December 1996, in Switzerland in 1998 and the next meeting will be held in 1999 in the United States).

The day-to-day work of the Ministerial Conference is the responsibility of the General Council, which is also composed of representatives from all WTO member countries. The General Council receives its “work orders” from the Ministerial Conference to whom it is then required to report. The General Council also acts as the Dispute Settlement Body and as the Trade Policy Review Body.

The Trade Policy Review Body conducts regular reviews of the trade policies of individual WTO members to ensure that they respect the WTO agreements.

In addition, the General Council delegates responsibilities to three other major bodies: the Councils for Trade in Goods, Trade in Services, and Trade-Related Aspects of Intellectual Property Rights. Each of these three sub-councils oversees

⁶ 116 million Swiss franc for 1998 according to the WTO.

⁷ The General Council has started the process of appointing the next WTO Director-General. The term of the current Director-General, Mr. Renato Ruggiero, ends in April 1999. Four candidates are running for the position: Hassan Abouyoub (Morocco), Rt. Hon Mike Moore MP (New Zealand), Hon Roy Maclaren P.C. (Canada) and H.E. Dr. Supachai Panitchpakdi (Thailand).

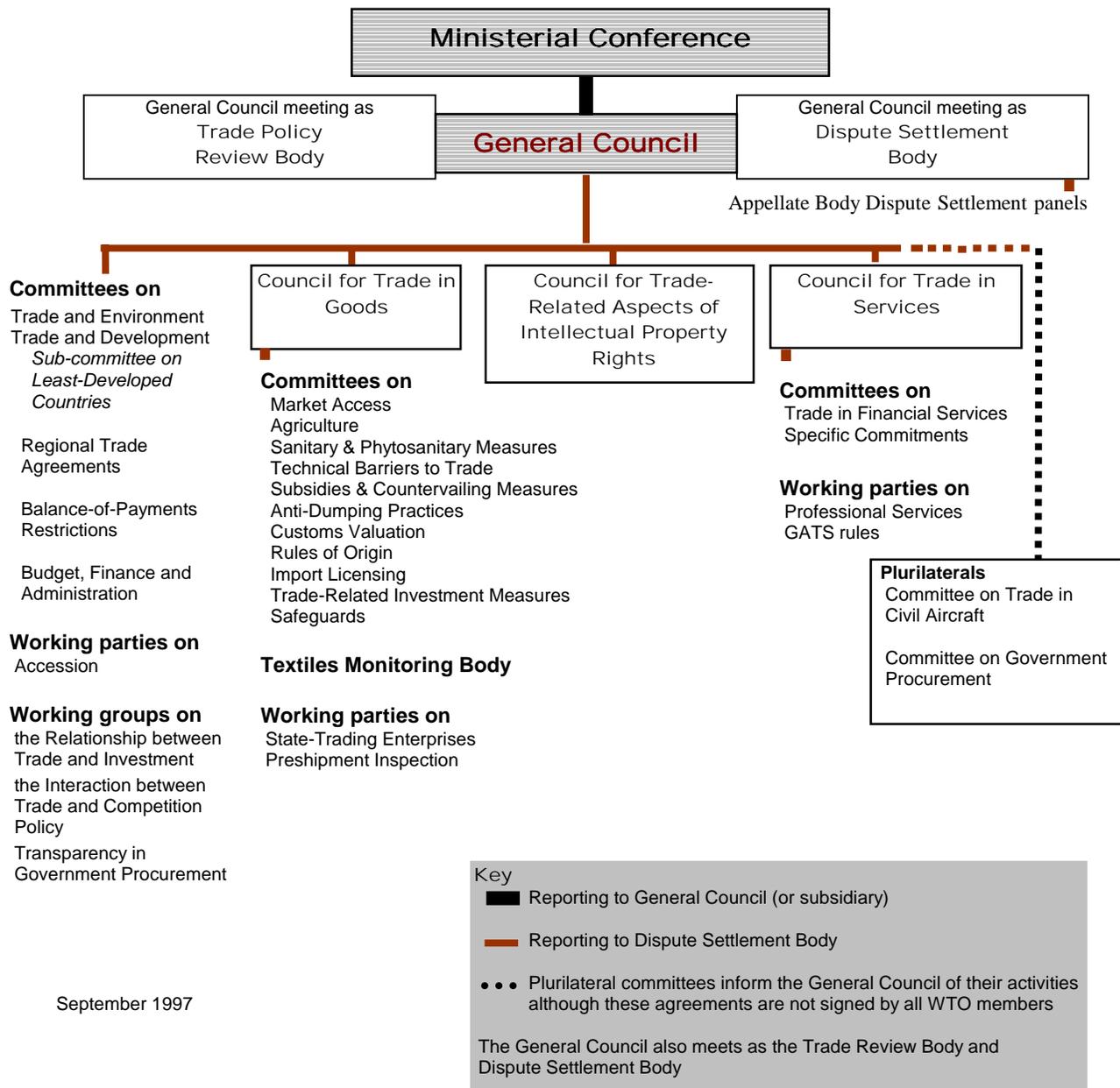
⁸ “Introduction to the WTO: Trading into the Future,” WTO, second edition, 1998, page 60.

The World Trade Organization

the implementation and functioning of all the agreements covering trade in their respective areas. These sub-councils refer to various Committees established for the purpose of addressing specific trade agreement issues. For example, the Council for Trade in Goods refers issues pertaining to the Agreement on Agriculture to the Committee on Agriculture.

WTO Structure

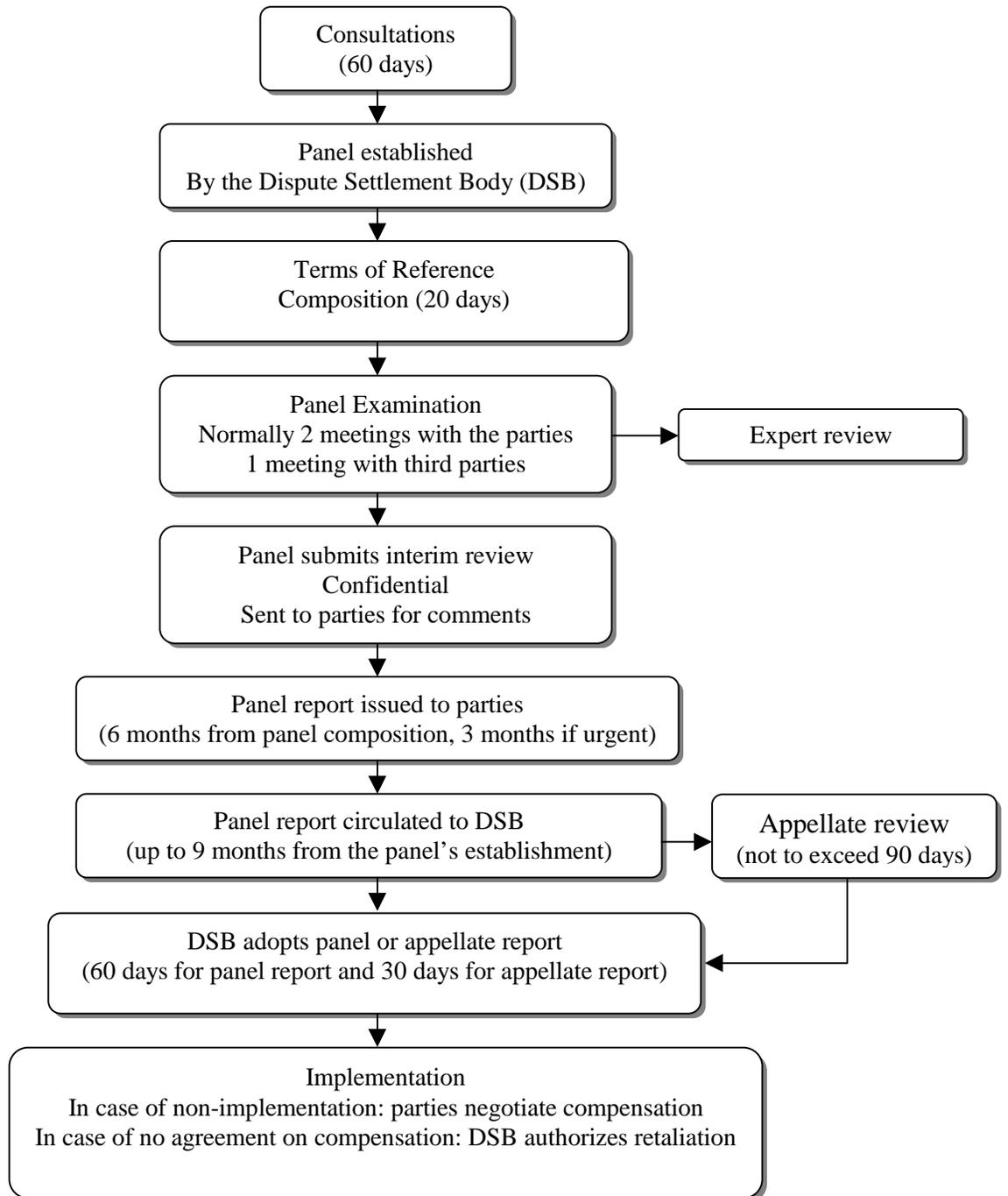
All WTO members may participate in all councils, committees, etc, except Appellate Body, Dispute Settlement panels
Textiles Monitoring Body, and plurilateral committees



Source : WTO "Introduction to WTO : Trading into the Future", WTO, second edition, 1998, p.61

Through the Dispute Settlement Body, the General Council works to settle trade disputes between Members. The system is based on clearly defined rules and processes. If a member country considers that another member did not respect the WTO agreements, it could use the WTO dispute settlement mechanism. The first step is the consultation and mediation process. The parties try together to find a solution to their dispute or ask the WTO Director-General to mediate. If, after 60 days, no solution occurred, then the parties might ask a panel to solve the dispute. The panel is like a tribunal but the panelists are chosen in consultation with the parties. The panelists are experts from different countries. From the establishment of a panel to the issuance of a final report, a dispute settlement is normally resolved in nine months. If the case is appealed, this timeframe is extended to 12 months.

WTO Dispute Settlement Process Chart



3.4 A Brief History of GATT

After the Second World War, in an effort to create greater trade liberalization, some 50 countries devised a draft Charter for an International Trade Organization (ITO), intended to provide regulations on world trade. Twenty-three of these 50 countries then engaged in tariff negotiations resulting in 45,000 tariff concessions worth \$10 billion - or about one-fifth - of world trade. The tariff concessions and rules together became known as the General Agreement on Tariffs and Trade (GATT) and entered into force in January 1948. Countries felt there should be some acceptance of the trade rules in the draft ITO Charter. However, some countries were unable to ratify the Charter in their national legislatures. Although the GATT was a provisional agreement and organization from 1948 to 1994, the GATT provided the rules for much of world trade during that period.

In 1999, a total of 134 countries, referred to as “Members,” had signed the WTO Agreement. Together, these countries account for more than 90% of world trade. Russia and China are among the important nations that are not yet members of the WTO. They are both in the accession process.

3.4.1 GATT Rounds of Negotiations

“For almost half a century, the GATT’s basic legal text remained much as it was in 1948. There were additions in the form of “plurilateral”⁹ agreements, and efforts to reduce tariffs continued. Much of this was achieved through a series of multilateral negotiations known as “trade rounds”.¹⁰”

⁹ The expression plurilateral comes from “pluri” which is defined as several, more than one. It refers to any agreement or code agreed and signed by a group of countries and does not involve all the WTO member countries, contrary to multilateral which includes all WTO member countries.

¹⁰ “Introduction to the WTO: Trading into the Future,” WTO, second edition, 1998, page 10.

A summary of the rounds is provided in the following table:

Year	Place and Name	Subjects Covered	Countries
1947	Geneva, Initial GATT Agreement	Tariffs	23
1949	The Ancey Round	Tariffs	13
1951	The Torquay Round	Tariffs	38
1956	Geneva	Tariffs	26
1960-1961	The Dillon Round	Tariffs	26
1964-1967	The Kennedy Round	Tariffs and anti- dumping measures	62
1973-1979	The Tokyo Round	Tariffs, non-tariff measures, “framework” agreements	102
1986-1994	The Uruguay Round	Tariffs, non-tariff measures, rules, services, intellectual property, dispute settlement, textiles, agriculture, creation WTO, etc.	123

Source: “Introduction to the WTO: Trading into the Future,” WTO, second edition, 1998, page 9

At the beginning, the GATT trade rounds focused on further tariff reductions. Then, in the mid-60s, the Kennedy Round succeeded in achieving more than commitments on tariffs, setting in place a GATT agreement on anti-dumping measures.

“The Tokyo Round during the 70s was the first major attempt to tackle trade barriers that do not take the form of tariffs, and to improve the system. While the Tokyo Round failed to fully incorporate agriculture within the GATT, it introduced a series of plurilateral “codes” which a number of countries signed (but not all GATT Contracting Parties).

The Tokyo Round “codes” were:

- Subsidies and countervailing measures;
- Technical barriers to trade;
- Import licensing procedures;
- Government procurement;
- Customs valuation;
- Anti-dumping;
- Bovine Meat Agreement¹¹;
- International Dairy Agreement¹²; and
- Trade in Civil Aircraft.

¹¹ The objective of this agreement was to achieve expansion and greater liberalization of the international bovine meat and livestock markets, and to promote long-term stability of prices. The agreement was terminated in 1997. The Parties considered that the sector would be better served by the Agreement on Agriculture and the Agreement on the Application of Sanitary and Phytosanitary Measures.

¹² The objective of this agreement was to achieve expansion and greater liberalization of world dairy products under market conditions as stable as possible. Minimum prices for dairy products were set out and the exporter parties to the agreement had to respect them. Minimum pricing was suspended in 1995 and the agreement terminated in 1997. Since the agreement was signed by only few countries, the objectives of the agreement were difficult to reach.

Several of these codes were amended during the Uruguay Round and formed the basis of WTO multilateral agreements. Four of them, however, remained “plurilateral”: Government procurement, Trade in Civil Aircraft, Bovine Meat Agreement and International Dairy Agreement. The Meat and Dairy Agreements were terminated in 1997.”¹³

Finally, the latest and most extensive round was the Uruguay Round which began in 1986 and came to an end in 1994. The Uruguay Round is dealt with in detail in the next section

¹³ “Introduction to the WTO: Trading into the Future,” WTO, second edition, 1998, page 10.

4. The Uruguay Round

Uruguay – The Round of Change

The Uruguay Round, the largest round of GATT trade negotiations, resulted in many important changes in the world of international trade. These negotiations resulted in: the creation of the WTO which replaced the GATT as an institutional framework; the establishment of a new process to settle trade disputes; an agreement on sanitary and phytosanitary measures; and the adoption of new rules governing agricultural trade through the Agreement on Agriculture. The Agreement on Agriculture aims to make policies that are more market oriented and improve the trade environment for importing and exporting countries.

4.1 History

The Uruguay Round (UR) was the largest trade negotiation ever. The agenda was broad and included tariffs, non-tariff barriers, natural resource products, textiles, agriculture, anti-dumping, subsidies, intellectual property, services and dispute settlement. The seeds of the UR were sown in November 1982 at a Ministerial Meeting of GATT Contracting Parties in Geneva. It took four more years before the ministers agreed to launch the new round. They did so in September 1986, in Punta del Este, Uruguay. The “Punta del Este Declaration” outlined a number of general objectives to be pursued by the Contracting Parties, including:

- *“Determined to halt and reverse protectionism and to remove distortions to trade;*
- *Determined also to preserve the basic principles and to further the objectives of the GATT;*
- *Determined also to develop a more open, viable and durable multilateral trading system;”*

Regarding agriculture, the Punta del Este Declaration states that:

“The Contracting Parties agree that there is an urgent need to bring more discipline and predictability to world agricultural trade by correcting and preventing restrictions and distortions including those related to structural surpluses so as to reduce the uncertainty, imbalances and instability in world agricultural markets.

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, taking into account the general principles governing the negotiations, by:

i) improving market access through, inter alia¹⁴, the reduction of import barriers;

ii) improving the competitive environment by increasing discipline on the use of all direct and indirect subsidies and other measures affecting directly or indirectly agricultural trade, including the phased reduction of their negative effects and dealing with their causes;

iii) minimizing the adverse effects that sanitary and phytosanitary regulations and barriers can have on trade in agriculture, taking into account the relevant international agreements.”

On this basis, the trade negotiations commenced. A Trade Negotiations Committee oversaw the trade negotiations of the Uruguay Round and was responsible for overall management and surveillance of the negotiating process. There were two sub-groups reporting to this Committee: the Group on Negotiations on Goods (GNG) and the Group on Negotiations on Services (GNS). The GNG itself had 14 subgroups, which were the negotiating groups within which much of the detailed negotiations took place. Agriculture was the responsibility of the Negotiating Group on Agriculture (NGA), but there were other Negotiating Groups whose work had impact on the agricultural negotiations. These were: GATT Articles; Most-Favoured Nation (MFN) Agreement and Arrangements; Dispute Settlement; Functioning of the GATT System; Safeguards; Subsidies/Countervail; Tropical Products; Tariffs; and Non-tariff Measures. The Negotiating Group on Agriculture, however, took priority over all of these groups in addressing specific agricultural issues.

In early 1987, the Negotiating Group on Agriculture developed a plan aimed at achieving the objectives of the Punta del Este Declaration. Two phases of negotiations were established. The first was essentially to identify the major problems in world agricultural trade; identify all direct and indirect subsidies and other policies impacting on trade; to consider a set of basic principles to govern world agricultural trade, and, to examine proposals from

¹⁴ Among other things.

participants aimed at achieving the negotiating objectives.

The second phase was to be the detailed negotiations of the texts of “strengthened and more effective GATT rules and disciplines,” as well as specific multilateral commitments, appropriate implementation programs and transitional arrangements.

During the first two years of the negotiations, all major trading countries submitted their initial positions and actions required to achieve the objectives of the Uruguay Round, and the Negotiating Group on Agriculture (NGA) worked towards its goal of establishing a framework for developing an agreement. The timeframe for this phase of the negotiations to be completed was the Ministerial Mid-Term Review in Montreal, in December of 1988.

While some negotiating groups made substantial progress at the meeting in Montreal, there was no agreement within the NGA as to how to proceed with the agricultural negotiations. The importance of agricultural trade reform within the negotiations was emphasized when several countries stated that they would not support the progress that had been made in other areas unless there was an agreement on how to proceed with agriculture.

In order to prevent the collapse of the GATT negotiations, the failure of the Montreal meeting was followed by an intense period of negotiations and discussions among key players. The result was an agreement that was formally approved on April 8, 1989 in Geneva. The agreement established both a framework for negotiating long-term issues, as well as short-term measures to deal immediately with trade distortion in agriculture.

The Ministers finally agreed on a package of early results. In December 1991, in Geneva, a draft “Final Act” compiled by the Director-General at the time, Mr. Arthur Dunkel, was tabled. This text reflected the Punta del Este mandate but did not contain the participating countries’ lists of commitments on tariff cuts and opening of services markets. The draft became the basis for the final agreement.

The United States and the European Community were not completely satisfied with the “Dunkel Agreement.” They both still had some frustration with the negotiations, but

U.S. negotiating authority (“fast track authority”) was soon due to expire. The U.S. and the E.U. therefore agreed to resume negotiation, in Washington, at the President’s guest quarters, Blair House. On November 20th, 1992, the U.S. and the E.U. settled most of their differences on agriculture and reached an overall agreement known as the “Blair House Accord.”

In December 1993, the U.S. and the E.U. settled their dispute over all aspects of their respective offers. This bilateral agreement between the Americans and the Europeans put an end to all discussions and forced the other member countries to submit their offers in a relatively short timeframe. The U.S and the E.U. had decided the fate of the Uruguay Round of negotiations.

In that context, and after more than seven years of negotiations, an agreement in principle was reached among member countries of the GATT on December 15, 1993. Countries then had until February 15, 1994 to table their schedules of commitments to this Final Agreement and question offers from other Participants. The final agreement was signed on April 15, 1994 in Marrakesh, Morocco and entered into force on January 1, 1995.

The WTO Agreement resulted from the conclusion of the Uruguay Round and is composed of several legal texts. It includes: the Final Act Embodying the Results of the Uruguay Round of Multilateral Trade Negotiations; the Marrakesh Agreement Establishing the World Trade Organization; and four annexes. Those annexes include various agreements and provisions such as the GATT 1994 and the Agreement on Agriculture.

The Uruguay Round resulted in many important changes of which four need to be mentioned. First, the creation of the World Trade Organization (known as the WTO) has replaced the GATT institution framework. Second, the participating countries agreed to a new process for settling trade disputes. Third, an agreement on sanitary and phytosanitary measures was established to bring more discipline on the utilization of those measures. Fourth, new rules were adopted to govern agricultural trade with the creation of the Agreement on Agriculture.

4.2 1994 Agreement on Agriculture

The objective of the Agreement on Agriculture is to reform trade in the agricultural sector and to make policies more market-oriented to improve predictability and security for importing and exporting countries. The Preamble of the Agreement on Agriculture says:

“Recalling that their long-term objective as agreed at the Mid-Term Review of the Uruguay Round “is to establish a fair and market-oriented agricultural trading system and that a reform process should be initiated through the negotiation of commitments on support and protection and through the establishment of strengthened and more operationally effective GATT rules and disciplines;”

Recalling further that “the above-mentioned long-term objective is to provide for substantial progressive reductions in agricultural support and protection sustained over an agreed period of time, resulting in correcting and preventing restrictions and distortions in world agricultural markets.”

Agriculture was fully included in a multilateral trade discipline for the first time during the Uruguay Round. Of all the Uruguay Round’s participating countries, 41 WTO Members agreed to have reduction commitments. Thirty-six Members implemented tariff-rate quotas. Twenty-eight Members agreed to reduction commitments on domestic support and 25 Members agreed to reduction commitments on export subsidies. Twenty-five Members have reduction commitments only on tariffs and 51 Members, the “least developed countries,” have no reduction commitments. (The complete list is shown in Annex E)

The Agreement on Agriculture is a 29-page document which consists of a number of articles, grouped under 13 parts and five annexes, and covers a broad range of issues, including market access, export competition and domestic support. The Uruguay Round resulted in a rules-based system and a set of binding commitments¹⁵ in those three areas.

¹⁵ There is a major distinction to be made between the expression “rules-based system” and “binding commitments.” The rules-based system refers to the rules that WTO member countries agreed to follow. These rules, for the most part, only force the WTO member countries to meet the commitments they made at the end of the Uruguay Round. The commitments, however, were based on a series of guidelines which were not incorporated into the Final Agreement on Agriculture. For example, market access commitments were established according to the guidelines rather than rules.

The Final Agreement differs from the Draft Final Act of December 1991 (the “Dunkel Text”). Part B of the Draft Final Act (called the Agreement on Modalities), which outlines how concessions must be calculated, was not retained as part of the Final Agreement. Hence, the Final Act contains no clauses stating that the Aggregate Measurement of Support (AMS) must be reduced by 20% over the next six years or that the minimum access for agricultural products should be 3% in the first year and brought up to 5% in the sixth year. Rather, concessions and/or commitments are referred to only as “specified in Members' Schedules.” This meant that while the text was made available to member countries as a reference guide for calculating their schedules of commitments, participants were not bound to the employment of these specific modalities. In consequence of the utilization of guidelines instead of rules specified in an agreement, the commitments were developed unequally because the members interpreted and applied the guidelines for calculation in various manners.

With regards to subsidies, Members agreed to stop the subsidies and reduce others. Based on a Canadian concept, a concept of a color code (like a traffic light) expresses the commitments regarding subsidies. The color red symbolizes export subsidies which must be stopped and eliminated. The color amber represents the domestic support measures that are considered to distort trade and that should be limited. The color green (Green Box) is the support that is minimally or not trade distorting and therefore not subject to any limitations. Under the Blair House Accord, the European Community gained a special class of support known as the Blue Box. This new category subdivided amber measures (considered trade distortive) between those subject to reduction commitments (amber) and those not subject to reduction (blue) when part of a production-limiting program.

It should be noted that a due restraint clause, also known as the “Peace Clause”¹⁶ was established and deals with both domestic support measures and export subsidies. This provision aims to reduce the likelihood of disputes or challenges on agricultural subsidies, including Green Box measures, Blue Box measures and export subsidies over a period of nine years (expiring in 2003). While the “Peace Clause” effectively prevents countervailing measures on green programs, it also prevents countervailing measures on Blue Box programs and export

¹⁶ Agreement on Agriculture, Article 13

subsidies unless a determination of injury or threat thereof is made. It should be understood that the “Peace Clause” extends beyond the implementation period for the Agreement on Agriculture, which is six years (1995-2000)¹⁷. The next round of negotiations will have to seriously address the question of subsidies.

The Agreement on Agriculture established a Committee on Agriculture.¹⁸ This Committee’s objective is to review the implementation of countries’ commitments. It may also act as a forum of discussion on agricultural matters. The review process is based on notifications submitted by Members. The Committee meets four times a year and can also hold special meetings as needed.

Furthermore, while many World Trade Organization member countries are still making adjustments to their agricultural policies to meet their GATT obligations, the Uruguay Round Agreement on Agriculture calls for the next round of multilateral negotiations to resume in 1999. In fact, the Agreement on Agriculture calls for a new round of negotiations to begin one year before the end of the implementation period. In particular, Article 20 of the Agreement on Agriculture states:

“Recognizing that the long term objective of substantial progressive reductions in support and protection resulting in fundamental reforms is an ongoing process, members agree that negotiations for continuing the process will be initiated one year before the end of the implementation period.”

¹⁷ It should be noted that the implementation period for developing countries is 10 years.

¹⁸ Agreement on Agriculture, Article 17

5. The Next Round of Multilateral Trade Negotiations

A Unified Canadian Position

The next round of multilateral trade negotiations will likely be launched at the end of 1999. Talks will build on the results of the Uruguay Round with the aim of continuing the process of reducing trade barriers, although final results will likely take many years of effort. The Canadian farm community must play a strong role in the next round and to this end the SM5 has adopted a common position on trade. The SM5 is actively working with the Canadian Government to build a consensus on a Canadian position.

5.1 Process

The next round of WTO trade negotiations on agriculture will be launched officially at the time of the Third Ministerial Conference, which is scheduled for November 30 through December 3, 1999 in the United States (Seattle). It is, therefore, very important for Canadian farmers to get ready for these negotiations and to adopt a clear and credible position.

Despite the fact that the next round has yet to be launched, ongoing and informal discussions are taking place. In December 1996, the Ministers of the WTO member countries met in Singapore for the first regular biennial meeting of the WTO at the Ministerial level. The Ministerial Conference agreed to a process of Analysis and Information Exchange (AIE) on the “built-in agenda”¹⁹ to allow Members to better understand the issues involved and identify their interests before undertaking the agreed negotiations. To date, 45 papers have been presented in the course of the AIE process. These papers deal with a number of various issues including: administration of tariff quotas; export subsidies; domestic support; state trading enterprises; non-trade concerns; and special treatment for

¹⁹The expression “built-in agenda” is commonly used, in the agricultural sector, to refer to those issues that are subject to further negotiations, beginning in 1999. These issues are: market access, domestic support, export subsidies and non-trade concerns.

developing countries. It is important to point out that the AIE process is an informal forum for discussion and the papers do not reflect the “official” position of the countries that submitted them.

In May 1998, at the second session of the WTO Ministerial Conference, it was decided to establish a process under the direction of the General Council to prepare for the Third Session of the Ministerial Conference. “This process shall enable the General Council to submit recommendations regarding the WTO's work program, including further liberalization sufficiently broad-based to respond to the range of interests and concerns of all Members, within the WTO framework, that will enable us to take decisions at the Third Session of the Ministerial Conference. The General Council will also submit to the Third Session of the Ministerial Conference, on the basis of consensus, recommendations for decision concerning the further organization and management of the work programme, including the scope, structure and time-frames, that will ensure that the work programme is begun and concluded expeditiously.”²⁰

The upcoming negotiations will continue to build on the results of the Uruguay Round with the objective of continuing the process of reducing trade barriers. The WTO negotiations in agriculture, as set out in the agreement, are to deal particularly with market access (tariffs), domestic support, export competition and non-trade concerns such as food security. These issues are referred to as the “built-in agenda” and include a consideration of the extension of commitments undertaken in these areas. It is also expected that discussions will be held on state trading enterprises, sanitary and phytosanitary measures and environmental protection, although it is not mandatory to begin negotiations on these questions.

The next round of negotiations will not focus only on agriculture. The WTO Agreement calls for further negotiations to be undertaken on services in 2000 and on government procurement (a plurilateral agreement between 24 members of the WTO) by the end of 1998. These subjects will be part of the next round of WTO

²⁰ Ministerial Communiqué from the Second Session of the WTO Ministerial Conference, May 1998.

negotiations. It is unclear, however, if these will be addressed separately, or as part of a comprehensive round.

5.2 Trade Environment

Although it is the wish of several countries that the next round of negotiations be short, an agreement will likely not occur within the next three years. This could be explained by the fact that the two major players, the United States (U.S.) and the European Union (E.U.), have contradictory views and appear not to be in a position to begin serious negotiations at this point. These contradictory views will likely affect the length, as well as the scope of the negotiations. Discussions on the scope (comprehensive versus sectorial) are currently being held and the outcome of these discussions will also have a direct impact on the length of the negotiations.

On one hand, the U.S. Government, which favors a fast round of negotiations, could not obtain, on two occasions, the “fast track” authority necessary to enter into trade negotiations. According to a number of U.S. political experts, including former U.S. trade negotiator Dale Hathaway, the U.S. will not obtain “fast track” before 2001, i.e. after the next presidential election of 2000. The “fast track” authority would send a clear message to the international community that the U.S. is ready to negotiate. Without the “fast track” authority, the next round of negotiations could expand over a period of time much longer than three years.

“Fast track” is an expedited procedure for Congressional consideration of trade agreements. The U.S. Constitution gives Congress exclusive authority to set tariffs and enact other legislation governing international trade. The U.S. President has the Constitutional authority to negotiate international agreements. If the President negotiates a trade agreement that requires changes in U.S. tariffs or in other domestic laws, the implementing legislation of that trade agreement must be submitted to Congress. With “fast track,” the President could obtain Congressional approval in advance of any changes. Advanced Congressional approval would mean that Congress would vote on a trade agreement without reopening any of its provisions, while retaining the ultimate power of voting for or against.

In November 1998, the U.S. laid out before the WTO General Council its preliminary views regarding the next round of negotiations on agriculture. The U.S. document states that “Members should agree that the overall objective for the negotiations should be to expand market access opportunities by ensuring further deep reductions in support and protection and by strengthening the rules governing trade in agriculture.”

It further states that “Members should also agree that the existing framework provides the basis on which to pursue further reform, and will supplement this framework to ensure that the second stage of reform addresses new challenges facing the agricultural sector.”

It is important to note that the U.S. has a preference for a sectorial round rather than a global round (i.e. trade-off within agriculture rather than trade-off between agriculture, services and/or other industrial sectors).

In particular, the U.S. position calls for:

- an ambitious outcome on market access expansion;
- reduction of bound tariff rates;
- simplification of complex tariff regimes;
- new disciplines on tariff-rate quotas (TRQs) administration;
- reduction of trade-distorting domestic support;
- elimination of the Blue Box;
- continuation of the Green Box ;
- elimination of all remaining export subsidies;
- increased discipline on activities of State Trading Enterprises (STEs); and
- further limitation of safeguard measures.

On the other hand, the European Union is currently preoccupied by the reform of the Common Agricultural Policy (CAP) and with eastward enlargement. It should be noted that the E.U. not only has to coordinate the reform of the CAP with eastward enlargement, but it also has to take these questions into consideration when it enters into the next round of WTO negotiations. The discussions regarding CAP reform seem to be sending a clear message as to what the E.U. is ready to accept from the next round of WTO negotiations.

In particular, the E.U. Commission has stated that "...the reform to be adopted will outline the limits of what the Union is able to agree to in the forthcoming international negotiations."²¹ As proposed, CAP reform is highly dependent on: a) the maintenance of export subsidies; b) the retention of tariff-rate quotas; and c) the maintenance of Blue Box programs. The debate on the reform of the CAP has to be resolved before March 2000, at which date the dairy regime technically expires.

Eastward enlargement is another issue that has to be taken into consideration. Agenda 2000, which aims at a stronger and wider Union, is a single framework for the European Commission to outline the broad outlook for the development of the European Union and its policies beyond the turn of the century. Of the 10 countries²² that requested membership in the E.U., five Eastern European countries²³ and Cyprus have been identified as potential candidates to join by the turn of the millennium. Eastward enlargement represents a great challenge for the E.U., especially with regard to agriculture. A number of studies show that the agriculture budget would have to be doubled if eastern European countries are brought into the Union under the present regime. Therefore, the financial framework of the Union is a crucial question that has to be addressed.

It is, therefore, difficult to believe that the current political environment of the E.U. will lead to a rapid conclusion of the next round, or yield substantial reductions in countries' commitments much beyond the pace set in the last round of negotiations. Therefore, the situation in both the U.S. and the E.U. would support the notion that the next round of multilateral trade negotiations will last for at least three years.

It should also be noted that many other countries, including the developing countries, would be involved in the next round of negotiations, although the E.U. and the U.S. will continue to be the most influential. Canada will also be involved and it is hoped it will have an important impact on the direction of the next round of negotiations. In order to

²¹ Agenda 2000, Commission proposal, p.3.

²² Hungary, Poland, Romania, the Slovak Republic, Latvia, Estonia, Lithuania, Bulgaria, the Czech Republic and Slovenia (in chronological order). Cyprus and Malta requests are considered separately.

²³ Hungary, Poland, Estonia, the Czech Republic and Slovenia.

influence the next negotiations, the Canadian government has initiated a consultation process to develop a credible and unified Canadian position on trade. Canada could play an important role if it succeeds in developing a position representing the diversity of its agricultural economy.

The participation of the farm community is essential in the development of a unified position. To this end, the five national supply management organizations (SM5) have worked together and developed a common position on trade. In addition, the SM5 is actively working with the Canadian government to obtain a consensus on a Canadian position.

The following sections explain the SM5 positions for the three main areas: export competition, market access and domestic support, as well as other trade issues.

6. Export Competition

An End to the Vicious Circle

Canada no longer subsidizes its agricultural exports. But the Canadian agri-food industry has to compete against countries that are still heavily subsidized. Specifically, the two major players on the international scene, the U.S. and the E.U., are still heavily using export subsidies. This practice is having a devastating impact on international markets. The next round of WTO negotiations should put more emphasis on trying to eliminate the practice of government financed export subsidies because they cause an artificial decline in world prices. This forces some countries to increase subsidies in order to compete in world markets. The SM5 wants to eliminate this vicious circle.

While there is broad consensus that export subsidies are a key area to be addressed within the negotiations, it remains a highly contentious issue. It might be difficult, however, to achieve the ultimate objective of full elimination of export subsidies in this round of WTO negotiations given the position of the European Union that clearly stated that its reform of the Common Agricultural Policy involves the maintenance of export subsidies. The E.U. appears to be alone in defending the right to continue to use export subsidies. Other major trading nations like the United States, Canada and other members of the Cairns Group²⁴ support the complete elimination of export subsidies.

6.1 Results of the Uruguay Round

The Agreement on Agriculture includes four articles specifically dealing with export competition.

Article 8 incorporates a general provision which specifies that WTO member countries not provide export subsidies other than those that conform to the Agreement on Agriculture and with the commitments as specified in the

²⁴ The Cairns Group was set up just before the Uruguay Round began in 1986 to argue for agricultural trade liberalization. It requests among others things the elimination of subsidies. The group is still in operation and meets occasionally. The members are: Argentina, Australia, Brazil, Canada, Chile, Colombia, Fiji, Indonesia, Malaysia, New Zealand, Paraguay, the Philippines, South Africa, Thailand and Uruguay.

Members' Schedules. Although the Agreement on Agriculture does not specifically state that no new export subsidies may be introduced for products not benefiting from such subsidies in the 1986-1990 period, it is understood to be the intent of the WTO Agreement on Agriculture. It should be understood, however, that the "Modalities" clearly demonstrated that it was the intent of the negotiators not to introduce or re-introduce subsidies on the export of agricultural products in respect of which such subsidies were not granted in the course of the base period.

Article 9 of the Agreement on Agriculture deals with export subsidy commitments. On one hand, Article 9.1 provides a comprehensive list of those export subsidies that are subject to reduction commitments. Among those measures that constitute an export subsidy are *"payments on the export of an agricultural product that are financed by virtue of government action, whether or not a charge on the public account is involved, including payments that are financed from the proceeds of a levy imposed on the agricultural product concerned or on an agricultural product from which the exported product is derived."*²⁵

On the other hand, Article 9.2 holds the WTO member countries to:

- reduce export subsidy expenditures to levels not greater than 64% (i.e. a reduction of 36%) of corresponding 1986-1990 averages by the year 2000; and
- subsidize export volumes to levels not greater than 79% (i.e. a reduction of 21%) of corresponding 1986-1990 averages by the year 2000.

Reduction commitments for export subsidies of 36% of expenditures and 21% of volumes only represent the end point. The "Modalities" allowed WTO member countries to apply linear reductions (with minor year-to-year flexibility) from the higher of 1986-1990 or 1991-1992 average levels. The E.U., the U.S., Canada and many other used this provision for certain products when export subsidies were higher in 1991-92 than in the base period 1986-90.

Another important element of the Agreement on Agriculture with respect to export subsidies is the provision that allows a

²⁵ Agreement on Agriculture, Article 9.1 (c)

country to roll over unused commitments from one year into another (Article 9.2 (b)). Therefore, a country could provide export subsidies in excess of its annual commitments, in a given year, should it decide to roll over unused commitments. *It should be noted that Article 9.2 (b) (iii) stipulates that “the total cumulative amounts of budgetary outlays for such export subsidies and the quantities benefiting from such export subsidies over the entire implementation period are no greater than the totals that would have resulted from full compliance with the relevant annual commitment levels specified in the Member's Schedule.”*

Despite the fact that Article 9.2 allows for roll-over of export subsidies, the commitments on the restriction in the use of export subsidies have perhaps been the most substantial part of the Agreement on Agriculture. Furthermore, countries are not allowed to introduce new export subsidies, or increase levels of existing ones. However, agriculture is still the only activity for which export subsidies are permissible.

The “Peace Clause²⁶” makes export subsidies exempt from challenges in GATT for a period of nine years, ending in 2003, unless determination of injury or threat thereof is made. In fact Article 13 (c) stipulates that “*due restraint shall be shown in initiating any countervailing duty investigations*” and that export subsidies are “*subject to countervailing duties only upon a determination of injury or threat thereof based on volume, and effect on prices.*”

In other words, export subsidies permitted under the Agreement on Agriculture, when actionable according to Article 5, 6 and 7 of the Agreement on Subsidies and Countervailing Measures (SCM), are exempt from this provision through Article 13 (c)(ii). Actionable subsidies are defined as subsidies that have adverse effects on the interests of other members²⁷.

²⁶ Agreement on Agriculture, Article 13

²⁷ Agreement on Subsidies and Countervailing Measures, Article 5: No Member should cause, through the use of any subsidy referred to in paragraphs 1 and 2 of Article 1, adverse effects to the interests of other Members, i.e.: (a) injury to the domestic industry of another Member; (b) nullification or impairment of benefits accruing directly or indirectly to other Members under GATT 1994, in particular the benefits of concessions bound under Article II of GATT 1994; (c) serious prejudice to the interests of another Member. This Article does not apply to subsidies maintained on agricultural products as provided in Article 13 of the Agreement on Agriculture.

Another article that deals with export competition is Article 10. Article 10 is interesting from two angles. First, it prohibits the use of export subsidies whether or not listed in Article 9.1 if they are applied in a manner which could result in, or could threaten to lead to, circumvention of export subsidy commitments. Secondly, it calls for the development of internationally agreed discipline to govern the provision of export credits, export credit guarantees or insurance programs.

6.2 Current Situation

It is interesting to observe that while Canada no longer subsidizes its agricultural exports, the Canadian industry has to compete against countries that are still heavily subsidized. The dairy sector, for example, remains, internationally, the agricultural sector with the highest rate of utilization of permitted export subsidies, as shown in Table 6.1.

Table 6.1
Utilized Subsidized Exports as a % of Permitted Subsidized Exports
World Total (Volume Basis)

	Wheat	Oilseeds	Cheese	Other Milk Products	Meat	Eggs	Fruits & Veg.
1995	6	0	83	80	67	74	24

Source: WTO

Table 6.1 also provides an interesting review of the utilization of export subsidies and shows that the WTO member countries have used substantially less export subsidies compared to the maximum level of export subsidies they are entitled to use. This can easily be explained by the fact that in 1995 the international prices for certain commodities, like grains, oilseeds and pork, have reached record high levels. The data for 1996, which has not yet been reported to the WTO by all members with export subsidy commitments, will likely indicate a similar situation for that year.

It should be understood that the United States and the European Union will likely utilize the maximum amount of export subsidies they are entitled to, despite the fact that they have spent less than their annual commitments in 1995 and 1996. This was confirmed in 1998 when both the E.U. and the U.S. started to increase their respective levels of

subsidized exports. While the data is not yet available, the depressed markets of 1998 are an indication that the two biggest players will likely take advantage of the provisions of Article 9.2 (b) and utilize all unused subsidies in the coming years, for at least some products.

Table 6.2 shows the number of commitments that were made by Canada, the U.S. and the E.U. in the area of export subsidy reduction. It should be pointed out that the commitments were made with respect to those products that were benefiting from export subsidies during the base period 1986-1990. Because Canada has never been a major user of export subsidies, it only had to commit to reduce export subsidies on 11 products compared to 13 for the U.S. and 20 for the E.U.

Table 6.2

Export Subsidy Reduction Commitments

Country	Grain	Oilseeds	Sugar	Dairy ²⁸	Poultry Meat	Eggs	Others	Total
Canada	2	1	-	4	-	-	4	11
U.S.	2	-	-	4	1	1	5	13
E.U.	2	1	1	4	1	1	11	20
World	11	7	11	48	15	7	329	428

Source: WTO

Under their Uruguay Round commitments, both the E.U. and the U.S. agreed to reduce the quantity and budgetary outlay of subsidized dairy products and poultry meat exports below their base levels. Despite these cutbacks, the volume and budgetary outlays available to the E.U. and U.S. remain substantial, as illustrated below.

With respect to budgetary outlays, the E.U.'s 1998 export restitutions for poultry were set to average \$94/tonne for parts; and \$302/tonne for whole chickens. (Source: United States Department of Agriculture, Foreign Agricultural Services) In the case of the U.S., its budgetary outlay ceiling for subsidized poultry exports is set at \$15,919,000 for 1999 and \$14,555,000 for the year 2000. Unlike the E.U. and the

²⁸ The commitments for dairy include butter and butteroil, skim milk powder, cheese and other milk products as the specified product categories.

Export Competition

U.S., Canada does not subsidize poultry exports; nor does it have the latitude to resort to such practices under its WTO commitments.

Table 6.3

WTO Restrictions on Subsidized Dairy, Eggs and Poultry Exports, Volume Basis
(Maximum Allowable Quantities, 000 kgs unless otherwise specified)

Country	Butter		Skim Milk Powder		Cheese		Poultry		Eggs	
	1995	2000	1995	2000	1995	2000	1995	2000	1995	2000
Canada	9,464	3,500	54,910	44,953	12,448	9,076	--	--	--	--
U.S.	42,989	21,097	108,227	68,201	3,829	3,030	34,196	27,994	30,261 dozen	6,919 dozen
E.U.	487,800	399,300	335,000	272,500	426,500	321,300	435,000	286,000	126,100	98,800

Source: WTO Member Schedules

Table 6.4

WTO Restrictions on Subsidized Dairy, Eggs and Poultry Exports, Expenditure
(Maximum Allowable Budgetary Outlays) (Canadian \$ in brackets)

Country	Butter		Skim Milk Powder		Cheese		Poultry		Eggs	
	1995	2000	1995	2000	1995	2000	1995	2000	1995	2000
Canada 000\$Cdn	38,874	11,025	45,750	31,149	28,852	16,228	-	-	-	-
U.S. 000\$ U.S. ²⁹	44,792 (61,454)	30,497 (46,324)	121,118 (166,173)	82,464 (125,262)	5,340 (7,326)	3,636 (5,523)	21,377 (29,342)	14,555 (22,112)	7,588 (10,410)	1,604 (2,436)
E.U. mio ECU ³⁰	1,392 (2,464)	947.8 (1,668)	406.2 (719)	275.8 (485)	594.1 (1,052)	341.7 (601)	136.3 (241)	90.7 (160)	60.7 (107)	43.7 (77)

Source: WTO Member Schedules

Another observation that is quite interesting is that the two major players on the international scene are still heavily using export subsidies. Table 6.5 shows that the European Union and the United States exported more than 90% of all subsidized dairy and poultry products in 1995. Moreover, Canada no longer subsidizes its agricultural products while both the U.S. and the E.U. almost fully utilize the amount they are entitled to use for these products.

²⁹ U.S. dollars converted into Canadian dollars using, for 1995, the 1995 Annual Average Exchange Rate of U.S.\$1=Cdn\$1.3726 and for 2000, the January 1999 Average Exchange Rate of U.S.\$1=Cdn\$1.5192.

³⁰ ECU converted into Canadian dollars using, for 1995, the 1995 Annual Average Exchange Rate of 1 ECU=Cdn\$1.7758 and for 2000, the January 1999 Average Exchange Rate of 1EURO=Cdn\$1.7615. It should be noted that the EURO replaced the ECU starting January 1st, 1999 and that it was introduced at par (1 ECU=1EURO).

Table 6.5

**Export Subsidy, Year of Notification 1995
United States and European Union Share of Total Used Export Subsidies,
Volume Basis**

Country	Butter %	Skim Milk Powder %	Cheese %	Other Dairy %	Poultry %	Eggs %
United States	0	15.97	0.74	0.36	5.02	11.20
European Union	94.45	60.45	94.90	91.29	94.38	80.90
Total: U.S. and E.U.	94.45	76.42	95.63	91.65	99.40	92.10

Source: WTO

It should be pointed out that while 25 countries have commitments to reduce their export subsidies, the reality is that U.S. and E.U. export subsidies have the most devastating impact on the international markets. The example of the poultry sector is self-explanatory: for 1995, the combined annual commitment levels tabled by the E.U. and U.S. represented 71% of the total poultry meat export subsidy commitments tabled by WTO members. The E.U. and the U.S. have nonetheless subsidized 99.4% of all the “subsidized poultry exports” in 1995.

Regarding the egg sector, the U.S. and the E.U. combined, accounted for 92.1% of the total volume of subsidized exports and 89% of the budgetary outlays in 1995. The U.S. used 25% of its allowable volume and 18% of its allowable budgetary outlay while the E.U. used 75% of its allowable volume and 21% of its allowable budgetary outlay in 1995. The U.S. has not used export subsidies since 1995 for eggs, however, there are still volumes and budgetary outlays available through the USDA's Export Enhancement Program.

6.3 Discussion

Some countries would like to see greater discipline on the use of export subsidies through stronger multilateral rules; others, notably in the Cairns group³¹ and NAFTA countries³², would like to see them eliminated completely. The European Union, however, has clearly indicated that the reform of its Common Agricultural Policy is dependent on the maintenance of export subsidies.

³¹ Idem: footnote 24.

³² The United States, Mexico and Canada.

In Canada, the provisions related to export competition undoubtedly resulted in the most significant changes the dairy industry had to encounter in the last 30 years. The limits on the volume and total levies to be used for disposing of butter and other dairy products, including cheese for export, resulted in the conversion from the levy system for export losses to a classification pricing system, known as Special Class Pricing.

Government financed export subsidies are the most trade distortive measures and the next round of WTO negotiations should put more emphasis on trying to eliminate these measures. Export subsidies cause an artificial decline in world prices, leaving other countries less and less competitive. Thus, it forces some countries to provide more export subsidies in order to compete on world markets, creating a vicious circle.

Therefore, the SM5 supports the following position:

SM5 Position

Egg, dairy and poultry farmers support the elimination of all government financed export subsidies being the primary focus of trade negotiations since they constitute the most significant distortions to trade.

Preventing circumvention of Uruguay Round commitments³³ is also an issue in export subsidy discussions. For example, there are no specific disciplines applied to the use of export credits for agriculture. In addition, consideration may also have to be given to stricter disciplines and definitions in the use of programs such as export promotion, advisory services and food aid. Export taxes and restrictions, which have the effect of depressing production and raising international prices, and allowing competitors to expand their trade, may also come under scrutiny. Several developing countries concerned about food security and the possibility of rising food import bills are particularly anxious in this regard. It should also be pointed out that food aid programs and export credit programs could be used as disguised export subsidies and it becomes crucial for the WTO to adopt a series of rules

³³ Agreement on Agriculture, Article 10.

governing the use of these programs in a manner that does not distort international markets.

For example, the U.S. announced in February 1999 a food aid program to facilitate U.S. poultry exports to Russia, despite the fact that Russia is the second largest export market for Canadian chicken. The U.S. Department of Agriculture (USDA) provides a long-term, low-interest loan for the Russian government to purchase 50,000 tons of U.S. chicken legs and other poultry parts. The commodity value of the poultry parts is currently estimated at around US\$ 30 million. USDA will also finance an estimated US\$ 5.5 million in transportation costs. This poultry meat will be sold on the Russian market. This case illustrates that food aid can be used as an export subsidy, and therefore, help maintain a U.S. presence on the Russian poultry market, while helping U.S. chicken producers to move product in order to keep domestic prices stable.

Therefore, the SM5 supports the following position:

SM5 Position

Where international food aid, export credit and export promotion programs are permitted, fair, effective and stringent WTO trade rules should govern their practices.

Finally, we could hardly talk about export subsidies without mentioning a few words on the WTO Panel. The WTO Panel, where the U.S. and New Zealand are opposing the Canadian special class pooling arrangements, will be a key element in the next round of negotiations. The issue of price differentiation debated by the Panel is a question that will continue to be debated during the next round of negotiations.

7. Market Access

Fair Market Access for All

Market Access is a main component of the Agreement on Agriculture. The access commitments of WTO countries show that there are inequalities that resulted from the Uruguay Round. Canada must seek clear and concise rules governing market access in order to ensure that all countries' commitments are equal. The SM5 wants transparent, effective and binding rules and the elimination of all country-specific tariff-rate quota allocations.

Market access is a main component of the Agreement on Agriculture. There are three factors which affect market access: tariffication; current and minimum access; and tariff-rate quota administration. These factors are described and explained in this chapter.

The Uruguay Round tariffication process resulted in two important changes: 1) the conversion of all non-trade barriers to tariff equivalents; and 2) a minimum access guarantee. The Agreement on Agriculture deals with market access in Articles 4.1 and 4.2.

Article 4.1 states that *“Market access concessions contained in Schedules relate to bindings and reduction of tariffs, and to other market access commitments as specified therein.”*

Once all non-tariff barriers were tariffied, Article 4.2 states that *“Members shall not maintain, resort to, or revert to any measures of the kind which have been required to be converted into ordinary customs duties, except as otherwise provided for in Article 5 and Annex 5.”*³⁴

These measures include:

- quantitative import restrictions (whether or not provided for under GATT 1947, such as Article XI:2(c)(i));

³⁴ Article 5 refers to Special Safeguard provisions and Annex 5 refers to Special Treatment Clause of the Agreement on Agriculture.

- variable import levies³⁵ (e.g., European Union);
- minimum import prices;
- discretionary import licensing (e.g., Canada, for products where an import quota was not issued);
- non-tariff measures maintained through state trading enterprises;
- voluntary export restraints; and
- similar border measures which are not ordinary customs duties (i.e., tariffs).

The tariffication process included the conversion of non-tariff barriers into bound “tariff equivalents,”³⁶ where a tariff equivalent can be defined as an import tariff set at such a level as to cause essentially the same level of import protection, but in a more transparent manner than a non-tariff barrier. Hence, in accepting the agreement, Canada was forced to abandon its position to clarify and strengthen Article XI and convert all its import controls to tariff equivalents.

In addition, in recognition of the fact that some countries already had access to other countries’ markets, Members agreed to retain that access throughout the tariffication process and to offer a minimal access under what is referred to as “tariff-rate quotas” or “tariff quotas.” A tariff-rate quota provides a low or minimal tariff rate on a set quantity of product (i.e., within access or in-quota commitments) beyond which a higher tariff (over-quota tariff) is applied. The over-quota tariff (tariff equivalent) is only applied to imports exceeding the set quantity.

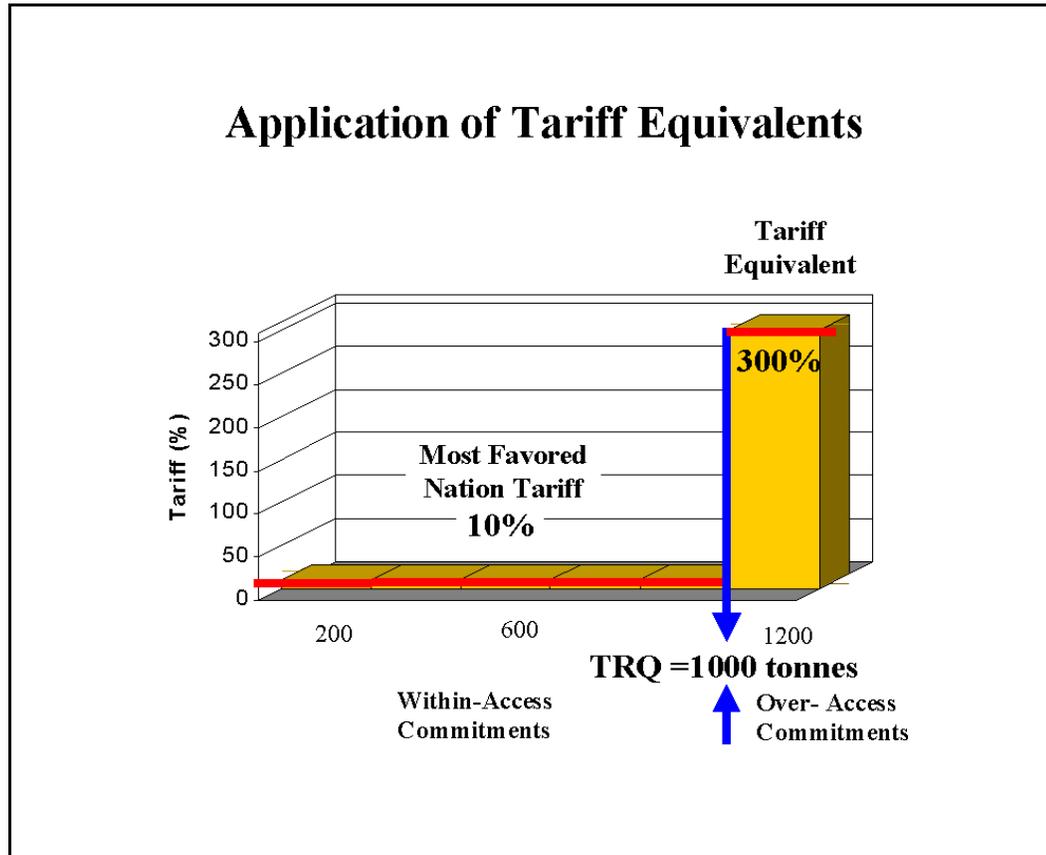
For example, if a product were subject to import controls before the Uruguay Round, such controls would have been converted to a tariff equivalent (e.g. 300%). The country establishing this tariff equivalent would have had to offer a minimum access, say a 1,000 tonnes, on which a lower in-quota tariff would be applied (e.g. 10%). Therefore, if the import level in a given year reach 1,200 tonnes, the first 1,000 tonnes would be subject to a tariff of 10% and the additional 200 tonnes subject to the tariff equivalent of 300%. The

³⁵ The E.U. variable levy system was charging a duty on imported products based on the difference between the highest domestic intervention price and the lowest imported price. This difference would continuously change with domestic or international price conditions, thereby the concept of “variable,” as opposed to a “bound” tariff which is preset, fixed and cannot increase.

³⁶ Tariff equivalent is also called “over-quota tariff”.

following figure illustrates this example:

Figure 7.1



Also associated with tariffication are the Special Safeguard (SSG) Provision and the Special Treatment Clause. The SSG was designed to provide some protection for domestic producers from surges in world imports or depression in world prices. The SSG permits a country, in any given year during the implementation period, to impose an additional duty on a tariffied product (over-quota only), for the remainder of the year, if the volume of imports exceeds, or the price falls below the trigger level.

Under the Special Treatment Clause a country may, under certain conditions, avoid converting non-tariff import restrictions to tariff-rate quotas during the implementation period. The price for doing so is the provision of increased minimum access (4% increasing to 8% during the implementation period). Extension of special treatment beyond the implementation period is a matter for negotiation. Only four members used this provision (Japan, Korea, the Philippines and Israel). Japan has announced its intention to eliminate this Special Treatment Clause by tariffing rice as of April 1, 1999.

The modalities for calculating tariff equivalents and the negotiated within-market access commitment levels associated with the tariff-rate quotas are discussed, in turn, below.

7.1 Tariffication

7.1.1 Results of the Uruguay Round

No specific guidelines for calculating tariff equivalents were specified under the terms of the Final Agreement. However, in the December 1993 revised text on modalities³⁷ (“Modalities for the establishment of specific binding commitments under the reform programme,” GATT), which are not included in the Agreement on Agriculture, Annex 3 states that “the calculation of the tariff equivalents, whether expressed as *ad valorem* or specific rates, shall be made using the actual difference between internal and external prices (i.e., domestic and export market price equivalents), in a transparent manner, using data (...) for the years 1986 to 1988.”

The specific (e.g. \$/tonne) and *ad valorem* (%) methods of calculating tariff equivalents both take into account the difference between the domestic price of a product and the world price for such product (or equivalent product). Both methods assume that the restrictive effects of the trade barrier in the importing country cause this domestic-versus-world market “price-gap.” The price-gap is therefore considered to be indicative of the tariff necessary to provide protection similar to that of the non-tariff barrier, thereby the name “tariff equivalent.”

Annex 3 of the modalities also mentions that “external prices shall be in general actual C.I.F.³⁸ unit values for the importing country.” “Where average C.I.F. unit values are not available or appropriate, external prices shall be either:

- “appropriate average C.I.F. unit values of a near country; or
- “estimated from average F.O.B.³⁹ unit values of (an) appropriate major exporter(s) adjusted by adding an estimate of insurance, freight and other relevant costs to the importing country.”

³⁷ According to the USDA, the modalities or guidelines “had no legal status and overall, were sufficiently general to allow members considerable latitude in their implementation.”

³⁸ Cost, Insurance and Freight (C.I.F.). In other words, price at the border of an importing country.

³⁹ Free on Board (F.O.B.). In other words, price at the point of departure of an exporting country.

In addition, Annex 3 of the modalities mentions that “the external prices shall generally be converted to domestic currencies using the annual average market exchange rate for the same period as the price data, and the internal price shall generally be a representative wholesale price ruling in the domestic market or an estimate of that price where adequate data is not available.”

The specific tariff equivalent is equal to the value in dollars of the price-gap. An *ad valorem* tariff equivalent is equal to the price-gap divided by the world price and is thus expressed as a percentage. At the time these tariffs are established, their impact is identical. For example, assuming that a product is imported for \$25 while the domestic price is \$50, the “specific” tariff would be \$25 and the “*ad valorem*” tariff would be 100%. Either tariff will ensure that the imported product reaches the domestic market at \$50 ($\$25 + \$25 = \50; or $\$25 + 100\% = \50). Clearly, however, the impact of each tariff varies over time based on the fluctuation of world prices. If international prices increase, the tariff expressed in percentage offers greater protection. Conversely, if international prices drop, the specific tariff provides greater protection. Countries can express the level of protection as an *ad valorem* rate, a specific rate, or a mixed rate (a rate with both specific and *ad valorem* components).

Moreover, under Annex 3 of the modalities, it was agreed that tariff equivalents:

- would be primarily established at the four-digit level of the Harmonized System (HS);
- would be established at the six-digit or a more detailed level of the Harmonized System wherever appropriate;
- would generally be established for worked and/or prepared products “by multiplying the specific tariff equivalent(s) for the agricultural input(s) by the proportion(s) in value terms or in physical terms as appropriate of the agricultural input(s) in the transformed and processed agricultural products, and take account, where necessary, of any additional elements currently providing protection to industry.”

No specific rules for reducing tariffs were specified under the terms of the Final Agreement, except, inasmuch as Article 4 makes reference to reductions in tariffs being as specified in Members’ schedules. However, in the modalities, it is stated that “ordinary customs duties, including those resulting from

tariffication, shall be reduced, over the six year period commencing in the year 1995, on a simple average basis by 36 per cent with a minimum rate of reduction of 15 per cent for each tariff line.”⁴⁰ Hence, this suggests one-sixth of the total reduction is to be applied to the base rate of duty in the first year (1995), of the implementation period. It is worth noting that all pre-existing (ordinary tariffs) and new tariffs (tariff equivalents) were to be bound and subject to reductions. Table 7.1 provides a summary of the tariff equivalents (over-quota tariffs) and ordinary tariffs submitted by Canada, the E.U. and the U.S. for selected dairy products, poultry and eggs. Other examples of tariff equivalents (over-quota tariffs) submitted by various countries are shown in Annex A, B and C.

Table 7.1
Country Offers on Tariff Equivalents (Over-Quota Tariffs) and Ordinary Tariffs
 (ECU and US\$ converted into Canadian dollars in brackets)

Product	Canada Tariff ad valorem and specific, Cdn\$/kg ⁴¹		EU Tariff specific, ECU/kg ⁴²		U.S. Tariff specific, US\$/kg ⁴³	
	1995	2000	1995	2000	1995	2000
Butter	351.4% but not less than \$4.71/kg	298.7% but not less than \$4.00/kg	2.96 (\$5.26)	1.90 (\$3.35)	1.81 (\$2.48)	1.54 (\$2.34)
Skim milk powder	237.2% but not less than \$2.36/kg	201.6% but not less than \$2.01/kg	1.49 (\$2.65)	1.19 (\$2.10)	1.08 (\$1.48)	0.87 (\$1.32)
Cheddar cheese	289.0% but not less than \$4.15/kg	245.7% but not less than \$3.53/kg	2.61 (\$4.63)	1.67 (\$2.97)	1.44 (\$1.98)	1.23 (\$1.87)
Whole turkey	182% but not less than \$2.48/kg	154.7% but not less than \$2.11/kg	0.58 (\$1.04)	0.37 (\$0.66)	0.11* (if valued 0.88 (\$1.21) or more, 12.5 %	0.09* (if valued 0.88 (\$1.34) or more, 10%
Turkey cuts (boneless)	194.5% but not less than \$5.67/kg	165.3% but not less than \$4.82/kg	1.33 (\$2.36)	0.85 (\$1.50)	0.22 * (\$0.30)	0.18 * (\$0.27)
Whole chicken	280.4% but not less than \$1.96/kg	238.3% but not less than \$1.67/kg	0.51 (\$0.90)	0.33 (\$0.57)	0.11 * (\$0.15)	0.09 * (\$0.13)
Chicken (cuts)	292.9% but not less than \$7.92/kg	249% but not less than \$6.74/kg	1.6 (\$2.84)	1.02 (\$1.80)	0.22 * (\$0.30)	0.18 * (\$0.27)
Shell egg	192.3% but not less than \$0.94/dozen	163.5% but not less than \$0.80/dozen	0.48 (\$0.85)	0.48 (\$0.85)	0.04/dozen* \$0.05/dozen)	\$0.03/dozen* (\$0.04/dozen)
Whole egg (liquid)	\$1.79/kg	\$1.52/kg	0.55 (\$0.98)	0.35 (\$0.62)	0.12 * (\$0.17)	0.10 * (\$0.15)
Egg yolks (liquid)	\$1.79/kg	\$1.52/kg	0.97 (\$1.72)	0.62 (\$1.09)	0.12 * (\$0.17)	0.10 * (\$0.15)
Egg albumin (liquid)	\$1.79/kg	\$1.52/kg	0.46 (\$0.82)	0.29 (\$0.51)	0.12 * (\$0.17)	0.10 * (\$0.15)
Hatching eggs	280.4%	238.3%	N/A	N/A	N/A	N/A

* Ordinary tariffs

Source: Canada, E.U. and U.S. Harmonized Tariff Schedules.

⁴⁰ This modality (36% average reduction, minimum 15%) applies to tariff equivalents. Most countries (Canada being one exception) did not apply any reduction to their in-quota tariffs.

⁴¹ Tariff equivalents and ordinary tariffs are reduced by 15% over the implementation period.

⁴² Most tariff equivalents and ordinary tariffs are reduced by 36% over the implementation period.

⁴³ Most tariff equivalents and ordinary tariffs are reduced by 15% over the implementation period.

While these three countries used the same “modalities,” their respective approach in calculating their tariff equivalents varied significantly. To illustrate these differences, the following three sections show the approach used by each country in the determination of tariff equivalents (over-quota tariffs) for dairy products.

7.1.2 The European Union Approach

The E.U. approach is based on a component basis. It first established a tariff equivalent for three main products (butter, skim milk powder and whey powder) using the difference between the external price and the internal price. The external price is based on the International Dairy Arrangement (IDA)⁴⁴ minimum price for butter and skim milk powder and the average E.U. import price for whey powder. There is no adjustment for freight and handling. The internal price is based on the intervention price⁴⁵ plus 10% for butter and skim milk powder and average E.U. market price plus 10% for whey powder (Agra-Europe). Most E.U. tariff equivalents are fixed in specific terms.

Table 7.2

**Calculation of the Tariff Equivalent for Butter
(Tariff Equivalent per Tonne), European Union, 1995**

Internal Price (A)	External Price (B)	Tariff Equivalent (A)-(B)
3,905 ECU/tonne	943 ECU/tonne	2,962 ECU/tonne

The E.U. then calculated the proportion of each of these main products entering the composition of all other dairy products and allocated the tariff equivalents proportionately.

Therefore, the E.U. used the tariff equivalents of the three main dairy products⁴⁶ to establish tariff equivalents for the nine other dairy products on the basis of the proportion of components.

⁴⁴ The GATT International Dairy Arrangement (IDA) was a plurilateral agreement with the major dairy exporters (excluding the U.S.) as members. The purpose of this Agreement was to ensure that exporters did not price their products below GATT/IDA minimum prices. The Agreement was terminated in 1997.

⁴⁵ The intervention system is limited to butter, cream, skim milk powder and certain cheeses. There are two measures in this system: public storage and private storage. The objective of public storage is to put a floor on the producer price of milk while private storage has the objective of balancing seasonal variations in production.

⁴⁶ Butter, skim milk powder and whey powder.

Table 7.3

**Calculation of the Tariff Equivalent for Cheddar Cheese
(Tariff Equivalent per Tonne), European Union, 1995**

	Butter (D)	Skim Milk Powder (E)	Whey Powder (F)	Cheddar Cheese (D)+(E)+(F)
Kg of product/tonne (A)	392	976	0	N/A
Tariff Equivalent of Component (B)	2,962 ECU/tonne	1,485 ECU/tonne	109 ECU/tonne	N/A
Tariff Equivalent (A) x (B)	1,161 ECU/tonne	1,450 ECU/tonne	0	2,611 ECU/tonne

Source: Agra-Europe

The E.U. calculated that 392 kg of butter and 976 kg of skim milk powder are necessary to produce one tonne of cheddar cheese. As per the calculation shown in the above table, the tariff equivalent for cheddar cheese was established at 2,611 ECU/tonne.

The same methodology was applied to calculate the tariff equivalents of the eight other dairy products.

7.1.3 The United States Approach

It should be pointed out that the methodology used by the U.S. is not publicly available. It is understood that the U.S. used a methodology similar to the E.U. to estimate tariff equivalents (i.e. internal price minus external price and components approach). However, there are some differences compared with the E.U. in the calculation of the external price and the internal price. Most over-quota tariffs are fixed in specific terms.

7.1.4 The Canadian Approach

Canada tried to mimic the U.S. and the E.U. offers in the calculation of its tariff equivalents on dairy products. Most over-quota tariffs are fixed in *ad valorem* terms, subject to a minimum specific duty. In other words, the applicable bound rate is the *ad valorem* tariff or the specific tariff, whichever is higher.

The differences in the level of the over-quota tariffs (tariff equivalents) established by the various countries reflect the

differences in protection provided by import quotas (Canada), variable import levies (E.U.), and other economic factors (e.g. normal price differences, exchange rate differentials, etc.) during the base period prior to the implementation of tariffication.

7.1.5 Discussion

All non-tariff barriers were converted into tariffs as a means of providing equivalent protection against imports, thereby the term “tariff equivalent.” These tariff equivalents (over-quota tariffs) are applied to imports that exceed the access established under tariff-rate quotas. In order to continue to operate a supply management system in Canada, Canadian producers need to control imports. Tariff equivalents and tariff-rate quotas are the most important tools enabling Canada to limit the importation of supply managed products at predetermined and predictable levels. The high tariff equivalents that were introduced in 1995 as a result of the Uruguay Round have permitted Canada to provide no more access than what it has agreed to provide. These tariffs were negotiated independently for each product and each country, and are therefore designed to reflect the various situations in these countries for each product category.

Suggestions made thus far by some countries to reduce tariff peaks (e.g. 350% or even more) to a more common denominator would simply increase the level of uncertainty in the administration of a domestic supply management system. This would be contrary to the WTO principle regarding improved predictability. In fact, the WTO states that “the multilateral trading system is an attempt by governments to make the business environment stable and predictable.” Maintaining over-quota tariffs at their current levels is consistent with this principle. The industries under supply management require there be predictability in the level of imports. This should be achieved by ensuring that access is provided by countries, and by making sure that access provided under tariff-rate quotas is unimpeded, and is fully achievable.

By seeking to maintain tariff equivalents (over-quota tariffs) at current levels, the SM5 is promoting trade liberalization through the application of uniform rules on the 5% minimum access and the tariff-rate quotas administration, rather than the level of tariff equivalents. The principles affecting tariff-rate quotas were designed (although not implemented in that fashion) to bring uniformity for minimum access across

commodities and all countries. This is contrary to the concept of tariff equivalents, which were designed to give an equivalent protection to a non-tariff barrier. It should also be pointed out that achieving uniformity on “minimum access” does not compromise the principle that, where market opportunities existed above these minimum levels, they had to be maintained.

Therefore, the SM5 supports the following position:

SM5 Position

The tariffs applying to Canada’s over access commitments (tariff equivalents) must be maintained at their current levels to ensure no more access than the committed level of Tariff-Rate Quota (TRQ). TRQs were implemented as part of the Uruguay Round to convert non-tariff barriers into transparent tariffs of equivalent effect, including border measures consistent with GATT Article XI.

7.2 Current and Minimum Access

7.2.1 Results of the Uruguay Round

Modalities pertaining to market access commitments are provided in the revised modalities text of December 1993. Effectively, this text states that “current access opportunities on terms at least equivalent to those existing shall be maintained as part of the tariffication process.” In addition, “current access opportunities shall be no less than average annual import quantities for the years 1986 to 1988.”

The modalities make provision for countries to establish minimum access opportunities in cases where no significant imports exist. It states that such access “shall represent in the first year of the implementation period not less than three per cent of corresponding domestic consumption in the base period and shall be expanded to reach five per cent of that base figure by the end of the implementation period.”

The modalities also state that: “Minimum access opportunities shall be implemented on the basis of a tariff quota at a low or minimal rate and shall be provided on an MFN basis⁴⁷.”

⁴⁷ Most-Favoured-Nation treatment (MFN) is a commitment that a country will extend to another country the best conditions to its home market that it applies to any third country.

According to the modalities, “access opportunities under this commitment shall in general be provided at the 4-digit level of the HS, or wherever appropriate at a more detailed level, and allocated to the tariff lines of internationally traded products.” The modalities called for tariff-rate quotas to be established for all tariffed commodities (ordinary tariffs and tariff equivalents). According to the United States Department of Agriculture (USDA), they were not established in all cases.

It should be understood, however, that when current access was greater than the minimum access levels specified, current access had to be maintained and increased over the implementation period. Expansion of access opportunities over the implementation period was to be made in equal installments.

It is important to point out that although these specific modalities for calculating members’ commitments were not included in the Final Agreement on Agriculture, they do provide an understanding of the direction members were prepared to commit to prior to the Final Agreement signed in 1994 in Marrakesh.

While the Final Agreement on Agriculture sanctions Members’ minimum access commitments, the supporting data on consumption of each product were not included in the Agreement on Agriculture and remain confidential. In order to outline the difference in approach used by the European Union, the United States and Canada, the following examples will be used: dairy products; poultry; and eggs. Data on consumption of dairy products reported in the following sections are based on calculations made by Dairy Farmers of Canada and may therefore be different than the data provided in “Supporting Table 3” (minimum access) of each WTO members. (“Supporting Table 3” is confidential.)

7.2.2 The European Union Approach

The European Union followed the modalities only in part. It used the method of calculation based on average consumption and current access but only for a limited number of products (e.g. it only established tariff-rate quotas for three dairy products: skim milk powder, butter and cheese). For example, the E.U. did not establish tariff-rate quotas on products such as fluid milk, cream, yogurt and ice cream. The commitments on minimum access were for incremental access only, which was

established as the difference between current imports (1986-1988) and 3% or 5% of consumption if greater than current access. Therefore, minimum access terms and conditions apply only to this difference, not to the entire amount of 3% and 5% of 1986-1988 consumption.

To evaluate the minimum access levels, the E.U. calculated the levels of historical average consumption for the reference period (1986-1988) of each dairy product cited above. Then, the E.U. multiplied the level of average consumption by 3% to find the level of minimum access for 1995. To calculate the final access level for 2000, the level of average consumption was multiplied by 5% instead of 3%. The following section briefly reviews the E.U. offer for butter, cheese, skim milk powder, poultry, turkey, chicken and eggs.

7.2.2.1 Butter

Average consumption of butter from 1986 to 1988 was 1.803 million tonnes (Agra-Europe). Average imports for the same period were 80,000 tonnes including a pre-existing quota of 76,667 tonnes to New Zealand (Agra-Europe & IDA). The remaining, 3,330 tonnes were imported over the variable levy. The E.U.'s offer provides for a new tariff quota of 10,000 tonnes by year 2000 on a Most-Favoured-Nation basis (minimum access of 86,667 tonnes by year 2000). Minimum access by 2000 will represent 4.8% of the average 1986-1988 consumption. On the basis of average consumption⁴⁸ (1986-1988), the E.U. should provide a minimum access level of 90,000 tonnes of butter in 2000. In the case of butter, the E.U. has therefore generally respected the principle of giving 5% access of total butter consumption by 2000.

7.2.2.2 Cheese

Average consumption of cheese from 1986 to 1988 was approximately 4.3 million tonnes (Eurostat). The E.U. had historical access of about 111,000 tonnes (USDA). Of this amount, 15,250 tonnes were available through existing quotas on a preferential basis (e.g. 2,750 tonnes⁴⁹ of Canadian cheddar cheese at a tariff rate of 137.5 ECU/tonne or about Cdn \$ 244/tonne) (IDA). The remaining 95,000 tonnes entered over the variable levy system. The new incremental access offered initially for 1995 was set at 18,000 tonnes (e.g. 129,000 tonnes [3% of average 1986-1988 consumption] minus 111,000 tonnes

⁴⁸ E.U.-12. There were 12 countries in the European Union in 1986-1988.

⁴⁹ This quota has increased to 4,000 tonnes.

[1986-1988 access]) and the final incremental access for year 2000 at 104,000 tonnes⁵⁰ (e.g. 215,000 tonnes (5% of average 1986-1988 consumption) minus 111,000 tonnes (1986-1988 access)).

The E.U. therefore followed the modalities concerning current access which had to be offered “on terms at least equivalent to those existing.” As 95,000 tonnes of cheese was imported under the variable levy system, the E.U. offer assumed that the same amount would be imported under the tariff equivalent system. As its offer contained only incremental access, it also followed the modalities which stated that “expansion in access opportunities shall be provided on an Most-Favoured-Nation basis.”

The impact of this E.U. approach can be best illustrated using Canadian cheddar cheese. As explained above, Canada had historical access of 2,750 tonnes of aged cheddar cheese to the United Kingdom. To maintain this market and meet expansion of demand, it had become essential to export about 4,000 tonnes each year (i.e. 1,250 tonnes were exported and subject to a variable levy). With the implementation of the Uruguay Round tariffication system, of the 3% cheese access to the E.U., Canada had an historical access composed of 2,750 tonnes @ Cdn \$ 244/tonne and 1,250 tonnes @ Cdn \$ 4,630/tonne. This inequity was later corrected in 1995, when the E.U. sought bilateral negotiations to have Canada recognize the E.U. expansion from 12 to 15 countries. This negotiation resulted in the E.U. offering an incremental access of 1,250 tonnes for Canadian cheddar cheese (bringing preferential access to 4,000 tonnes @ Cdn \$ 244/tonne) in exchange for an increase in the E.U. guaranteed share of the Canadian access for cheese of 1,250 tonnes (bringing the E.U. access for cheese into Canada to 13,472 tonnes @ Cdn \$ 66/tonne).

The E.U. incremental new access was specifically given on a varietal basis as outlined in Table 7.4.

⁵⁰ E.U.-12. Due to the accession of Sweden, Finland and Austria in the European Union (E.U.-15), minimum access for cheese has been reduced to 102,150 tonnes.

Table 7.4

**Access for Cheese
E.U.-15 Schedule**

Cheese Variety	2000 (tonnes)
Emmental	18,400
Gruyere, Sbrinz	5,200
Cheddar	25,250
Cheddar (Canada)	4,000
Cheese for process	24,500
Other Cheeses	24,800
Total	102,150

Source: E.U. Harmonized Tariff schedule-Tariff Quota

7.2.2.3 Skim Milk Powder

Average consumption of skim milk powder from 1986 to 1988 was 1.429 million tonnes (Agra-Europe). The E.U. gave new initial access of 41,000 tonnes and a final access of 69,000 tonnes⁵¹ representing close to 3% and 5% of historical consumption. This compares with historical access of 2,000 tonnes (imports over the variable levy) (Agra-Europe). On the basis of average consumption⁵² (1986-1988), the E.U. should provide a minimum access level of 71,000 tonnes of skim milk powder in 2000.

7.2.2.4 Poultry

In the meat sector (beef, pork and poultry products), products were aggregated for the purpose of establishing a tariff-rate quota. Total imports of the four meats accounted for 4.7% of the base period consumption (1,400,000 tonnes imported in the base period) so that new access of only 78,000 tonnes was required to meet a minimum access commitment. This was allocated among beef, pork, chicken and turkey. Since imports of beef were significant, it meant that the required increase in access commitments to meet 5% was lower for pork and poultry than if the calculation had been done for beef, pork and poultry separately.

Average consumption of all poultry meat from 1986 to 1988 was 5.58 million tonnes (FAOSTAT Database). The E.U. gave initial access of 18,000 tonnes and a final access of 30,000

⁵¹ E.U.-12. Due to the accession of Sweden, Finland and Austria in the European Union in 1995 (E.U.-15), minimum access for skim milk powder has been reduced to 68,000 tonnes.

⁵² E.U.-12.

tonnes (OECD, USDA) representing 0.3% and 0.5% of historical consumption. On the basis of average consumption (1986-1988), the E.U. should have provided a minimum access level of 279,000 tonnes.

7.2.2.5 Turkey

In the specific case of turkey meat, the E.U. established a tariff-rate quota of 2.5 million kg in 1995 increasing to 3.5 million kg by the year 2000. Using the E.U.'s 1986-88 domestic turkey supply of 914 million kg as a proxy for its base period consumption, the actual tariff-rate quota should have been 27.4 million kg in 1995 increasing to 45.7 million kg by the year 2000 or 13 times greater than what will actually be provided.

7.2.2.6 Chicken

Average per capita chicken consumption was approximately 12 kg for the years 1986-1988. Access levels offered by the E.U. are 15,500 tonnes increasing to 26,400 tonnes in 2000, which represents an access of approximately 0.4% increasing to 0.7% of domestic consumption in the base period.

7.2.2.7 Eggs

United States Department of Agriculture has estimated the average consumption for eggs from 1986 to 1988 was 4.8 million tonnes. The initial access for total eggs and egg products was 84,131 tonnes and the final access was 157,500 tonnes, representing 1.75% and 3.3% respectively of base period consumption. Based on USDA consumption estimates, the E.U. should have provided a minimum access in 1995 of 144,570 tonnes and in 2000 of 240,950 tonnes. It should be noted that E.U. imports under the Europe Agreements count towards utilization of its minimum access commitments for many commodities, including most pork products, poultry, cheese, skim milk powder, and egg products.

7.2.3 The United States Approach

The U.S. calculated dairy access on an aggregate basis rather than product by product as implied by the modalities. Through a complex methodology, the U.S. underestimated the average consumption of dairy products as a means of limiting minimum access. Furthermore, the access was measured on butterfat and solids-non-fat equivalents in order to increase the flexibility of selecting where new access would be offered. The following is the description of the methodology used by the U.S. to calculate tariff quotas for dairy.

The U.S. considers two categories of dairy products as follows:

7.2.3.1 Cheese

In the case of cheese, the U.S. more closely followed the methodology suggested by the modalities. Average consumption of cheese from 1986 to 1988 was 2.62 million tonnes (USDA). The U.S. gave new initial access of 120,500 tonnes and a final access of 140,500 tonnes representing 4.6% and 5.4% of historical consumption. As shown in Table 7.5, most of the commitments on cheese are on a varietal basis, and include a quota for Mexico in excess of its WTO offer to reflect commitments made under the NAFTA agreement.

Table 7.5

**Access for Cheese
U.S. Schedule**

Cheese Variety	2000 (tonnes)
Cheese and substitutes for cheese	45,705
Blue mold	2,911
Cheddar cheese	14,406
American type	3,523
Edam and Gouda	7,992
Italian-type	12,558
Swiss/Emmental (with and without eye formation)	42,180
Low fat	5,725
Aggregate cheese (Mexico)	5,500
Total	140,500

Source: U.S. Harmonized Tariff schedule-Additional U.S. Notes

7.2.3.2 Other Dairy Products

The U.S. established tariff-rate quotas for the following dairy products (old Section 22⁵³): fresh/frozen cream, evaporated/condensed milk, dried lowfat milk (skim milk powder), dried whole milk (whole milk powder), dried cream, dried whey/buttermilk, butter, butteroil and substitutes, chocolate crumb and lowfat chocolate crumb, milk replacer

⁵³ Section 22 of the U.S. Agricultural Adjustment Act of 1933 allowed the U.S. administration to impose quantitative restrictions or special fees (above and beyond the custom duties) whenever: “ any article or articles are being or are practically certain to be imported into the U.S. under such conditions and in such quantities as to render or tend to render ineffective, or materially interfere with” any U.S. farm program or “to reduce substantially the amount of any product” subject to such a farm program. As a result of this regulation, the U.S. imposed quotas on several agricultural products including dairy products.

feed, ice cream and dairy mixtures. Total access represents 13,700 tonnes of milkfat or butterfat and 16,100 tonnes of solids-non-fat in 1995 and 22,785 tonnes of butterfat and 26,825 tonnes of solids-non-fat in 2000 (USDA). Specific quotas were reserved for Mexico under the terms of NAFTA.

Overall Access

Overall, total access (butterfat basis) was not based on total U.S. consumption of dairy products during the base period 1986-1988, but on a limited number of dairy products. Average consumption of dairy products on a butterfat basis from 1986 to 1988 was approximately 2.25 million tonnes (USDA). The U.S. gave new initial access of 46,235 tonnes and a final access of 60,720 tonnes, as shown in Table 7.6. It is worth noting that cheese was not included in the calculation of butterfat, but it is included in our calculation for comparison purposes only. On the basis of average consumption (1986-1988), the U.S. should have provided a minimum access of 112,500 tonnes of butterfat in year 2000.

Table 7.6

**Initial and Final Access, United States
Butterfat Basis, Tonnes**

	1995	2000
Butterfat from cheese ⁵⁴ (A)	32,535	37,935
Butterfat from other dairy products (B)	13,700	22,785
Total Offer (A) + (B)	46,235	60,720

Source: USDA and DFC calculations

In addition, the U.S. has not given the level of access recommended by the modalities due to its aggregated approach and its underestimation of dairy product consumption for products other than cheese. Most of the U.S. tariff quotas cover a range of dairy products (basket quotas). Some of these tariff quotas cover products other than those in Chapter 4 of the Harmonized System (HS)⁵⁵, which explains why there is a certain degree of imprecision involved when aggregating the U.S tariff quotas under HS Chapter 4. The following section briefly reviews the U.S. offer for butter, butter substitutes and skim milk powder.

⁵⁴ Based on a conversion factor of 0.27 tonne of butterfat per tonne of cheese.

⁵⁵ Chapter 4 of the Harmonized System (HS) mainly refers to dairy products.

7.2.3.3 Butter

Average consumption of butter from 1986 to 1988 was 505,000 tonnes (USDA). The U.S. gave new initial access of 3,977 tonnes and a final access of 6,977 tonnes representing 0.8% and 1.38% of historical consumption. On the basis of average consumption (1986-1988), the U.S. should have provided a minimum access level of 25,250 tonnes of butter in year 2000.

7.2.3.4 Butter Substitutes

No data on consumption of butter substitutes are available. It is therefore not possible to compare the U.S. offer to the historical average consumption. The U.S. gave new initial access of 3,480 tonnes and a final access of 6,080 tonnes.

7.2.3.5 Skim Milk Powder

Average consumption of skim milk powder from 1986 to 1988 was 321,000 tonnes (USDA). The U.S. gave new initial access of 1,261 tonnes and a final access of 5,261 tonnes representing 0.4% and 1.7% of historical consumption. On the basis of average consumption (1986-1988), the U.S. should have provided a minimum access level of 16,000 tonnes of skim milk powder in year 2000.

It should be pointed out that poultry and poultry products as well as eggs and egg products are not addressed under the U.S. approach section since they have no TRQs on these products.

7.2.4 The Canadian Approach

The final access Schedule tabled by Canada largely reflected the degree of access offered by the U.S. The only new access offered by Canada related to a small increase in ice cream and butter to parallel the level of access offered by others, particularly the U.S. The following section briefly reviews the Canadian offer for cheese, butter, skim milk powder, turkey, chicken, eggs and hatching eggs.

7.2.4.1 Cheese

In the case of cheese, Canada's historical access was already higher than the minimum access proposed under the modalities, therefore the level of current access had to be maintained.

Average consumption of cheese from 1986 to 1988 was 250,200 tonnes (Agriculture and Agri-Food Canada (AAFC)). Canada gave the same access in 1995 and 2000: 20,412 tonnes, representing 8.2% of historical consumption.

7.2.4.2 Butter

Average consumption of butter from 1986 to 1988 was 99,800 tonnes (AAFC). Canada gave new initial access of 1,964 tonnes and a final access of 3,274 tonnes representing 2.0% and 3.3% of historical consumption. On the basis of average consumption (1986-88), an access of 5% would have represented 4,990 tonnes of butter in 2000.

7.2.4.3 Skim Milk Powder

Average consumption of skim milk powder from 1986 to 1988 was 51,600 tonnes (AAFC). Canada gave zero access on skim milk powder. On the basis of average consumption (1986-1988), an access of 5% would have represented 2,580 tonnes of skim milk powder in 2000.

It is important to understand that the total access offered by Canada was more generous (mainly due to the access on cheese) than what the U.S. and the E.U. indicated they were prepared to offer on dairy products.

7.2.4.4 Turkey

Average consumption of turkey meat from 1986 to 1988 was 111,800 tonnes. Canada gave new initial access of 4,467 tonnes and a final access of 5,588 tonnes representing 4% and 5% of historical consumption.

7.2.4.5 Chicken

Average consumption of chicken meat from 1986 to 1988 was 531,249 tonnes. Canada gave the same access in 1995 and 2000: 39,844 tonnes, representing 7.5% of historical consumption.

7.2.4.6 Eggs

The existing NAFTA commitments continue to remain in effect and the higher of the WTO or NAFTA quantities are made available in a given year. Average consumption of eggs

from 1986 to 1988 was 427,400 thousand dozen. Canada offered initial access of 12,822 thousand dozen in 1995 and 21,370 thousand dozen in 2000 representing 3% and 5% of historical consumption. Canada does however reserve the right to allocate access for eggs and egg products between shell (except hatching eggs), frozen, liquid and dried eggs. The allocation between shell, egg product and egg powder is done annually by the Department of Foreign Affairs and International Trade.

7.2.4.7 Hatching Eggs

Average consumption of hatching eggs from 1986 to 1988 was 45,684 thousand dozen eggs. Canada gave the same access in 1995 and 2000: 7,949 thousand dozen eggs representing 17.4 % of historical consumption. It should be noted that current access is equivalent to 21% of current production which is higher than the access level committed in 1995.

Canada should be obligated to honor its WTO commitments, not only to other countries but also to its own producers. Had Canada honored its 1995 WTO commitments, access of hatching eggs and chicks, would have been reduced by 3.7%.

7.2.5 Current Situation

7.2.5.1 Dairy Sector

Minimum access commitments were not established based on common interpretation of the guidelines. To provide some idea of the problem, it has been roughly estimated by DFC⁵⁶ that the level of access in dairy products, as a percentage of the average consumption of 1986-1988 measured on a butterfat basis, will be, at the end of the implementation period, about 2.75 % for the United States, 3 % for the European Union and 4 % for Canada (Table 7.7).

⁵⁶ It should be noted, however, that the DFC estimate is only a preliminary estimation. The DFC estimate measures market opportunities provided by the European Union, the United States and Canada. This measure is based on the level of the tariff-rate quotas at the end of the implementation period (2000) and the imports for 1996, whichever are the greatest. Additional work is necessary in order to calculate market access opportunities with more precision. More work will be done in the coming months.

Table 7.7

**Percentage of Market Access by 2000 for Selected Countries
Measured against the Consumption in the Base Period 1986-88
Dairy Products, Butterfat Basis**

Country	Market Access 2000 (%)
European Union	3.00
United States	2.75
Canada	4.00

Source: DFC calculations

7.2.5.2 Egg Sector

Canada has met its minimum access obligations in 1997 for eggs and egg products by importing in excess of the WTO requirements. The fill rate in 1997 was 120%. The fill rates for 1995 and 1996 were 98% and 95%, respectively. Table 7.8 lists the fill rates in 1996 for all countries reporting data to the WTO.

Table 7.8

1996 Fill Rates for Eggs and Egg Products

Country	Commodity	Fill Rate (%)
Canada	Total	95
E.U.	Shell	1
	Yolks	100
	Albumin	46
Hungary	Not in Shell	0
Iceland	Total	165
Norway	Shell	78
Poland	Dried	61
South Africa	Shell, Yolks	0
Switzerland	Shell	82
	Dried	62
	Liquid/frozen	140

Source: WTO, Countries notifications

Barbados, Costa Rica, South Korea and Malaysia did not notify the WTO Secretariat of any imports in 1996. Poland did not notify the WTO of any shell egg imports in 1996.

7.2.5.3 Poultry Sector

Canada has met its WTO obligations in both its turkey and chicken tariff-rate quotas. In 1997, the fill rate was 100% for both commodities.

7.2.6 Discussion

Since the next round of negotiations will likely attempt to build on these results, the first question should be to determine if the Uruguay Round has achieved its primary objectives. The review of WTO member countries' commitments shows that significant inequalities have resulted from the Uruguay Round. If the next WTO round was to build on that basis, these inequalities would persist and be further amplified. Therefore, the next round should focus on cleaning up that situation and leveling the playing field. The Uruguay Round was unable to ensure that the modalities for the development of countries' commitments be incorporated into rules, which would have established some equity and equality in Members' commitments. Therefore, the first goal of the next round should be to establish and develop clear rules governing countries' commitments on market access, domestic support and export competition.

A policy which would pursue the establishment of a common access level of say 5 % would mean that Canada would be prepared to offer incremental access at the beginning of the negotiations, for those commodities which are not yet at the 5% level. Normally, being a smaller player, Canada should avoid making offers prior to knowing the extent to which the others are prepared to make commitments. However, in the case of market access, the strategy proposed identifies the level of effort necessary for the other key members to make in order to match the Canadian offer.

The impact that this particular policy will have on the Canadian supply managed industries will depend on the implementation mechanism selected. The rules, for example, could be applied on a product line basis. This means that each product subject to a tariff-rate quota would need to demonstrate a level of 5% of domestic consumption for this product. Unfortunately, this approach would have a number of complexities to be addressed, such as lack of consumption figures (e.g. for non-existing consumption where tariff-rate quotas are issued to prevent access of products – e.g. blends), the category of

product (e.g. broad, at the four-digit level, such as “cheese” – 0406; versus more specific at the ten-digit level, such as processed cheddar cheese, not grated or powdered – 0406.30.10.11), etc. Another approach is to ensure that industries benefiting from tariff-rate quotas would have to offer 5% access for all their products within a chapter (e.g. all dairy products covered by Chapter 4 of the Tariff Schedules) or group of products. Another likely approach could be to re-base the reference period of 1986-1988 to 1996-1998, for example, as a means of taking into account changes in consumption. This may ease the level of imports of products suffering a reduction in demand (e.g. butter) while placing increased access pressure for products with increasing consumption trends (e.g. cheese - although for Canada current access for cheese is already above the 5% level). Another approach would be to use the level of production, rather than consumption, as a comparative base for access. This latter approach would then force a country which exports a large portion of its production to offer greater access to its own domestic market.

It is too early yet to decide on the details of the selected mechanism to implement the above principle. Much more work and analysis will be necessary in the coming months to determine the most appropriate approach both in terms of positioning Canada’s interests and feasibility within the international context. The principle of pursuing a rules-based approach in reviewing the equity and the equivalency of the current commitments of member countries with regards to market access is nonetheless legitimate at this time.

While it is clear that the U.S. and the E.U. would prefer continuing progress in trade liberalization through the expansion of the Uruguay Round commitments, the problem created by this process is that it represents a distorted base for pursuing further trade liberalization. It is therefore necessary to establish the access commitments based on common rules.

Therefore, the SM5 supports the following position:

SM5 Position

Canada seeks the development of clear and precise rules governing market access in order to ensure that all countries' commitments on market access are equivalent (i.e. based on rules applicable to all: e.g. a fixed percentage of domestic consumption).

Where market access has been provided through tariff-rate quotas, different rates of duties are applied. For example, the E.U. within access commitment rate of Most-Favoured-Nation duty for cheddar cheese is more than 10 times larger than the Canadian rate for the same product. Reducing the within access commitment tariff to "0" would bring world markets closer to a level playing field.

It should also be understood that for Canada, reducing all within access commitment tariffs would have a very minimal impact, since most of Canada's trade is done with the United States, where within access commitment tariffs were reduced to "0" starting January 1st, 1998. Furthermore, New Zealand also benefits from a "free" preferential tariff treatment on many products (e.g. butter) exported to Canada as of January 1, 1999. Strategically, Canada should try to position the market access negotiations on true access rather than the reduction or elimination of the tariff equivalents (over-quota tariffs).

Therefore, the SM5 supports the following position:

SM5 Position

Tariffs applying to a country's WTO within access commitments should be reduced to zero.

7.3 Tariff Reductions

As mentioned previously (Section 7.1.1), tariffs had to be lowered by 36%, on a simple average basis, with a minimum rate of reduction of 15% for each tariff line. According to the modalities, tariff reduction commitments were required on all agricultural products.

While the E.U., the U.S. and Canada used the same modalities to calculate tariff reductions, their respective approach in

reducing their tariffs varied significantly. The following three sections show the different approaches used by each country in the reduction of tariffs for dairy products.

7.3.1 The European Union Approach

The E.U. approach is a straightforward application of the modalities. Effectively, almost all tariff equivalents (over-quota tariffs) on dairy products are due to be reduced by 36% over the implementation period. The major exception is skim milk powder; the reduction is only 20%. However, in-quota tariffs under the E.U. access commitments are constant over the implementation period.

7.3.2 The United States Approach

The U.S. approach is significantly different compared with the E.U. Most tariff equivalents (over-quota tariffs) on dairy products are due to be reduced by 15% over the implementation period with the exception of cheese made from sheep milk (tariffs are reduced by more than 15%). However, the U.S. had to lower over-quota tariffs on other agricultural commodities by more than 36% to meet the 36% average reduction. Over-quota tariffs on less sensitive agricultural commodities such as vegetables, cereals and oilseeds were reduced by 40% and more. There was, therefore, a trade-off between the minimum reduction in high tariffs for dairy products and other commodities which were subject to higher reductions. With very few exceptions, U.S. in-quota tariffs are constant over the implementation period.

7.3.3 The Canadian Approach

The Canadian approach is different compared to the E.U. and the U.S. Tariff equivalents (over-quota tariffs) on dairy products are to be lowered by 15% while in-quota tariffs are due to be reduced by 57% over the implementation period. The simple average is therefore 36% in all cases.

7.4 Tariff-Rate Quotas (TRQs) Administration

To provide effective access to their markets, the WTO member countries have to administer their tariff-rate quotas in a proper manner. The administrative measures should not be used to distort trade, or create barriers in addition to the existence of the tariff-rate quotas. However, since tariff-rate quotas were implemented, a number of questions and/or concerns have been identified regarding the administration of tariff-rate quotas and the distortions that may have been caused. Because of their importance to the value of market access commitments, it is widely expected that tariff-rate quota administration will be discussed in the next round of agricultural negotiations.

As a result of the Uruguay Round (UR) tariffication process, 1,370 tariff-rate quotas were implemented by 36 Members. Canada implemented 21 tariff-rate quotas compared to 54 for the United States and 85 for the European Union. Table 7.9 shows the tariff-rate quotas implemented by product category.

Table 7.9

Tariff-Rate Quota by Product Category

Country	Grain & Oilseeds	Sugar	Dairy	Meat		Eggs ⁵⁷	Others	Total
				Poultry	Other Meat			
Canada	5	-	11	3	1	1 ⁵⁸	-	21
U.S.	3	6	24	-	1	-	20	54
E.U.	15	3	12	6	22	3	24	85
World	339	50	183	249		21	528	1,370

Source: WTO, information submitted by members.

⁵⁷ TRQs have also been introduced for eggs by: 3 Norway, 3 Poland and 3 Republic Czech.

⁵⁸ The Canadian TRQ for broiler hatching eggs is included in the TRQ for meat because the tariff line for that commodity included chicks also.

In order to better understand these issues, this section describes the TRQ administration methods that are currently used by WTO members and presents the advantages and disadvantages of each method. Since WTO member countries have broad discretion in the administration of their TRQs, the following descriptions of the methods, and their impacts, are illustrative rather than comprehensive. It should be noted that some WTO member countries have used the same methods in a different manner, or have combined different methods together. The end result, therefore, is often unpredictable.

7.4.1 TRQ Administration and Allocation Methods

7.4.1.1 Applied Tariffs

With “applied tariffs” there is no allocation of import share. The imports are allowed into the importing country in unlimited quantities at, or below, the in-quota tariff rate.

This method is used by several countries since its administration is simple and does not require any formalities and control other than the application of duties.

7.4.1.2 First-Come/First-Served (FCFS)

The First-Come/First-Served method means that import shares are allowed entry until the TRQ is filled. Then the tariff equivalent (over-quota tariff) automatically applies.

The FCFS method does not require a complex administration and is quite transparent since the criteria of allocation is the arrival of the goods. The TRQ is open to exporters who have no import history.

However, the administration of TRQ using the FCFS method may be not the best method when imports could be greater than the tariff-rate quota (TRQ). If the quota is small, exporters will likely be tempted to rush exports in at the beginning of the allocation period to ensure their share of the market. This type of behaviour may disrupt the market and may discriminate against distant or seasonal suppliers. Since exporters are not guaranteed to retain their share from year to year, the FCFS method makes it difficult to develop serious commercial relationships. Finally, should many exporters decide to export their goods at the same time, it could be a nightmare determining which applications were first received.

7.4.1.3 Import Licensing

Import licensing is based on license request for importation. The licenses can be issued on historical basis, lottery, FCFS or auctioning.

The import licensing method provides a methodical and transparent administration of TRQs. Licensing can be used to secure a constant flow of imports throughout the year. Therefore, it could be quite predictable for both the importers and exporters.

The main disadvantage, however, is that numerous formalities may have to be followed to obtain a license. Furthermore, licensing may lead, in some cases, to the establishment of vested interests.

There are some WTO rules affecting import licensing. Those rules are contained in the Agreement on Import Licensing Procedures (AILP). The AILP applies to both automatic (Article 2) and non-automatic (Article 3) import licensing. The agreement requires administrative transparency and includes the following general obligations that:

- “The rules for import licensing procedures shall be neutral in application and administered in a fair and equitable manner.” (Article 1.3)
- “Non-automatic licensing shall not have trade-restrictive or distorting effects on imports additional to those caused by the imposition of the restriction. Non-automatic licensing procedures shall correspond in scope and duration to the measure they are used to implement, and shall be no more administratively burdensome than absolutely necessary to administer the measure.” (Article 3.2)
- “any person, firm or institution which fulfils the legal and administrative requirements of the importing Member shall be equally eligible to apply and to be considered for a license.” (Article 3.5, paragraph (e))
- “the period of license validity shall be of reasonable duration and not be so short as to preclude imports.” (Article 3.5, paragraph (g))
- “Members shall not discourage the full utilization of quotas.” (Article 3.5, paragraph (h)) In “allocating licenses, the Member should consider the import performance of the applicant” (Article 3.5, paragraph (j))

There are various methods for allocating import licenses. The following four methods are the most commonly used: historical, lottery, FCFS and auctioning.

7.4.1.3.1 Historical

Historical allocation means that import shares are allocated and licensed based on import history and past business relation of the product imported.

This method is based on established business relationships and past imports. This method is highly predictable and confers a security for the importers, allowing them to continue to build that business relationship. Since the historical method allows countries to establish relations with active importers, the chances are greater that the TRQ will be filled.

Conversely, having recourse to an historical allocation method makes it difficult for new importers and exporters to penetrate the market, unless a share is set aside for new entrants, or if some penalties for non-use of import share are imposed and reallocation to new entrants is made.

7.4.1.3.2 Lottery

The method of lottery means that the importation quotas are allocated through a lottery system.

The method of lottery is based on luck. There is therefore no possibility of creating vested interests. The allocation is open to all importers and is quite transparent. In the case where licenses are allocated on an annual basis, no individual or group can gain control of the licenses because there is no assurance of it being reissued the following year.

Since the lottery is more or less comparable to gambling, the import shares are allocated as a function of hazard. Importers are not guaranteed to win import share in subsequent years and, similarly, exporters can not plan ahead. Consequently, this method eliminates all possibilities to build serious business relationships. In addition, speculators (who are not importers) may participate in this lottery with the intention to acquire the license for its market value and sell or rent it. The result of such a practice is that it increases the price of the imported good.

Furthermore, in the case where there is no rule ensuring the licensees will import the goods, it could happen that the import quotas are not filled. For example, producer groups who have no interest in importing the goods could participate in the lottery with their only intention being to limit imports. That situation could be resolved by imposing a penalty for non-performance (e.g. license revocation) or a license utilization requirement.

7.4.1.3.3 First-Come/First-Served (FCFS)

Licences allocated on the basis of First-Come/First-Served.

The issuance of licenses on a First-Come/First-Served basis offers some advantages when the demand for import licenses is low, since licenses could be issued upon request until the tariff-rate quota (TRQ) is fully allocated. Under such conditions, this method is quite predictable for importers.

The FCFS method however, could present some difficulties when the demand for import licenses is greater than the level of the tariff-rate quota (TRQ) available. This method offers a lack of predictability because of the complexity associated with the administration burden; for example, what process is used to determine which request is received first.

7.4.1.3.4 Auctioning

Under auctioning, importers' shares are allocated in a competitive bid system.

This method requires an investment by the importers to buy import shares. Consequently, the imports may be more likely to take place since the importer had to pay for the right to import. Since auctioning is open to everyone, it offers an opportunity to new entrants to penetrate the market.

Auctioning, however, may inhibit the establishment of long-term relationships between importers and exporters, since there would be no guarantee that the same importers would receive licenses from one year to the next.

Finally, the auction could be subject to manipulation by producer groups. Producer groups could arrange to purchase a significant portion of the available licenses with the intention of ensuring that the imports do not take place. Preventing those producer groups from bidding for licenses is a simple way of

addressing this problem. However, it would be essential to make a distinction between producer groups and producer cooperatives wishing to penetrate a lucrative import market.

The legality of the auctioning method under WTO rules has been questioned, although it has not been tested. Article II: 1(b) of the GATT prohibits “duties and charges of any kind imposed on or in connection with importation ” in excess of bound tariffs. Article VIII: 1(a) also prohibits “other fees and charges.”

Some countries have argued that these provisions clearly prohibit the auctioning of import licenses, unless the Member reserved the right to auction when negotiating the concession and has a specific caveat to that effect in its schedule, or ensures that the applied duty rate plus any fee associated with the auctioning does not exceed the bound duty rate. Others say that the provisions were never intended to apply to auctioning and that fees associated with auctioning do not constitute a duty or charge “imposed on or in connection with importation,” but rather a charge on the right to import.

7.4.1.3.5 Licenses on Demand

A special class of licenses that are issued for specific products and for specific utilizations.

7.4.1.4 State Trading Enterprises

The right to import under tariff-rate quotas may be allocated to state trading enterprises. A state trading enterprise is either a government agency or an enterprise that has been granted “exclusive or special privileges” regarding imports and/or exports.

Article XVII of the GATT provides rules to discipline state trading enterprises (STEs), including the general principles of non-discrimination, transparency and commercial considerations.

If state trading enterprises operate in accordance with commercial principles, there should be no trade distortion. The facts show that imports under state trading enterprises provides one of the highest fill rates. For instance, the Canadian government has assigned the administration of its butter TRQ to the Canadian Dairy Commission, and from 1995 to 1998 it has imported the equivalent of 100% of the TRQ.

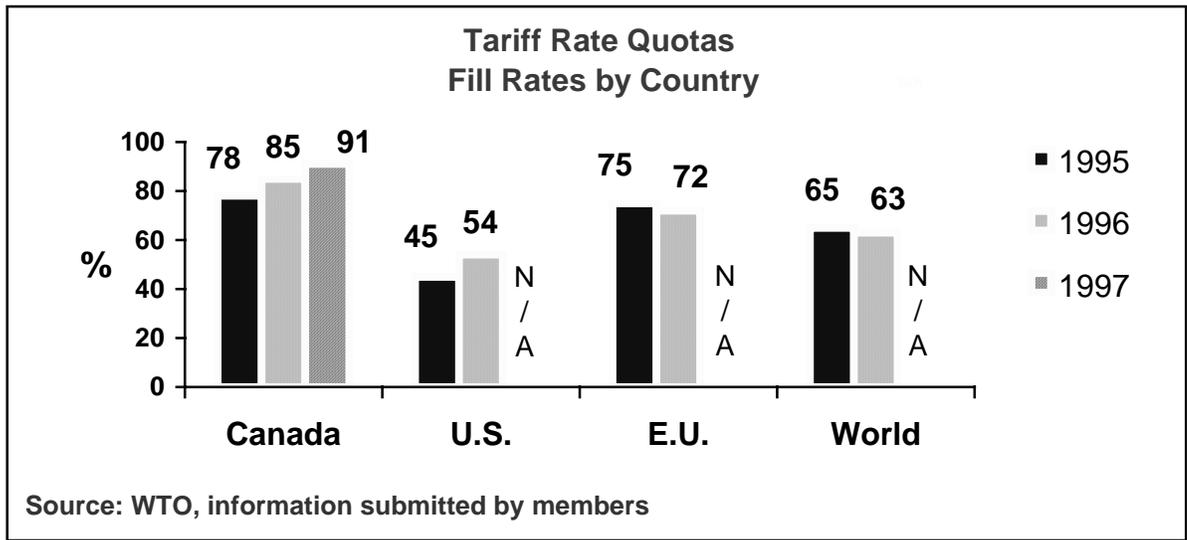
7.4.2 Current Situation

There are no specific rules on TRQ administration in the Agreement on Agriculture. The only existing discipline on TRQ administration is in Article XIII of the GATT, which provides non-discriminatory administration for the country allocations, and the Import Licensing Agreement when import licenses are used to administer access. Therefore, each country is relatively free to choose the methods to administer their TRQs and to apply them in different ways. This broad discretion resulted in a very diversified administration from one country to another including sometimes a lack of transparency and equity. The choice of a method may be influenced by many factors including the particularities of the country, the industry or the product concerned and history, e.g. how the quotas that preceded TRQs were administered.

For example, in Canada the imports of agricultural products subject to TRQs are mostly administered by licensing. The Trade Controls Policy Division of the Export and Import Controls Bureau (EICB), of the Department of Foreign Affairs and International Trade, is responsible for the administration of TRQs and the issuance of import permits. Revenue Canada administers the TRQ system at the Canadian border. In order to benefit from the in-quota tariff (lower rate of duty) a permit issued by EICB is required for agricultural products under TRQs. This is the method Canada chose to administer its TRQs, and so far, it has not distorted trade. Indeed, Canada has given true access to its market for dairy, eggs and poultry, as shown by its high TRQ fill rates in those sectors.

A look at the fill rates of countries' TRQs illustrates the differences that exist among WTO Members at this point of the implementation period of the Uruguay Round. The fill rate looks at actual imports as a percentage of market access commitments.

Figure 7.2



As illustrated in figure 7.2, Canada’s fill rate is higher than the world average and higher than the U.S. and the E.U. For example, during 1996, Canada fulfilled 85% of its TRQs while the E.U. achieved a level of 72% and the U.S. had a fill rate of only 54%. The fill rate for all TRQs averaged 63% in 1996. Furthermore, in 1996, Canada’s fill rate for dairy products was 94%, for eggs was 95% and for poultry 100% as shown in Figure 7.3, 7.4 and 7.5.

Figure 7.3

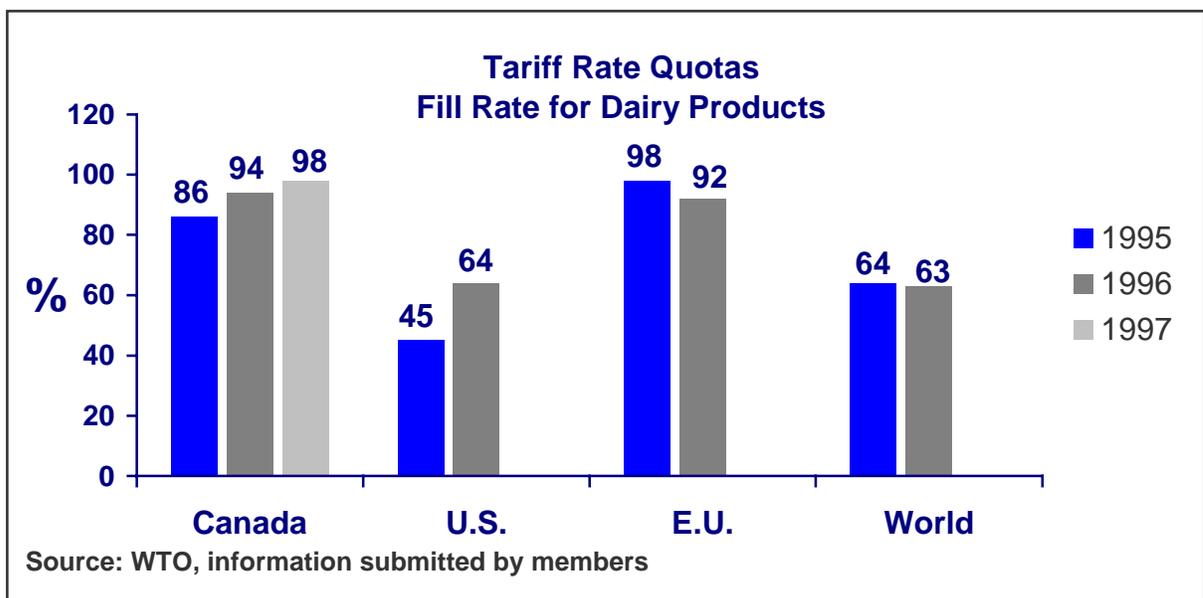


Figure 7.4

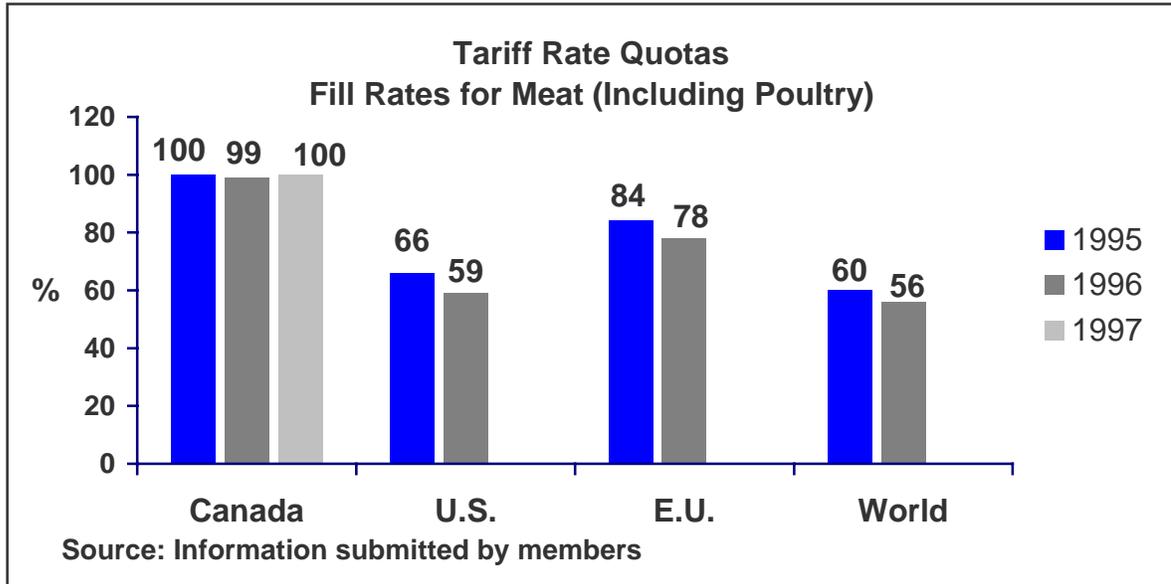
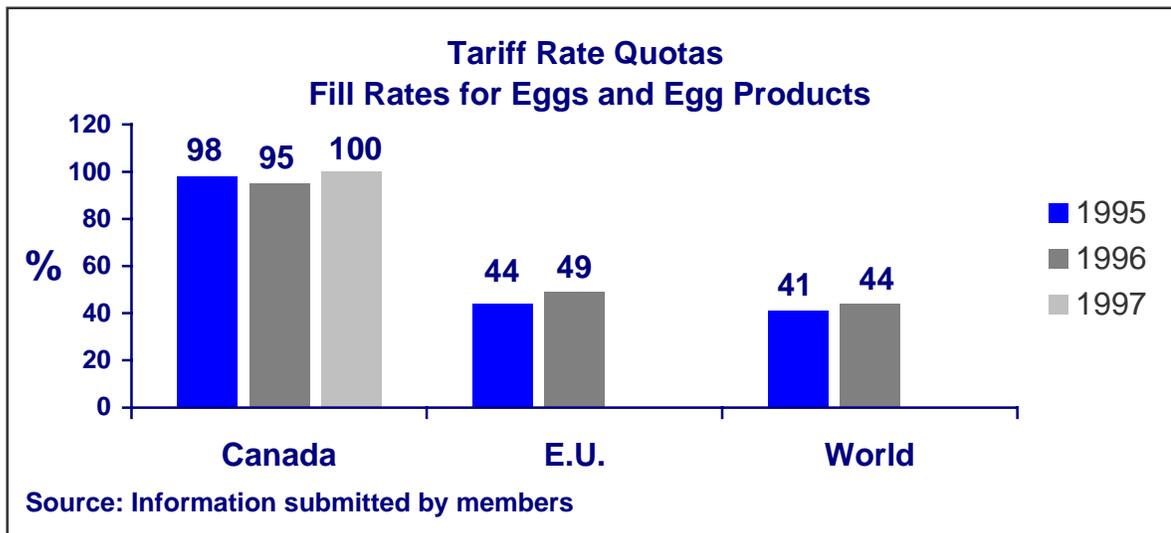


Figure 7.5



The level of fill rates achieved so far by various countries regarding TRQs offers an indication of the issues with the TRQ administration. The TRQ fill rate may be a valuable indicator of the efficiency (or lack thereof) of the TRQ administration method. It should be noted, however, that there are reasons why TRQs may be under-filled, or where no imports at all have occurred. In some cases (e.g. Canada's TRQ for margarine) this is simply a function of a highly competitive industry in the

importing country making imports unprofitable from an economic point of view. In other cases, it may raise concerns that import access is being impaired by means of administrative measures such as: assigning the TRQ to an exporting country that does not supply the good in question (as the U.S. did by allocating its TRQ for ice cream to Jamaica); imposing very small quantity limits on shipments under TRQs; or assigning import rights to local producer organizations with little incentive to import.

As a result, it is expected that the administration of the tariff-rate quota will be discussed during the next round of multilateral trade negotiations.

7.4.3 Discussion

The SM5 supports the establishment of transparent and binding rules to govern the TRQ administration. The new discipline may take into account the following principles: practical, fair and equitable application; non-discriminatory, transparent, predictable, secure, neutral rules, based on commercial considerations; and different product types and market segments. The methods that a) ensure greater TRQ fill rates; b) reflect commercial practices and environment; and c) do not disrupt domestic markets, should be encouraged by WTO Members. Should these three conditions be met, a country should be allowed to designate the market segment (further processor versus retail market) that receives the imports. Since there is a need for more discipline on TRQ administration, the SM5 supports the following position:

SM5 Position

Canada must pursue the establishment of transparent, effective and binding rules governing TRQ administration to ensure the committed level of access is achievable. Countries should not use administrative measures to circumvent their within access commitments. Administrative measures which are designed to take account of domestic market conditions and infrastructures, including the right to designate the market segments that receive these imports, should be allowed provided they do not impede the level of committed access.

There are a number of administrative measures which can impede the utilization of TRQs. For example, country specific allocations may be used as a means to render offered access

meaningless. As a result of the Uruguay Round, 10 countries have allocated 70 TRQs to specific supplying countries. It should be noted that 26 additional TRQs were allocated to specific supplying countries in 1997.

For example, Canada's Schedule has a country-specific tariff quota for condensed milk from Australia (11.7 tonnes), one for buttermilk powder (908 tonnes) and one for butter (1,200-2000 tonnes) to New Zealand, and allocates 66% of the cheese TRQ to the European Union. Canada also has specific access for dairy markets in other countries, the best known being aged cheddar cheese to the United Kingdom (4,000 tonnes). Canada also has specific quotas for cheese to the United States (2,044 tonnes) and for evaporated and condensed milk (1,028 tonnes).

Overall, however, Canada would likely gain more access for its exports by the removal of country-specific quotas, both to the United States and to the European Union, as well as to other markets where Canadian products would be highly competitive (e.g. Norway, Switzerland, etc.).

Country-specific allocation has had two different impacts: 1) it has provided a competitive advantage to those countries that were granted a portion of the TRQ; 2) it did not allow all WTO Members to compete to fill the access commitments. Both of these points can be used to determine if country allocations are consistent with trade liberalization and greater market orientation. A good example illustrating this point is the U.S. allocation of ice cream quota to Jamaica. There has not been any ice cream exports from Jamaica in the last 30 years. For this reason the SM5 supports the following position:

SM5 Position

Canada must pursue the elimination of all country-specific TRQ allocations so that access is available to all WTO members.

Addendum

7.5 Summary of Market Access for Agricultural Commodities Not Under Supply Management¹

Summary

The purpose of this section is to examine whether or not it is relevant for Canadian exporters of agricultural commodities, other than products under supply management, to seek a further reduction of over-quota tariffs (tariff equivalents) in the next round of WTO negotiations.

The results of this section show that for a majority of agricultural commodities, a further reduction in the over-quota tariffs would not necessarily increase Canadian agricultural exports. For example, the EU maintains high over-quota tariffs on beef, pork and wheat. However, the EU has offered far less than 5% of the consumption of these commodities for the base period 1986-88. If the EU were to offer 5% of the consumption in the base period on beef and pork, this would increase market access for the Canadian beef and pork industries.

In some cases, non-tariff barriers such as tariff-rate quota (TRQ) administrative measures (e.g. Philippines) and sanitary measures (e.g. Australia) have a greater impact on market access than over-quota tariffs.

The U.S. is the main market for the majority of Canadian agricultural exports. The U.S. offers duty free access on the majority of Canadian agricultural exports (other than the commodities under supply management). However, for sugar, the access is limited through a TRQ on refined beet sugar, a TRQ on sugar-containing products and high over-quota tariffs.

Scope and Coverage

This section does not cover all of those Canadian agricultural commodities that are not under supply management. Feed grains, special crops and fruit and vegetables are not included in this report.

Furthermore, the emphasis in this section was put on the major Canadian export markets as well as other relevant markets not

¹ Prepared on the basis of information available as of June 24, 1999.

Market Access

supplied by Canada. There are other countries which have TRQs on beef, pork, wheat, etc., but a detailed analysis has not yet been produced given their lower importance as export markets for Canadian products.

7.5.1 Market Access for Selected Beef Importers¹

	U.S. *	Japan *	Mexico *	South Korea *	EU	Canada
Tariff-rate quota (2000) (tonnes)	656,621 no limit for Canada	No	No	225,000 ²	165,500	<i>(No limit for the U.S.) 76,409 of which 29,600 tonnes are allocated to New Zealand, 35,000 tonnes to Australia and 11,809 tonnes (MFN reserve)⁴</i>
In-quota tariffs ³ (2000)	0% Canada	-	-	41.60%	20%	0%
Over-quota tariffs ³ (tariff equivalents) (2000)	0% Canada	-	-	40-44.5%	91%-125%	26%
Ordinary tariffs ³ (2000)	-	50% (bound tariff) 38.5% (applied tariff)	0% Canada	-	-	-
TRQ as a % of 1986-88 consumption	5.6%	-	-	100%	2%	7.4%
Average imports 1995-97 from all countries (tonnes, carcass weight)	985,700	916,700	90,700	194,700	372,700	248,333
Average Canadian exports 1995-97 (tonnes)	242,270	13,906	1,503	2,905	1,202	-

* : Main markets for Canadian beef exports.

¹ Taiwan is also a major importer of Canadian beef, but it is not yet a WTO member.

² This TRQ will be eliminated by January 1, 2001.

³ The tariffs actually applied by the import countries may, in some cases, be lower than bound tariffs.

⁴ MFN reserve: imports from all other eligible suppliers, including those from New Zealand and Australia once their country-specific allocations are filled..

Sources: Individual Country Schedules, AAFC, OECD and USDA

Comments:

- U.S.

The U.S. has no quantitative limitations and they have no tariffs on beef imports from Canada. However, there are other issues that concern Canadian beef and cattle exporters such as the anti-dumping and countervailing duty challenges² that the U.S. has initiated against the Canadian beef industry. There is a possibility that the U.S. Department of Commerce will establish a countervailing duty rate for Canadian cattle exports to the U.S. Also, the Canadian beef industry is concerned about proposed U.S. labelling regulations designed to disrupt the free trade of Canadian beef.

- Japan

Japan does not have any TRQs on beef. However, Japan obtained a special snapback safeguard in the Uruguay Round in exchange for applied reduction below the bound 50% rate to 38.5%. In any given year, when import volumes exceed 117% of the volume of imports³ in the previous three years (on a cumulative quarterly basis), Japan can charge a higher tariff (bound tariff) on imports of beef for the balance of the year. They used this measure in 1995 and 1996 for frozen beef.

- EU

A significant portion of the TRQs on beef is allocated to specific countries. Currently, Canada and the U.S. together have access to a TRQ of only 11,500 tonnes of hormone-free beef. The EU has a ban on the imports of growth-promoting hormones in meat, including imports of beef from Canada. The ban was expected to be lifted on May 13, 1999 (due to a WTO panel decision). However, it is understood that the EU is not ready to remove its ban. Furthermore, the EU does not offer 5% of the beef consumption during the base period 1986-88. If the ban were removed, and if the EU offered 5% of the consumption during the base period (EU-15), it would mean that beef exporters would have access to a TRQ of more than 400,000 tonnes, as opposed to an access of 165,000 tonnes. In this case, over-quota tariffs would be less relevant.

² The U.S. Department of Commerce announced in May 1999, that it would not impose preliminary countervailing duties against exports of Canadian live cattle. However, the final decision is expected at the end of the year. In addition, there is also an anti-dumping case brought by the U.S. against the Canadian beef industry. A preliminary decision is expected this summer.

³ Trigger levels for chilled and frozen beef are calculated separately.

- **Korea and Mexico**

Both countries use non-tariff barriers such as sanitary measures and administrative measures, which are designed to disrupt the beef trade.

In South Korea, the Livestock Products Marketing Organization (LPMO), a quasi-government agency, purchases imported beef by tender and distributes product primarily to two other quasi-government agencies which sell all beef, whether imported or local, to wholesalers and distributors. In addition, Simultaneous Buyers and Sellers (SBS), is a system whereby designated companies in Korea can deal directly with beef exporters. The LPMO's share of total Korean beef imports is expected to decrease by the year 2000, while the market share of the SBS system will increase. However, because South Korea did not fill its beef TRQ in 1998 (possibly due to market conditions), it is understood that there are still some problems in the entry and distribution of foreign beef in Korea. South Korea has a TRQ on beef that represents almost 100% of beef consumption during the base period 1986-88. However, consumption of beef in Korea has doubled since 1986-88.

7.5.2 Market Access for Selected Pork Importers¹

	U.S. *	Japan *	Australia *	South Korea *	Mexico	EU	Philippines	Canada
Tariff-rate quota (2000) (tonnes)	No	No	No	No	7,500 (approximately) allocated to Canada (NAFTA). There is another TRQ for the U.S.	75,600	54,210	No
In-quota tariffs ² (2000)	-	-	-	-	10% (NAFTA)	0-784 Ecus/tonne (0-\$1,218/tonne)	30%	-
Over-quota tariffs ² (tariff equivalents) (2000)	-	-	-	-	20%	467-1,568 Ecus/tonne (\$725-\$2,435/tonne)	40%	-
Ordinary tariffs ² (2000)	0% Canada	4.3% (ordinary tariff) 653,000 yen /tonne (\$7,836/tonne) (bound) 524,000 yen/tonne (\$6,288/tonne) (applied) Gate price (cut meat)	0%	25%-32.2%	-	-	-	0%
TRQ as a % of 1986-88 consumption	-	-	-	-	-	0.5%	11%	-
Average imports 1995-97 from all countries (tonnes, carcass weight)	289,000	832,000	6,300	57,000	41,333	46,700	5,700	41,333
Average Canadian exports 1995-97 (tonnes)	198,683	57,432	4,561	7,704	3,387	2,721	2,794	-

* : Main markets for Canadian pork exports.

¹ Russia is also a major importer of Canadian pork, but it is not a WTO member.

² The tariffs actually applied by the import countries may, in some cases, be lower than bound tariffs.

Sources: Individual Country Schedules, AAFC, OECD and USDA

Comments:

- **Japan**

Japan does not have any TRQs on pork. However, in 1995, Japan implemented a schedule reduction of the gate price under a new import regime for pork; a modified version of the previous variable levy system. The gate price means the lowest level of CIF (cost, insurance and freight) price of a product to which an ad valorem tariff (bound and reduced) is to be applied. If the CIF price is below the gate price, a duty is applied (difference between the CIF price and the gate price) in excess of the ad valorem tariff. The Japanese gate price system (floor price) limits the imports of low-value pork cuts coming into the Japanese market.

In addition, Japan obtained a special snapback safeguard measure in the last Uruguay Round. In any given year, when import volumes exceed 119% of the volume of imports in the previous three years (on a cumulative quarterly basis), the gate price is raised (the bound gate price is used rather than the applied gate price) and a higher ad valorem tariff is charged on imports of pork for the balance of the year. They used this measure in 1995, 1996 and 1997 for pork.

- **Australia**

Australia has no TRQ on pork and the ordinary tariff is set at 0%. However, Australia uses non-tariff barriers to restrict pork imports from Canada. Due to sanitary measures, only frozen or cooked pork can be imported from Canada.

- **EU**

The TRQ on pork only represents 0.5% of the EU-15 consumption during the base period 1986-88. On the basis of average consumption during the base period, the EU should provide a minimum access level of at least 700,000 tonnes. In this case, the high over-quota tariffs would be less relevant.

It is worth noting that, currently, Canadian pork exports to the EU are very small due to non-tariff barriers. Canadian pork plants need to be approved by the EU before exporting pork to the EU. Currently, only a few Canadian plants have this approval to export carcasses and offal, but not pork cuts. In 1998, the EU concluded an Agreement with Canada regarding veterinary equivalency. This Agreement is expected to facilitate trade between the EU and Canada.

Philippines

The Philippines has a TRQ on pork of 54,210 tonnes, which represents more than 5% of the consumption during the base period 1986-88. However, the fill rate in 1995 and 1996 was respectively 3% and 8% due to administrative measures (TRQ administration), which seriously limit pork imports in this country. For example, the import licenses were allocated to domestic pork producers who had no interest in importing. In addition, there were delays in the allocation of the TRQ during the first year of the implementation period. The situation is expected to improve because the non-utilization of import licenses is now subject to penalties.

7.5.3 Market Access for Selected Wheat Importers¹

	Japan *	U.S. *	EU *	Egypt	Brazil	Canada
Tariff-rate quota (2000) (tonnes)	5,740,000	No	350,000 (including a TRQ of 50,000 tonnes of durum wheat) ²	No	750,000 ³	350,440
In-quota tariffs (2000)	0%	-	0%	-	0%	0% U.S. \$2.74/tonne Other countries
Over-quota tariffs ⁴ (tariff equivalents) (2000)	55,000 yen/tonne (\$660/tonne)	-	⁵	-	45% (bound tariff) 13% (applied tariff)	0% U.S. 51.5%-80.5% Other countries
Ordinary tariffs ⁴ (2000)	-	0% Canada	-	5%	-	-
TRQ as a % of 1986-88 consumption	95%	-	0.5%	-	10%	5.2%
Average imports 1995-97 from all countries (tonnes)	6,188,300	2,314,000	2,948,300	6,661,700	5,595,000	175,667
Average Canadian exports 1995-97 (tonnes)	1,123,206	1,655,358	1,203,161	4,666	744,906	-

* : Main markets for Canadian wheat exports. However, the main market for Ontario wheat is the U.S.

¹ China, Iran and Algeria are also major importers of Canadian wheat, but they are not WTO members.

²The TRQ on wheat is for “quality wheat”, and the TRQ on durum wheat is for “quality” and “medium quality” wheat.

³This TRQ has never been opened.

⁴The tariffs actually applied by the import countries may, in some cases, be lower than bound tariffs.

⁵The difference between the import price (CIF duty paid) and the EU’s intervention price cannot be greater than 55%.

Sources: Individual Country Schedules, AAFC, OECD and USDA

Comments:

- **Japan**

Japan does not apply any tariffs on wheat imported via the Japanese Food Agency (JFA). The vast majority of the wheat imported into Japan is imported via the JFA. Only small volumes are imported via the free market and subject to the tariff rates. However, they do have a mark-up (bound and reduced) between import price and selling price. This is allowed up to a maximum of 46.5 yen/kg in 2000 (\$0.56/kg). It is understood that the mark-up currently applied by the JFA is lower than the maximum mark-up. It has been argued by some industry stakeholders that the mark-up could have a similar effect to a tariff. This, however, remains to be proven.

- **EU**

In the cereal sector (excluding corn and sorghum) the difference between the import price⁴ (CIF duty paid) and the EU's intervention price cannot be greater than 55%. Relatively high cereal prices since entry into force of the WTO Agreement have frequently resulted in a zero duty being applicable to these imports and have made the TRQ less relevant. For example, average EU wheat imports during the last three years were much higher than the TRQ (about 3 million tonnes per year). However, with the recent decline of world market prices for cereals, the tariff applicable to wheat, particularly low quality wheat, has significantly increased and this makes the TRQ access more relevant.

- **Brazil**

Brazil has never opened its 750,000 tonnes duty-free wheat TRQ (included in its WTO Schedule). Brazil has, instead, applied a tariff of 13% since 1996 to wheat imports that have previously been duty free. This provides a further competitive advantage to wheat from Argentina, which, as a Mercosur country is exempt from this tariff.

⁴ The import price is not based on the value of the transaction, but based on U.S. futures markets. This system penalizes Canadian wheat exporters who usually receive a premium in the EU market.

7.5.4 Market Access for Oilseed Importers

7.5.4.1 Market Access for Selected Canola Seed Importers¹

	Japan *	Mexico *	U.S *	EU *	Canada
Tariff-rate quota (2000) (tonnes)	No	No	No	No	No
In-quota tariffs (2000)	-	-	-	-	-
Over-quota tariffs ² (tariff equivalents) (2000)	-	-	-	-	-
Ordinary tariffs ² (2000)	0%	0% (applied tariff) 0%-41.6% (bound tariffs)	0% Canada	0%	0%
TRQ as a % of 1986-88 consumption	-	-	-	-	-
Average imports 1995-97 from all countries (tonnes)	2,022,000	576,700	289,000	N/A	108,333
Average Canadian exports 1995-97 (tonnes)	1,777,946	468,141	262,445	313,469	-

*: Main markets for Canadian canola seed exports.

¹China is also a major importer of Canadian canola seed, but it is not a WTO member.

²The tariffs actually applied by the import countries may, in some cases, be lower than bound tariffs.

Sources: Individual Country Schedules, AAFC, OECD and USDA

7.5.4.2 Market Access for Selected Canola Meal Importers¹

	U.S. *	South Korea *	Japan *	EU *	Indonesia *	Canada
Tariff-rate quota (2000) (tonnes)	No	No	No	No	No	No
In-quota tariffs (2000)	-	-	-	-	-	-
Over-quota tariffs ² (tariff equivalents) (2000)	-	-	-	-	-	-
Ordinary tariffs ² (2000)	0% Canada	27% (bound tariff) 3% (applied tariff)	4.2%	0%	42.5% (bound tariff) 5 % (applied tariff)	0%
TRQ as a % of 1986-88 consumption	-	-	-	-	-	-
Average imports 1995-97 from all countries (tonnes)	1,009,700	511,700	187,700	N/A	86,700	3,667
Average Canadian exports 1995-97 (tonnes)	N/A	N/A	N/A	N/A	N/A	-

*: Main markets for Canadian canola meal exports.

¹Taiwan is also a major importer of canola meal, but it is not a WTO member.

²The tariffs actually applied by the import countries may, in some cases be lower, than bound tariffs.

Sources: Individual Country Schedules, AAFC, OECD and USDA

Market Access

7.5.4.3 Market Access for Selected Canola Oil Importers (crude and refined)¹

	U.S. *	Hong Kong *	India *	Japan *	South Korea *	EU	Canada
Tariff-rate quota (2000) (tonnes)	No	No	No	No	No	No	No
In-quota tariffs (2000)	-	-	-	-	-	-	-
Over-quota tariffs ² (tariff equivalents) (2000)	-	-	-	-	-	-	-
Ordinary tariffs ² (2000)	0% Canada (crude and refined)	0% (crude and refined)	45% (crude and refined)	10,900 yen/tonne (crude) 13,200 yen/ tonne (refined) (\$131/tonne-\$158/tonne) 10.8% (crude) 11.2% (refined)	36% (crude and refined) (bound tariff) 10% (crude and refined) (applied tariff)	3.2%-6.4% (crude) 5.1%-9.6% (refined)	0% U.S. 7% (crude) 12% (refined) Other countries
TRQ as a % of 1986-88 consumption	-	-	-	-	-	-	-
Average imports (crude and refined) 1995-97 from all countries (tonnes)	501,000	154,000	45,300	4,700	15,800	N/A	53,700
Average Canadian exports 1995-97 (tonnes)	400,357	73,059	5,951	N/A	N/A	120	-

* : Main markets for Canadian canola oil exports.

¹ China is also a major importer of Canadian canola oil, but it is not a WTO member.

² The tariffs actually applied by the import countries may, in some cases, be lower than bound tariffs.

Sources: Individual Country Schedules, AAFC, OECD and USDA

Market Access

7.5.4.4 Market Access for Selected Soybean Importers¹

	U.S. *	EU *	Norway *	Japan *	Mexico	South Korea	Canada
Tariff-rate quota (2000) (tonnes)	No	No	No	No	No	1,032,152	No
In-quota tariffs (2000)	-	-	-	-	-	5%	-
Over-quota tariffs ² (tariff equivalents) (2000)	-	-	-	-	-	487% or 956,000 won/tonne (\$1,168/tonne), whichever is the greater	-
Ordinary tariffs ² (2000)	0%	0%	207% or 2,680 krone/tonne (\$505/tonne) whichever is the greater -feed 0% other purposes	0%	9.4%-47% (bound tariff) 0-15% (applied tariff)	-	0%
TRQ as a % of 1986-88 consumption	-	-	-	-	-	82%	-
Average imports 1995-97 from all countries (tonnes)	166,300	N/A	298,300	4,897,300	2,760,300	1,416,000	157,000
Average Canadian exports 1995-97 (tonnes)	96,184	252,835	78,470	50,568	79	2,053	-

* : Main markets for Canadian soybean exports.

¹ Taiwan is also a major importer of soybean, but it is not yet a WTO member.

² The tariffs actually applied by the import countries may, in some cases, be lower than bound tariffs.

Sources: Individual Country Schedules, AAFC, OECD and USDA

Market Access

7.5.4.5 Market Access for Selected Soybean Meal Importers

	U.S. *	EU	South Korea	Japan	Philippines	Canada
Tariff-rate quota (2000) (tonnes)	No	No	No	No	No	No
In-quota tariffs (2000)	-	-	-	-	-	-
Over-quota tariffs ¹ (tariff equivalents) (2000)	-	-	-	-	-	-
Ordinary tariffs ¹ (2000)	0% Canada	4.5%	27% (bound tariff) 3% (applied tariff)	4.2%	40% (bound tariff) 3% (applied tariff)	0% U.S. 0%-7% Other countries
TRQ as a % of 1986-88 consumption	-	-	-	-	-	-
Average imports 1995-97 from all countries (tonnes)	70,000	N/A	917,333	732,333	970,667	681,700
Average Canadian exports 1995-97 (tonnes)	2,675	0	4	43	0	-

* : Main market for Canadian soybean meal exports.

¹ The tariffs actually applied by the import countries may, in some cases, be lower than bound tariffs

Sources: Individual Country Schedules, AAFC, OECD and USDA

7.5.4.6 Market Access for Selected Soybean Oil Importers (crude and refined)

	U.S. *	EU	Tunisia	India	South Korea	Canada
Tariff-rate quota (2000) (tonnes)	No	No	No	No	No	No
In-quota tariffs (2000)	-	-	-	-	-	-
Over-quota tariffs ¹ (tariff equivalents) (2000)	-	-	-	-	-	-
Ordinary tariffs ¹ (2000)	0% Canada (crude and refined)	3.2%-6.4% (crude) 5.1%-9.6% (refined)	20% (crude and refined)	45% (crude and refined)	5.4% (crude and refined)	0% U.S (crude and refined) 5% (crude) 0-10% (refined) Other countries.
TRQ as a % of 1986-88 consumption	-	-	-	-	-	-
Average imports (crude and refined) 1995-97 from all countries (tonnes)	31,333	N/A	100,000	115,000	54,000	45,667
Average Canadian exports 1995-97 (tonnes)	26,853	0	0	0	0	-

* : Main markets for Canadian canola oil exports.

¹ The tariffs actually applied by the import countries may, in some cases, be lower than bound tariffs.

Sources: Individual Country Schedules, AAFC, OECD and USDA

Comments (oilseeds):

Tables 7.5.4.1 and 7.5.4.3 and Tables 7.5.4.4 and 7.5.4.6 clearly show the effect of tariff escalation in the oilseed sector. For example, in the EU and Japan, canola seeds are imported duty free, while tariffs on canola oil are relatively high. The same situation applies for the EU in the soybean sector. The high tariffs on oil in Japan limit imports and confer a competitive advantage on Japanese crushers that purchase oilseeds in the world market.

In addition, Tables 7.5.4.3 and 7.5.4.6 also show the effect of tariff escalation between crude and refined oil. In the EU the tariffs on imports of refined soybean and canola oil are higher than the tariffs on imports of crude soybean and canola oil. In Japan, the tariff on refined canola oil is higher than the tariff on crude canola oil.

Furthermore, Tables 7.5.4.2 and 7.5.4.5 and Tables 7.5.4.3 and 7.5.4.6 show the non-parity of access between competing products. In the EU, canola meal is imported duty free, while the tariff on soybean meal is 4.5%. Korea maintains lower tariffs for soybean oil than it does for canola oil.

- **EU**

There is a concern among European consumers about food containing substances from genetically modified organisms (GMO). The EU has yet to approve all of Canada's genetically modified canolas currently in production. As a consequence, Canada has stopped exporting canola to Europe because it is not economically justifiable for Canada to segregate between modified varieties and non-modified varieties of canola.

- **Korea**

Exporters of canola oil face uncertainty in the Korean market because the applied tariff on canola oil is usually not effective for more than 6 months.

7.5.5 Market Access for Selected Refined Sugar Importers¹

	U.S. *	EU *	Japan	South Korea	Malaysia	Canada
Tariff-rate quota (2000) (tonnes)	1,117,195 (raw cane sugar only) 25,000 (beet or cane refined sugar of which 10,300 tonnes are allocated to Canada and 2,954 tonnes are allocated to Mexico) ² 64,709 (sugar-containing products) of which 59,250 tonnes are allocated to Canada	1,304,700 (raw/refined beet & cane sugar, allocated to India, Africa, Caribbean and Pacific)	No	No	29,600 (beet & cane refined sugar)	No
In-quota tariffs (2000)	0%	0%	-	-	5%+220 Rin/tonne (5%+\$85/tonne)	-
Over-quota tariffs ³ (tariff equivalents) (2000)	US\$339/tonne-US\$357/tonne (\$496/tonne (\$522/tonne)	339 Ecus/tonne-419 Ecus/tonne (\$526/tonne-\$651/tonne)	-	-	5%+385 Rin/tonne (5%+\$148/tonne)	-
Ordinary tariffs ³ (2000)	-	-	35,300 yen/tonne-106,200 yen/tonne (\$424/tonne-\$1,274/tonne) (bound tariffs) 10,000 yen/tonne-63,500 yen /tonne (\$120/tonne-\$762/tonne) (applied tariffs)	18%-85.1% or 199,800 won/tonne (\$244/tonne) whichever is the greater (bound tariffs) 3%-50% (applied tariffs)	-	0% U.S. 0-\$30.86/tonne Other countries
TRQ as a % of 1986-88 consumption	15.7% (all TRQs are included)	10.2%	-	-	4.8%	-
Average imports 1995-97 from all countries (tonnes, all sugar products-raw sugar equivalents ⁴)	2,243,333	1,803,667	1,687,333	1,417,667	1,105,333	1,083,700 ⁵
Average Canadian exports 1995-97 (tonnes, refined sugar only)	15,731	86	0	8	0	-

* : Main markets for Canadian refined sugar exports.

¹ Russia and Iran are also major importers of refined sugar, but they are not WTO members.

² Under NAFTA, Mexico has an additional access of 25,000 tonnes. Mexico can use this additional access to export either raw or refined sugar.

³ The tariffs actually applied by the import countries may, in some cases, be lower than bound tariffs.

⁴ Raw sugar: between 96% and 99% pure sucrose.

⁵ Canada mainly imports raw cane sugar from Australia.

Sources: Individual Country Schedules, AAFC, USDA, OECD and USDA

Comments:

- U.S.

Canada has an access of 10,300 tonnes for refined beet sugar, but it is also able to compete with other countries for the non-allocated portion of the TRQ (approximately 7,000 tonnes). Under the NAFTA rules of origin, products shipped under Canada's allocation of this TRQ must be manufactured from Canadian sugar beets. Canadian refined sugar exports go primarily to the United States. As a consequence, the size of the TRQ, and the high over-quota tariffs on refined sugar in the U.S. have significantly limited Canadian exports of refined sugar. Canadian exports of refined beet sugar to the U.S. have decreased by more than 65% since 1994.

During the reference period 1986-88, the U.S. had a global quota on raw and refined sugar. Average Canadian exports of refined sugar to the U.S. were about 12,000 tonnes (about 1% of U.S. global sugar quota). Between 1990-94 Canadian exports of refined sugar to the U.S. grew significantly (an average of 35,000 tonnes) because they were not subject to any restriction under the Canada-U.S. Free Trade Agreement. In 1995, the U.S. split the formerly combined raw and refined sugar and established a TRQ of not less than 22,000 tonnes on refined sugar from all sources, including Canada. The TRQs on raw cane and refined sugar are not fixed amounts, but a minimum. Whenever the U.S. Secretary of Agriculture believes that domestic supplies of sugars may be inadequate to meet domestic demand at reasonable prices, the Secretary may increase the size of the TRQs. The total access (1,219,695 tonnes, including the TRQ on sugar-containing products) given by the U.S. on sugar is greater than 5% (15.7%) based on the consumption during the base period. The total access roughly corresponds to historical imports during the base period (U.S. imports of sugar during 1986-88 were at very low levels). However, if raw sugar and refined sugar are treated as separate products, the access on refined sugar could potentially be higher than the current access. The USDA publishes data on U.S. refined sugar deliveries for human consumption for non-industrial use. Assuming that this data corresponds to consumption of refined sugar in the U.S., this would mean an average consumption of 2.9 million tonnes during the base period 1986-88. As a consequence, the TRQ on refined sugar should be

approximately 145,000 tonnes (5% of 2.9 million tonnes). In addition, if the access was based on a different period (1995-97 for example), the TRQ on refined sugar could potentially be higher due to higher consumption during that period. An increase of the size of the TRQ on refined sugar would be more advantageous for Canadian sugar exporters than a reduction of over-quota tariffs. However, for Canada, the growth in export market access will have to be in refined beet sugar, because Canadian refined cane sugar cannot be exported under the NAFTA rules of origin.

In addition, the U.S. has a TRQ of 64,709 tonnes on sugar-containing products (excluding maple syrup/sugar products) of which 59,250 tonnes are allocated to Canada (the NAFTA rules of origin also apply to this quota). Canada is also able to compete with other countries for the non-allocated portion of the TRQ. The TRQ was reduced in 1994 from 76,203 to 64,773 tonnes to accommodate concessions made to Mexico in the NAFTA. In addition, a number of previously unrestricted products, mainly crystal drink mixes, were added to the list of products subject to the TRQ. The U.S. is the main market for Canadian exports of sugar-containing products.

8. Domestic Support

Increased Discipline Governing Domestic Support

In the Uruguay Round, WTO Members agreed to divide domestic support into three categories: Amber, Blue and Green Box programs.

Amber programs measure the overall trade-distorting measures and are subject to reduction commitments.

Blue Box products cover compensation payments for production-limiting programs such as diversion payments on set-aside land, which are not subject to reduction commitments.

Finally, the Green Box programs are not subject to any limitation. The definition of Green Programs should be clarified in order to ensure that trade-distorting programs do not qualify under the green box.

The SM5 supports the imposition of a cap on total domestic support including amber, blue and green programs.

In the Uruguay Round, WTO Members agreed to divide domestic support into three categories: Amber, Blue and Green Box programs with specific reduction commitments. Amber programs are measures deemed to be trade distortive and are the only measures subject to reduction commitments. Blue Box programs, despite the fact that they are directly linked to levels of production and therefore not considered neutral in their effect on the market, are exempt from reduction commitments. Finally, Green Box programs are considered to be little or non-trade distortive and are not subject to any limitation. The Agreement on Agriculture, however, does refer to these three coloured categories in these specific terms.

The Agreement on Agriculture addresses domestic support measures in Article 6 and subjects domestic support to reduction commitments. Article 6, paragraph 1 provides that:

“The domestic support reduction commitments of each Member contained in Part IV of its Schedule shall apply to

all of its domestic support measures in favour of agricultural producers with exception of domestic measures which are not subject to reduction in terms of criteria set out in this Article and in Annex 2 of this Agreement.”

It should also be noted that one of the key elements of the Agreement on Agriculture dealing with domestic support is the “Due Restraint” provision⁵⁹, also known as the “Peace Clause.” The “Peace Clause” exempts certain programs from any action being brought before the WTO Dispute Settlement Body, such as the Green Box. This is also the case of the Blue Box which resulted from the agreement reached between the United States and the European Union in 1992 (The Blair House Accord). This agreement was key in the negotiations and permitted the two most influential nations to reach a compromise which led to the Agreement on Agriculture.

8.1 Amber Programs and Reduction Commitments

8.1.1 Results of the Uruguay Round

The Members agreed to reduce their support for trade-distorting measures in agriculture, including market price support, non-exempt direct payments, and other trade distorting subsidies through the use of the Aggregate Measurement of Support (AMS). Programs that are taken into account in the calculation of the AMS fall into the so-called “Amber Box.”

Essentially, the AMS is the sum of:

- a) the value of government subsidies paid to producers (support from taxpayers), and
- b) the difference between the domestic support price and the world market price for a particular commodity, multiplied by the quantity of domestic production (support from consumers), where:
 - Market price support is calculated using the gap between a fixed external reference price and the applied administered price, multiplied by the quantity of

⁵⁹ Agreement on Agriculture, Article 13.

production eligible to receive the applied administered price. (Budgetary payments made to maintain this gap, such as buying-in or storage costs, are not included in the AMS;

- The fixed external reference price is based on the years 1986-1988 and is generally the average Free on Board (F.O.B). unit value for the basic agricultural product concerned in a net exporting country, and the average Cost Insurance and Freight (C.I.F.) unit value for the basic agricultural product concerned in a net importing country, in the base period. The fixed reference price may be adjusted for quality differences as necessary;
- Non-exempt direct payments, which are dependent on a price gap, are calculated either using the gap between the fixed reference price and the applied administered price, multiplied by the quantity of production eligible to receive the administered price, or using budgetary outlays;
- The fixed reference price shall be based on the years 1986-1988 and shall generally be the actual price used for determining payment rates; and
- Non-exempt direct payments, which are based on factors other than price, shall be measured using budgetary outlays.

Members agreed to calculate the Aggregate Measurement of Support on a product-specific basis for each basic agricultural product receiving support, and to a reduction commitment of 20% for the AMS between 1995 and 2000. It should also be mentioned that the total AMS is bound and will remain at the final year level until it is changed through negotiations. This reduction in support only applies to measures deemed to be trade distorting.

In order to meet its commitments, a WTO member country shall meet the requirements set out in paragraph 3 of Article 6 of the Agreement on Agriculture which states:

“A participant shall be considered to be in compliance with its domestic support reduction commitments in any year in which its domestic support in favour of agricultural producers expressed in terms of Current Total AMS does not exceed the corresponding or final bound commitment level specified in Part IV of the Member’s Schedule.”

An important element of the AMS refers to the 5% *de minimis* rule. This rule can be explained as follows: as long as the domestic support subject to reduction commitment does not exceed 5% of the total value of production of a basic product, in the case of product-specific support, there shall be no requirement to undertake the reduction of that support. It should also be pointed out that as long as the domestic support subject to reduction does not exceed 5% of the value of total agricultural production in the case of a sector-wide AMS, there shall be no requirement to undertake the reduction of that support.

8.1.2 Current Situation

Table 8.1 illustrates the total Aggregate Measurement of Support for Canada, the United States and the European Union. It shows that these three countries have met their commitments with regards to their reduction commitments for 1995. It also shows that the level of amber expenditures (trade distortive measures) in 1995 was lower than the committed level for the end of the implementation period.

Table 8.1
Total Aggregate Measurement of Support: Committed and Notified
(Canadian dollars in brackets)

Member	Currency	Base Period 1986-1988	Committed AMS 1995	Notified AMS 1995	Committed AMS 2000
Canada	Cdn \$ million	5,376	5,197	777.4	4,301
E.U.	ECU ⁶⁰ million	80,975 (117,851)	78,672 (139,706)	47,526 (84,397)	67,159 (118,301)
U.S.	US \$ ⁶¹ million	23,879 (31,410)	23,083 (31,684)	6,213.8 (8,529)	19,103 (29,021)

Source: WTO, Country Notifications

Table 8.2 looks at amber expenditures measured against both the Aggregate Measurement of Support for 2000 and the total value of production in the year the AMS was notified. It shows

⁶⁰ ECU converted into Canadian dollars using, for 1986-88, the 1986-88 Annual Average Exchange Rate of 1 ECU=Cdn\$1.4554, for 1995, the 1995 Annual Average Exchange Rate of 1 ECU=Cdn\$1.7758 and for 2000, the January 1999 Average Exchange Rate of 1EURO=Cdn\$1.7615. It should be noted that the EURO replaced the ECU starting January 1st, 1999 and that it was introduced at par (1 ECU=1EURO).

⁶¹ U.S. dollars converted into Canadian dollars using, for 1986-88, the 1986-88 Annual Average Exchange Rate of U.S.\$1=Cdn\$1.3154; for 1995, the 1995 Annual Average Exchange Rate of U.S.\$1=Cdn\$1.3726; and for 2000, the January 1999 Average Exchange Rate of U.S.\$1=Cdn\$1.5192.

Domestic Support

that Canada has spent 15% of what it was entitled to spend according to its commitments. This also shows that Canada is spending much less than the United States at 27% and the European Union at 60% of their respective commitments.

Table 8.2

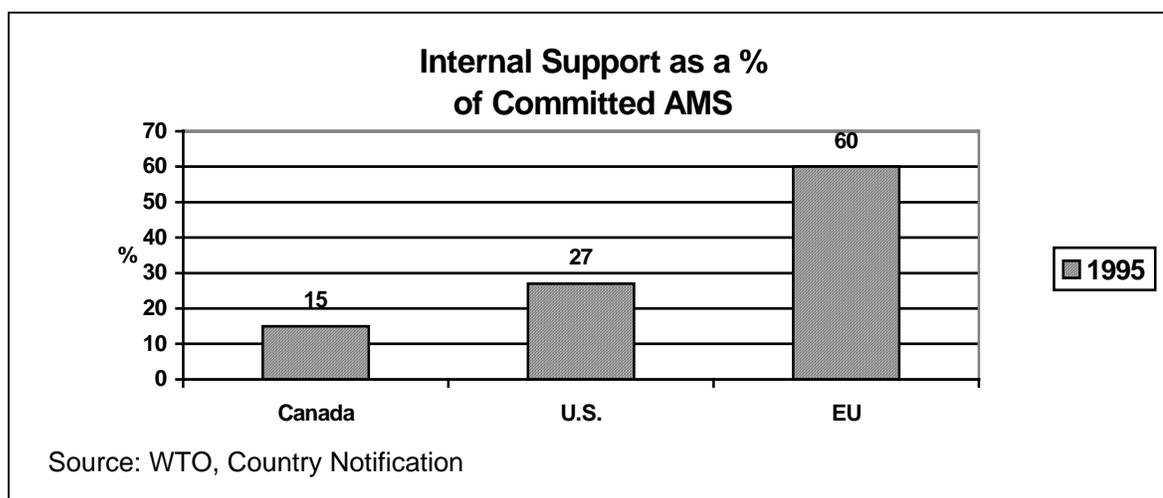
Total Aggregate Measurement of Support Measured against Committed AMS and Total Value of Production, 1995 (Canadian dollars in brackets)

Member	Currency million	Current AMS	Notified AMS	Notified AMS as a % of Current AMS	Total Value of production	Notified AMS as a % of Total Value of Production
Canada	Cdn \$ million	5,197	777.4	15%	25,816	3%
European Union	ECU ⁶² million	78,672 (139,706)	47,526 (84,397)	60%	207,400 (368,301)	23%
United States	US\$ ⁶³ million	23,083 (31,684)	6,213.8 (8,529)	27%	190,109 (260,944)	3%

Source: WTO, Country Notifications

Figure 8.1 illustrates the percentage of the internal support used by the U.S., the E.U. and Canada compared to the support they were entitled to use under their commitments. According to this figure, each of these three countries could spend much more in their domestic market.

Figure 8.1



⁶² Idem: footnote 60

⁶³ Idem: footnote 61

8.1.3 Aggregate Measurement of Support – the Canadian Example

The following example is provided as a means to better understand how the AMS is calculated. The Canadian example is interesting because it does take into account all of the concepts that are mentioned above. Based on the AMS calculated for the 1986-1988 period, Canada committed to reduce its total AMS from \$5.197 billion dollars in 1995 to \$4.8 billion by the year 2000. The actual 1995 AMS calculation as reported by Canada (G/AG/NCAN/17 table DS: 1) amounted to \$777.4 million. The support for dairy represents 99.3 per cent, or \$772.1 million of Canada's total AMS in 1995. The remaining \$5.3 million represents the support offer to the sheep industry, the only other sector in 1995 for which the calculated support was greater than the 5% *de minimis* threshold.

Canada's AMS for dairy in 1995 could be broken down as follows:

- Direct payment: \$207.5 mil
- Total market price support for butter: \$365.0 mil
- Total market price support for skim milk powder (SMP): \$199.4 mil

The total market price support for butter is the result of the support price for butter (\$5.324/kg), minus the external reference price for butter (\$1.361/kg), multiplied by the eligible production of 92,000 tonnes.

Similarly, the total market price support for skim milk powder is the result of the support price for SMP (\$3.801/kg) minus the external reference price for SMP (\$0.989/kg), multiplied by the eligible production of 71,000 tonnes.

This calculation includes the total (domestic and export) production of butter and skim milk powder in Canada in 1995. If the objective of the AMS calculation is to measure the effective support received by farmers, then only the volume of butter and SMP on which the market price support was applied should be used to calculate the AMS. These volumes should be equivalent to the volume of butter and SMP that were bought under the surplus removal program of the Canadian Dairy Commission (CDC). Under

these circumstances, the support price component would only apply on approximately 700 tonnes of butter purchased by the CDC.

8.1.4 Discussion

Technically, a number of countries that are supporting their agricultural sector at a level substantially lower than their commitments could increase their expenditures (to the committed level) and allocate the funds to the sector of their choice, because the commitments were made at the aggregate level.

Retaining the AMS at the aggregate level would provide Canada with the necessary flexibility to allocate funds to any sectors that are in need in a given year. Maintaining the AMS at the aggregate level would permit the international community to achieve greater reduction in the overall level of support. It can be argued that disaggregation would create opposition to any proposal toward substantial reduction in amber programs. In fact, a greater reduction in domestic support would result in a greater effort on the part of those commodities and/or sectors benefiting the most from domestic support programs. Therefore, a policy that aims at the disaggregation of the AMS would create some pressure to limit the reductions. The SM5 supports the following position:

SM5 Position

The measurement of domestic support must remain at the aggregate level, as measured by the Aggregate Measurement of Support (AMS) to ensure Canada preserves its flexibility to fund domestic support programs.

The measurement of domestic support is an issue that will generate intense discussion during the next round. It is also a very important matter for the dairy industry. It was a long standing policy of Dairy Farmers of Canada during the Uruguay Round, and since its completion, to seek the exclusion from the calculation of the Aggregate Measurement of Support (AMS), of the differential between domestic support prices and international prices in the case of supply managed commodities. This policy has recently been modified to reflect the changes brought to the dairy system. The example presented in section 8.1.3. shows that if the objective of the AMS calculation is to measure the effective support received by the farmers, then

the calculation has to be reviewed to take into account only the volume of products on which the market price support is applied. Under these conditions, the support price component for dairy would only apply on approximately 700 tonnes of butter purchased by the Canadian Dairy Commission. If only these 700 tonnes of butter were taken into account in the calculation of the AMS, the AMS for dairy would fall below the 5% de minimis level⁶⁴, in 2002, when the direct payment will be eliminated.

8.2 Blue Box Programs

8.2.1 Results of the Uruguay Round

The Blue Box category resulted from a compromise made in the “Blair House Accord” between the United States and the European Union in 1992. A special treatment was given to programs limiting production even if they were considered trade-distortive. To please the E.U. the Blue Box measures were exempted from reduction commitments. Blue Box measures cover compensation payments for production-limiting programs such as diversion payments on set-aside land, which are not subject to AMS reduction commitments. These payments which are largely used by the E.U., are linked to production and, therefore, are not considered neutral in their effect on the market.

According to the Agreement on Agriculture⁶⁵, direct payments under production-limiting programmes shall not be subject to the commitment to reduce domestic support if:

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

The Agreement on Agriculture also states that the exemption from the reduction commitment for direct payments meeting the above criteria shall be reflected by the exclusion of the value of those direct payments in a Member's calculation of its current total AMS.

⁶⁴ According to the 5% de minimis rule, the measures benefiting one sector have to be reported as part of the AMS only if they account for 5% or more of the total value of production for that given sector.

⁶⁵ Agreement on Agriculture, Article 6, paragraph 5.

A key element of the Agreement on Agriculture is the “Peace Clause,” also referred to in the Agreement on Agriculture as Due Restraint⁶⁶. This clause clearly stipulates that:

“domestic support measures that conform fully to the provisions of Article 6 of this Agreement including direct payments that conform to the requirements of paragraph 5 thereof, as reflected in each Member's Schedule, as well as domestic support within de minimis levels and in conformity with paragraph 2 of Article 6, shall be:

- (i) exempt from the imposition of countervailing duties unless a determination of injury or threat thereof is made in accordance with Article VI of GATT 1994 and Part V of the Subsidies Agreement, and due restraint shall be shown in initiating any countervailing duty investigations;*
- (ii) exempt from actions based on paragraph 1 of Article XVI of GATT 1994 or Articles 5 and 6 of the Subsidies Agreement, provided that such measures do not grant support to a specific commodity in excess of that decided during the 1992 marketing year; and*
- (iii) exempt from actions based on non-violation nullification or impairment of the benefits of tariff concessions accruing to another Member under Article II of GATT 1994, in the sense of paragraph 1(b) of Article XXIII of GATT 1994, provided that such measures do not grant support to a specific commodity in excess of that decided during the 1992 marketing year;”*

8.2.2 A European Union Example of a Blue Box Program

The following example explains the concept of the Blue Box. In Europe, milk production is subject to production quota, a system considered to be a “production limiting program.” The E.U. Commission has proposed, as a means to reform the Common Agricultural Policy, to reduce intervention prices by 15-30% and to compensate producers through a premium paid quota holding. Under this proposal, the premium is not directly linked to the milk

⁶⁶ Agreement on Agriculture, Article 13 (b).

produced in the year, but to the quota held. The premium could be paid to the quota holder who has produced no milk or less milk than the quota he holds. It would therefore meet the criteria of Article 6.5 of the Agreement on Agriculture and qualify under the Blue Box.

8.2.3 Current Situation

Table 8.3 shows the Blue Box expenditures for Canada, the United States and the European Union. It clearly demonstrates that Canada has not made use of the Blue Box programs while both the European Union and the United States have notified Blue Box expenditures for 1995. It should also be pointed out that the European Union has conferred support under the Blue Box representing more than 10% of the total value of production. In order to be fair, it is important to mention that the U.S. did not use Blue Box programs in 1996.

Table 8.3

Blue Box Expenditures Measured against Total Value of Production, 1995
(Canadian dollars in brackets)

Member	Currency	Blue Box Expenditures Base Period 1986-88	Notified Blue Box Expenditures	Total Value of Production	Notified Blue Box Expenditures as a % of Total Value of Production
Canada	Cdn \$ million	-	0	25,816	0.00%
E.U.	ECU ⁶⁷ million	-	20,845.5 (37,017)	207,400 (368,301)	10.05%
U.S.	US \$ ⁶⁸ million	-	7,030.4 (9,650)	190,109 (260,944)	3.70%

Source: WTO, Country Notifications

⁶⁷ Idem: footnote 60

⁶⁸ Idem: footnote 61

8.2.4 Discussion

Blue Box programs are currently exempt from reduction commitments. Since Blue Box programs are production and trade distorting, they should not benefit from special treatment. Furthermore, only the U.S., the E.U. and a handful of small countries are using Blue Box programs, but it should be pointed out that these programs are almost used exclusively by the European Union. The proposed reform of the CAP in the European Union has a provision to reduce the intervention prices compensated through a "cow premium," which is understood to fall under the Blue Box. As mentioned above, the Blue Box programs are not subject to reduction commitments and, therefore, it makes it unacceptable that a world leader in agriculture benefits from an exemption to reduce internal trade distorting support while other WTO countries are subject to reduction commitments.

Hence, the SM5 supports the following position:

SM5 Position

The special consideration for "Blue Box" programs must be eliminated.

8.3 Green Box Programs

A number of widely used domestic policies supporting agricultural producer incomes, such as assistance through environmental payments, crop insurance, research, disaster relief, regional support and rural development programs, are not considered to be trade distorting as a result of the Uruguay Round. Policies excluded from domestic support reduction commitments fall into the so-called "Green Box" and are likely to be one of the major areas of examination in future negotiations. In part, this relates to the way in which the wording "minimally or not trade or production distorting" is interpreted.

8.3.1 Results of the Uruguay Round

Green Box programs are programs that meet the criteria set out in Annex 2 of the Agreement on Agriculture and are exempt from reduction commitments, i.e. these measures do not have to be reported as part of the AMS. Article 7.2 (a) of the Agreement on Agriculture deals with general disciplines on domestic support and specifically states that “any domestic support measure in favour of agricultural producers, including any modification to such measure, and any measure that is subsequently introduced that cannot be shown to satisfy the criteria in Annex 2 to this Agreement or to be exempt from reduction by reason of any other provision of this Agreement shall be included in the Member’s calculation of its Current Total AMS.” Furthermore, there is no discipline that applies to Green Box programs other than having to conform to the criteria set out in Annex 2. This also means that a WTO member country could increase its green spending as much as it wants.

In particular, Annex 2 of the Agreement on Agriculture exempts the following measures from the reduction commitments:

- General services including research, pest and disease control, training services, extension and advisory services, inspection services, marketing and promotion services, infrastructural services;
- Public stockholding for food security purposes;
- Expenditures (or revenue foregone) in relation to the accumulation and holding of stocks of products which form an integral part of a food security programme identified in national legislation;
- Domestic food aid;
- Expenditures (or revenue foregone) in relation to the provision of domestic food aid to sections of the population in need;
- Direct payments to producers provided they are decoupled income support;
- Government financial participation in income insurance and income safety-net programmes only if the amount of such payments compensates for less than 70 per cent of the producer’s income loss in the year the producer becomes eligible to receive this assistance;
- Payments (made either directly or by way of government

financial participation in crop insurance schemes) for relief from natural disasters;

- Structural adjustment assistance provided through resource retirement programmes;
- Structural adjustment assistance provided through investment aids;
- Payments under environmental programmes; and
- Payments under regional assistance programmes.

It is important to point out that the Peace Clause makes Green Box measures exempt from countervailing duties and other trade remedy actions for a period of nine years, ending in 2003. While the “Peace Clause” effectively prevents countervailing measures on Green programs, it does not, however, prevent a country from initiating countervailing action undertaken pursuant to its own domestic legislation. If a country countervailed a program which the Member felt was Green (and therefore ought to be exempt from countervailing duty action), then the Member with the Green program could challenge, in the WTO, the right of the other Member to apply a countervailing duty on that program. The Agreement on Agriculture⁶⁹ stipulates that:

“domestic support measures that conform fully to the provisions of Annex 2 to this Agreement shall be:

- “(i) “non-actionable subsidies for purposes of countervailing duties⁷⁰;*
- “(ii) “exempt from actions based on Article XVI of GATT 1994 and Part III of the Subsidies Agreement; and*
- “(iii) “exempt from actions based on non-violation nullification or impairment of the benefits of tariff concessions accruing to another Member under Article II of GATT 1994, in the sense of paragraph 1(b) of Article XXIII of GATT 1994.”*

⁶⁹ Agreement on Agriculture, Article 13(a).

⁷⁰“Countervailing duties” where referred to in this Article are those covered by Article VI of GATT 1994 and Part V of the Agreement on Subsidies and Countervailing Measures.

8.3.2 Current Situation

Table 8.4
Green Box Expenditures Measured against Total Value of Production, 1995
 (Canadian dollars in brackets)

Member	Currency million	Green Box Expenditures Base Period 1986-88	Notified Green Box Expenditures	Total Value of production	Notified Green Box Expenditures as a % of Total Value of Production
Canada	Cdn \$	1,670	2,098	25,816	8.13%
E.U.	ECU ⁷¹	9,233 (13,434)	18,718 (33,239)	207,400 (368,301)	9.03%
U.S.	US \$ ⁷²	24,098 (31,699)	46,033 (63,185)	190,109 (260,944)	24.21%

Source: WTO, Country Notifications

Table 8.4 shows the Green Box expenditures as reported by Canada, the United States and the European Union in 1995. It also shows the percentage Green expenditures represent in these countries when measured against total value of production. Table 8.4 also shows that there has been an apparent shift from Amber programs to Green programs. It should be pointed out that the Green Box measures notified by Canada for 1995 are greater than during the base period 1986-1988. This situation could be explained as follows: in 1995, the Canadian government eliminated the Crow Subsidy (grain transportation subsidy) and introduced a one-time transition program that provided payments of \$1.6 billion. It is important to understand that while the Canadian program was a temporary measure, it is not the case for the United States. In fact, the FAIR Act has introduced a number of new programs, falling under the Green Box, and these programs are in place until 2002.

Furthermore, the United States Department of Agriculture (USDA), through its Agricultural Marketing Service, regularly purchases poultry meat for distribution in the National School Lunch Program and other Federal Food Assistance Programs. The purpose of these purchases as stated by the Agricultural Marketing Service and reprinted below is as follows:

⁷¹ Idem: footnote 60

⁷² Idem: footnote 61

“These purchase programs assist farmers, commodity producers, and processors by helping to maintain stable commodity prices.”

“These purchases also help to stabilize prices in agricultural commodity markets by balancing supply and demand.”

Although such purchases are restricted to American agricultural products, the U.S. has classified such domestic support programs as “Green.” Total domestic food aid provided by the U.S. government in 1996, in support of their agricultural sector, was approximately 37.8 billion (\$US). The comparison with the E.U. and Canada is interesting: total domestic food aid provided by the E.U. in 1995 was 371.6 million (\$US), while for Canada, no similar programs/funding are in place.

8.3.3 Discussion

The U.S., as part of the 1996 U.S. Farm Bill, introduced a series of new measures falling under the Green Box. For example, taking the concept of “decoupling,” U.S. grain producers no longer have to plant a specific crop under the Production Flexibility Contract in order to receive a payment.

The current debate in the E.U. also proposes a shift from Amber and/or Blue Box programs to the Green Box. Consequently, it is crucial that effective rules and definitions be clarified to ensure these programs are not trade distorting.

Furthermore, the definitions of eligible programs under the Green Box have clearly been designed to primarily reflect programs already in existence in the U.S. and the E.U.. Many countries, including Canada, have had difficulties qualifying their own programs even though they pursued an identical objective like the “Green programs” in the U.S. and the E.U. It is therefore important to ensure that the definitions provided in the WTO are sufficiently universal to accommodate the variances in the implementation approach that are necessary to deal with the different conditions in each country.

Hence, the SM5 supports the following position:

SM5 Position

The definitions of “green programs” should be clarified to ensure that trade distorting programs do not qualify under the Green Box. These definitions must be made universal and a WTO system for the prior determination of the “green status” of a specific domestic program must be established.

There have been suggestions by some countries that programs which qualify under the Green Box should, in the future, become actionable. This means that such programs could be considered under countervailing actions. This approach would eliminate the distinction between the various categories of subsidy and likely lead to exaggerations and further complications during dispute settlement processes. While the SM5 is silent on this particular point, it is a question that will have to be addressed during the next round of negotiations.

8.4 Total Support

8.4.1 Current Situation

The review of WTO member countries’ notifications to the WTO regarding domestic support shows that the U.S., the E.U. and Canada all live up to their commitments. However, both the E.U. and the U.S. continue to spend massive amounts of money in support of their agricultural sectors. In 1995, the only year for which a comparison is available, the total level of internal support (Amber, including de minimis, + Blue + Green spending) represented 16% of the total value of agricultural production in Canada compared with 32% for the U.S. and 42% for the E.U..

Figure 8.2 compares the overall level of support offered by Canada, the United States and the European Union between 1995 and the base period 1986-88. The total level of support is measured using national currency. It should be pointed out that the U.S. has increased its support by more than 20% while the support offered to E.U. farmers remained stable. Canada, however, has substantially reduced its support to agriculture. In fact, the level of

Domestic Support

support offered by Canada is more than 40 % below the base period level.

Figure 8.2

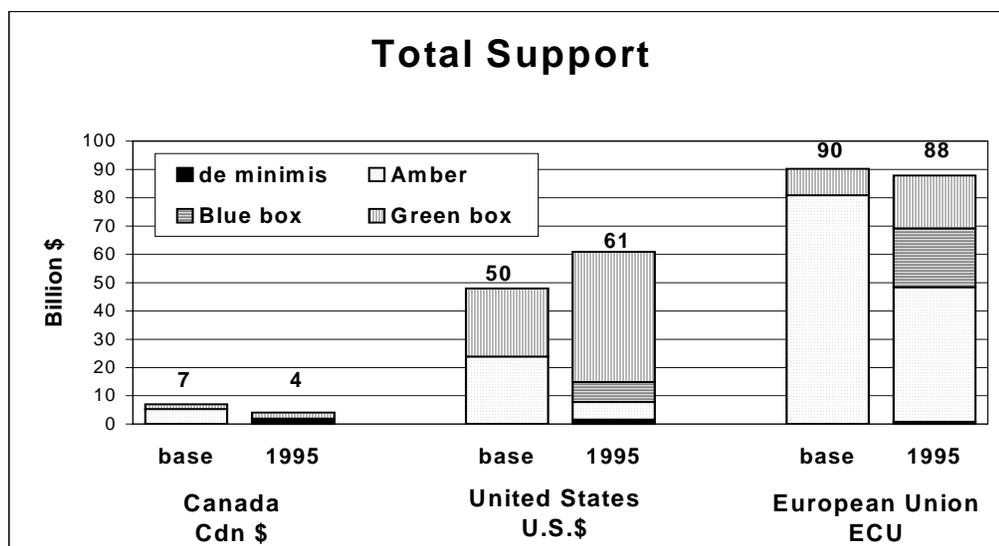


Table 8.5

Total Support* Measured Against Total Value of Production, 1995
(Canadian dollars in brackets)

Member	Amber Programs	<i>de minimis</i> (5%)	Blue Box	Green Box	Total Support	Total Value of production	Total Support as a % of Total Value of Production
Canada Million Cdn \$	777	1,256	0	2,098	4,131	25,816	16%
European Union Million ECU ⁷³	47,526 (84,397)	825 (1,465)	20,845 (37,017)	18,718 (33,239)	87,915 (156,119)	207,400 (368,301)	42%
United States Million US \$ ⁷⁴	6,213 (8,527)	1,641 (2,252)	7,030 (9,650)	46,033 (63,185)	60,918 (83,616)	190,109 (260,944)	32%

Source: WTO, Country Notifications

*Total support includes Amber, de minimis, Blue and Green expenditures.

⁷³ Idem: footnote 60

⁷⁴ Idem: footnote 61

8.4.2 Discussion

Despite the fact that the U.S. is meeting its AMS commitments, they have notified Green expenditures (exempt from the reduction commitments) that were almost twice as much as what they were during the base period 1986-1988. There is an apparent shift from Amber programs, which are subject to reduction, to Green Box programs, which are exempted from reduction commitments.

It should also be pointed out that the U.S. government announced last year an additional U.S.\$ 6 billion in aid for U.S. agriculture. Of that, U.S. \$200 million was granted to dairy producers, while they were experiencing one of the highest returns for milk in U.S. history.

The issue of disproportionate levels of government support is critical as we head into the next round of WTO negotiations. Producers in Canada have been told on several occasions to increase their competitiveness. Does this mean they have to be competitive with other government treasuries? If not, then it raises the question of our own government competitiveness. If the Canadian government wants its agricultural industry to compete on the international scene, it is essential that true competitiveness be achieved at all levels.

If governments around the globe continue to be key players in the development of their agricultural industries, the Canadian government will have to accept its responsibilities and provide the Canadian agricultural industry with a level of support equivalent to that offered by other major trading partners. While this issue can be pursued within Canada, the introduction of more uniform limits on total government intervention would nonetheless assist in somewhat levelling the playing field.

Hence, the SM5 supports the following position:

SM5 Position

Canada must seek greater discipline governing domestic support and seek the imposition of a cap on total domestic support including all amber, blue and green programs, measured as a percentage of total value of production.

9. Other Trade Issues

Sanitary Measures Based on Sound Science

Sanitary and Phytosanitary Measures, used to achieve a higher level of protection than would be achieved using international standards, must be based on sound science and not be used as disguised trade barriers.

9.1 Sanitary and Phytosanitary Measures

Sanitary and Phytosanitary (SPS) Measures are used sometimes as barrier to trade. With the objective of eliminating the distortion that may be caused by SPS measures, WTO member countries have agreed to discipline the utilization of SPS measures with specific rules. The Agreement on Sanitary and Phytosanitary Measures (SPS) resulted from the Uruguay Round. This agreement provides for the maintenance of sanitary and phytosanitary measures, provided they are based on scientific principles and are not maintained without sufficient scientific evidence.

However, the Agreement on Agriculture does not provide specific rules on SPS, but rather refers to the SPS Agreement. The Agreement on Agriculture⁷⁵ states that “Members agree to give effect to the Agreement on the Application of Sanitary and Phytosanitary Measures.”

9.1.1 Current Situation

Since the conclusion of the Uruguay Round, SPS issues have been at the centre of several key trade disputes. We have witnessed a significant increase in the use of SPS measures. The removal of import restrictions as a result of the Uruguay Round has prompted some countries to create new ways to protect their markets by implementing questionable SPS measures. In some cases, SPS measures constitute a new generation of disguised trade barriers.

In the dairy sector, for example, the U.S. utilizes health

⁷⁵ Agreement on Agriculture, Article 14.

regulations such as the Pasteurized Milk Ordinance and the National Conference on Interstate Milk Shipments to protect its domestic industry. The Interstate Milk Shippers program relies upon the Grade "A" Pasteurized Milk Ordinance and related technical documents referred to in the Procedures Manual for sanitary standards. Sources of Grade "A" milk and milk products intended for use on interstate conveyances and subject to the Interstate Conveyance Sanitation Regulations are considered approved sources if they have a State or local permit, are under the routing inspection of a State or local regulatory agency, and meet the provisions of the Procedure manual.

In other words, all fluid milk moving from one state to another, either in bulk or consumer packages (including imports), is subject to the regulations of the National Conference on Interstate Milk Shipments. These rules provide for U.S. inspectors to inspect the farm where the milk originates and ensures that it meets U.S. standards. If someone wants to export milk into the U.S., then the farm has to be inspected by an American inspector, otherwise entry will be refused. The U.S. has, after several attempts, refused to grant equivalency to Canadian milk (UHT milk exported to Puerto Rico). In the meantime, the U.S. criticizes other countries for using recognized tools such as TRQs and tariffs equivalents.

In the poultry sector, in late 1998, the E.U. reiterated its stand against the use of chlorine as an "antimicrobial treatment" of poultry during processing. This effective ban on the import of U.S. poultry products was first implemented on April 1, 1997. Although the U.S. has vehemently argued that there is no scientific evidence that poultry chilled in chlorinated water poses any health hazard, the E.U. has tabled studies of its own.

The E.U., in December of 1998, also banned the use of four antibiotics as additives in animal feed. This is a precautionary measure to ensure that the effectiveness of similar drugs used in human medicines is not undermined. The antibiotics include bacitracin zinc, spiramycin, virginiamycin and tylosin phosphate. It is not clear if the ban will apply to poultry meat imports. There are major potential implications given that bacitracin zinc and virginiamycin are both used in the North American poultry industry. Investigations are only now being conducted to better understand the link between antibiotic use

in agriculture and the emergence of resistant bacteria.

Furthermore, the Australian experience illustrates how SPS measures can be used to restrict trade. While there is no tariff for chicken imported into Australia, an SPS measure requires all poultry entering the country to be cooked at 70°C for 143 minutes. If SPS measures are not science-based, we risk opening a Pandora's Box of new disguised trade barriers.

9.1.2 Discussion

The Agreement on Sanitary and Phytosanitary Measures is essential to ensure that SPS Measures are not used as hidden trade barriers. The SPS Agreement allows WTO Members “to introduce or maintain sanitary or phytosanitary measures which result in a higher level of sanitary or phytosanitary protection than would be achieved by measures based on the relevant international standards, guidelines or recommendations, if there is a scientific justification, or as a consequence of the level of sanitary or phytosanitary protection a Member determines to be appropriate in accordance with the relevant provisions of the agreement.”

The SM5 supports this position and would like to reiterate its support to the SPS Agreement:

SM5 Position

Sanitary and Phytosanitary (SPS) measures must be based on sound science and not used as disguised trade measures.

It should be pointed out that the International Federation of Agriculture Producers (IFAP) Agricultural Trade Policy states that: “when scientific opinion is clearly divided, countries should be permitted to apply the precautionary principle with respect to allowing in imports of a particular product.” It should be understood that these principles are not contradictory, since a policy on “sound science” would still entitle a government to make a decision in favour of public opinion in a case where science is clearly divided on a particular measure. The determination of divisions in the scientific community may require some recognition on the part of international scientific bodies (e.g. Codex, the World Organization for Animal Health, etc.).

9.2 Trade and Environment

Environment will likely be discussed during the next WTO negotiations, it is therefore important to consider this matter seriously. This is why the SM5 suggests that:

SM5 Position

Recognizing that there is an interaction between trade and environmental issues, Canada should insist that the Committee on Trade and Environment becomes a permanent WTO body; and that trade provisions in international environmental agreements be subject to full WTO discipline.

10. Other WTO Agreements Affecting Agricultural Trade

Agriculture Influenced by Other WTO Agreements

Any international negotiations are influenced by the fact that many other agreements have an impact on the agricultural sector.

Notwithstanding the fact that they are not directly related to agriculture, there are a number of other WTO agreements which might have some influence on agricultural trade. The Agreement on Agriculture provides in Article 21:1 that: “The provisions of GATT 1994 and other Multilateral Trade Agreements in Annex 1A to the WTO Agreement shall apply subject to the provisions of this agreement.” The agreements contained in Annex 1A of the WTO Agreement are⁷⁶:

- General Agreement on Tariffs and Trade 1994 (GATT)
- Agreement on the Application of Sanitary and Phytosanitary Measures (SPS)
- Agreement on Technical Barriers to Trade
- Agreement on Trade-Related Investment Measures
- Agreement on Preshipment Inspection
- Agreement on Rules of Origin
- Agreement on Import Licensing Procedures
- Agreement on Subsidies and Countervailing Measures
- Agreement on Safeguards

⁷⁶ Information regarding these agreements is taken from: “Introduction to the WTO: Trading into the Future,” WTO, second edition, 1998, pages 29-35.

10.1 General Agreement on Tariffs and Trade 1994 (GATT)

The GATT 1994 is an expanded version of the General Agreement on Tariffs and Trade 1947. Among other things, the GATT 1994 includes provisions, protocols and decisions. Important components of the GATT 1994 are the provisions of the GATT 1947, which form the basis of the multilateral trade system. The key provisions affecting agriculture are:

Article I	Most-Favoured-Nation Treatment
Article III	National Treatment
Article VI	Anti-dumping and Countervailing Duties
Article XIII	Non-discriminatory Administration of Quantitative Restrictions (quotas and tariff-rate quotas)
Article XVI	Subsidies
Article XVII	State Trading Enterprises

10.2 Agreement on the Application of Sanitary and Phytosanitary Measures (SPS)

Sanitary and Phytosanitary Measures were a subject on the agenda of the Uruguay Round. In the Punta del Este Declaration, Members agreed to reach an agreement on SPS issues. The Agreement on Agriculture gives effect to the Agreement on the Application of Sanitary and Phytosanitary Measures.

The objective of the SPS Agreement is to establish a multilateral framework of rules and disciplines to guide the development, adoption and enforcement of sanitary and phytosanitary measures in order to minimize their negative effects on trade and to contribute so that international standards, guidelines and recommendations can be made in this regard. (Preamble of the SPS Agreement) The SPS Agreement provides rules for the application of sanitary and phytosanitary measures as well as on harmonization, the equivalence, the administration and the transparency.

10.3 Agreement on Technical Barriers to Trade

Technical regulations and industrial standards vary from one country to another (causing difficulties to producers and exporters) and can be used as obstacles to trade. The objective of the Agreement on Technical Barriers to Trade is to ensure that technical regulations and standards, including packaging, marking and labelling requirements, and procedures for assessment of conformity with technical regulations and standards, do not create unnecessary obstacles to international trade. (Preamble of the Agreement) The agreement recognizes Members' rights to adopt the standards they consider appropriate. To prevent too much diversity, the agreement encourages countries to use international standards where these are appropriate. The agreement provides a code of good practice for the preparation, adoption and application of standards by central government bodies. This WTO agreement is a modified version of the Tokyo Round Code on Technical Barriers to Trade.

10.4 Agreement on Trade-Related Investment Measures (TRIMS)

The Agreement on Trade-Related Investment Measures recognizes that certain measures can restrict and distort trade, and states that no Member shall apply any measure that discriminate against foreign goods (national treatment). The objective of this agreement is to promote the expansion and progressive liberalization of world trade and to facilitate investment across international frontiers to increase the economic growth of all trading partners. The agreement also outlaws investment measures that lead to restrictions in quantities. It applies only to measures that affect trade in goods.

10.5 Agreement on Preshipment Inspection

The agreement recognizes that GATT principles and obligations apply to the activities of preshipment inspection agencies mandated by governments. The obligations placed on governments that use preshipment inspections include non-discrimination, transparency, protection of confidential business information, and avoidance of unreasonable delay.

10.6 Agreement on Rules of Origin ⁷⁷

The objective of the Agreement on Rules of Origin is to ensure that rules of origin themselves do not create unnecessary obstacles to trade. As stated in the preamble of the agreement: “clear and predictable rules of origin and their application facilitate the flow of international trade.” The agreement requires WTO members to ensure that: their rules of origin are transparent; they do not have restricting, distorting or disruptive effects on international trade; they are administered in a consistent, uniform, impartial and reasonable manner; and they are based on a positive standard. For the longer term, the agreement aims for common (“harmonized”) rules of origin among all WTO members, except in some kind of preferential trade.

10.7 Agreement on Import Licensing Procedures

The objective of the Agreement on Import Licensing Procedures is to ensure that import licensing procedures are not utilized in a manner contrary to the principles and obligations of GATT 1994. This agreement applies when licenses are used to administer tariff-rate quotas. It states that import licensing should be simple, transparent and predictable. It also provides guidance on how governments should assess applications for licenses in both cases of automatic and non-automatic licensing. The agreement established a notification

⁷⁷ “Rules of origin” are the criteria used to define where a product was made, usually for the purpose of determining the applicable tariff treatment.

process for Members. This WTO agreement is a modified version of the Tokyo Round Code on import licensing procedures.

10.8 Agreement on Subsidies and Countervailing Measures

The Agreement on Subsidies and Countervailing Measures disciplines the use of subsidies and regulates the actions countries can take to counter the effects of subsidies. The agreement provides a definition of a subsidy and classifies the subsidies in three categories: prohibited, actionable and non-actionable. It applies to agricultural goods as well as industrial products, except when the subsidies conform to the Agreement on Agriculture. In accordance with the agreement a member can use the WTO's dispute settlement procedure to seek the withdrawal of the subsidy or the removal of its adverse effects or it can launch its own investigation and ultimately charge extra duty (as the Canadian International Trade Tribunal can do in Canada). The agreement is based on the Tokyo Round Subsidy Code.

10.9 Agreement on Safeguards

The Agreement on Safeguards establishes rules for the application of safeguard measures. Safeguard measures were always available under Article XIX of the GATT. In the preamble of the WTO agreement, the Members recognized "the need to clarify and reinforce the disciplines of GATT 1994, and specifically those of its Article XIX (Emergency Action on Imports of Particular Products), to re-establish multilateral control over safeguards and eliminate measures that escape such control."

The agreement allows a WTO member to restrict the imports of a product temporarily ("safeguard" action) if its domestic industry is injured, or threatened with injury caused by a surge in imports. The injury has to be serious. The agreement sets out criteria for assessing whether "serious injury" is being caused or threatened, and the factors which must be considered in

determining the impact of imports on the domestic industry.

When imposed, a safeguard measure should be applied only to the extent necessary to prevent or remedy serious injury and to help the industry concerned to adjust. When a country restricts imports in order to safeguard its domestic producers, in principle it must give something in return. Governments have to report safeguards to the WTO's Safeguards Committee.

11. International Agreements Affecting Agricultural Trade

Other International Fora Could Impact Agricultural Trade

Canada is pursuing agricultural trade and trade liberalization through many other organizations. The Organization for Economic Co-operation and Development (OECD), the Asia-Pacific Economic Cooperation (APEC), and the G-8, are three organizations that meet every year. Canada has also entered into many regional agreements that, in some way could impact Canadian agricultural trade.

There are other fora where Canada can make commitments regarding trade liberalization which affect agriculture. Here are some of them.

11.1 The Organization for Economic Co-operation and Development (OECD)

The OECD groups 29 member countries⁷⁸ in an organization that provides governments with a setting to discuss, develop and perfect economic and social policies. The OECD is also called: the rich man's club. It is true in a sense since the OECD countries produce two-thirds of the world's goods and services.⁷⁹ The Secretariat is located in Paris, France. In addition to comparing experiences, seeking answers to common problems and working to coordinate domestic and international policies, OECD members may also establish legally binding agreements. For example, the famous Multilateral Agreement on Investment (MAI) was developed by the OECD members. The negotiations ended without a final agreement last year, principally because France had a problem with the protection of culture and because public opinion in OECD countries was becoming stronger and stronger to discuss the

⁷⁸ Australia, Austria, Belgium, Canada, Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Korea, Japan, Luxembourg, Mexico, New Zealand, Norway, Poland, Portugal, Spain, Sweden, Switzerland, The Netherlands, Turkey, United Kingdom and United States.

⁷⁹ OECD Website: What is OECD.

important matter of investment at the WTO level.

11.2 The Asia-Pacific Economic Cooperation (APEC)

APEC was established in 1989 in response to the growing interdependence among Asia-Pacific economies. It began as an informal dialogue group and now includes 21 countries⁸⁰. In Osaka, Japan, in 1994, APEC leaders adopted the Osaka Action Agenda, which firmly established the three pillars of APEC activities: trade and investment liberalization, business facilitation, and economic-technical cooperation.

11.3 G-8

Every year since 1975, the leaders from the seven major industrialized democracies meet to exchange ideas and experiences on economic, political and global issues. These summits were called G-7 and grouped the United States, the United Kingdom, France, Germany, Italy, Japan and Canada. In March 1997, U.S. President Bill Clinton invited Russia to join the leaders from the G-7 countries at the Denver Summit. Since then, the G-7 is now referred to as the G-8, even though Russia does not participate in all the discussions.

11.4 Regional Agreements

Canada has entered into bilateral or plurilateral free trade agreements: North American Free-Trade Agreement (NAFTA), Free-Trade Agreement Canada-Israel and the Free-Trade Agreement Canada-Chile. The Canadian government is currently participating in the negotiation of two other free trade agreements: the Free-Trade Agreement of the Americas (FTAA) and the Canada-EFTA Free-Trade Agreement (Switzerland, Norway, Iceland and Liechtenstein).

⁸⁰ Australia, Brunei Darussalam, Canada, Chile, People's Republic of China, Hong Kong (China), Indonesia, Japan, Republic of Korea, Malaysia, Mexico, New Zealand, Papua New Guinea, Peru, Republic of the Philippines, Russia, Singapore, Chinese Taipei, Thailand, the United States and Vietnam.

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ANNEX A MARKET ACCESS

Table 1 Canadian Tariff Rate Quotas for Dairy Products (tonnes)			
Tariff line	Description	Market Access	
		1995	2000
0401.	Fluid milk	64,500	64,500
0401.30	Cream	394	394
0402.	Powders	12	12
0403.10	Yogurt	332	332
0403.90	Buttermilk	908	908
0404.10	Whey powder	3,198	3,198
0404.90	Natural milk constituents	4,345	4,345
0405.	Butter	1,964	3,274
0406.	Cheese	20,412	20,412
2105.	Ice cream	347	484
1901.90	Other dairy products	70	70

Source: Individual country Harmonized Tariff Schedules.

Table 2 Country Comparison-Total Cheese					
Country	Tariff Line	Tariff-Rate Quota (tonnes)		In-Quota Tariffs	
		1995	2000	1995	2000
Canada (\$/kg)	0406	20,412 (8.2%)	20,412 (8.2%)	0.077, except cheddar cheese, 0.066	0.033, except cheddar cheese, 0.028
EU (ECU/kg)	0406	18,000 (0.4%)	102,150 (2.4%)	0.13-1.06 (\$0.23-\$1.89)	0.13-1.06 (\$0.23-\$1.87)
U.S.	0406	120,500* (4.6%)	140,500* (5.4%)	6-25%	6-25%

All specific tariffs are converted into Canadian \$ (in brackets).

The percentage of access in relation to consumption (1986-88) is indicated under the volume of access (in brackets).

*Including a quota of 5,500 tonnes for Mexico.

Source: tariff-rate quota and in-quota tariffs: Individual country Harmonized Tariff Schedules. Consumption: Canada (AAFC), EU (Eurostat), U.S. (USDA).

Table 3 Country Comparison-Butter					
Country	Tariff Line	Tariff-Rate Quota (tonnes)		In-Quota Tariffs	
		1995	2000	1995	2000
Canada (\$/kg)	0405	1,964 (2.0%)	3,274 (3.3%)	0.27	0.11
EU (ECU/kg)	0405	76,667 (4.3%)	86,667 (4.8%)	0.87 (\$1.54)	0.87 (\$1.53)
U.S. (\$US/kg)	0405	3,977 (0.8%)	6,977 (1.4%)	0.12 (\$0.17)	0.12 (\$0.19)

All specific tariffs are converted into Canadian \$ (in brackets).

The percentage of access in relation to consumption (1986-88) is indicated under the volume of access (in brackets).

Source: tariff-rate quota and in-quota tariffs: Individual country Harmonized Tariff Schedules. Consumption: Canada (AAFC), EU (Agra-Europe), U.S. (USDA).

Table 4 Country Comparison-Skim Milk Powder					
Country	Tariff Line	Tariff-Rate Quota (tonnes)		In-Quota Tariffs	
		1995	2000	1995	2000
Canada (\$/kg)	0402	0	0	-	-
EU (ECU/kg)	0402	41,000 (2.9%)	68,000 (4.8%)	0.48 (\$0.84)	0.48 (\$0.84)
U.S. (\$US/kg)	0402	1,261 (0.4%)	5,261 (1.7%)	0.03 (\$0.04)	0.03 (\$0.05)

All specific tariffs are converted into Canadian \$ (in brackets).

The percentage of access in relation to consumption (1986-88) is indicated under the volume of access (in brackets).

Source: tariff-rate quota and in-quota tariffs: Individual country Harmonized Tariff Schedules. Consumption: Canada (AAFC), EU (Agra-Europe), U.S. (USDA).

Table 5					
Country Comparison-Fluid Milk					
Country	Tariff Line	Tariff-Rate Quota (tonnes)		In-Quota Tariffs	
		1995	2000	1995	2000
Canada	0401	64,500	64,500	17.5%	7.53%
EU	0401	0	0	-	-
U.S. (\$US/kl)	0401	11,356 kl	11,356 kl	5.00 (\$6.86)	4.30 (\$6.53)

All specific tariffs are converted into Canadian \$ (in brackets).

Source: Individual country Harmonized Tariff Schedules.

Table 6					
Country Comparison-Ice Cream					
Country	Tariff Line	Tariff-Rate Quota (tonnes)		In-Quota Tariffs	
		1995	2000	1995	2000
Canada	2105	347	484	15.50%	6.67%
EU	2105	0	0	-	-
U.S.	2105	3,284 kl	5,668 kl	20%	20%

Source: Individual country Harmonized Tariff Schedules.

Table 7					
Country Comparison-Yogurt					
Country	Tariff Line	Tariff-Rate Quota (tonnes)		In-Quota Tariffs	
		1995	2000	1995	2000
Canada	0403	332	332	15%	6.45%
EU	0403	0	0	-	-
U.S.	0403	N/A*	N/A*	20%	20%

*: Non available, part of an aggregated access.

Source: Individual country Harmonized Tariff Schedules.

Table 8					
Whole Chicken, Eviscerated, WTO Tariffs (HS 0207.11.91)					
	Country	Rate of Duty 1995		Rate of Duty 2000	
		In-Quota	Over-Quota	In-Quota	Over-Quota
Tariff-Rate Quotas	Canada (\$/kg)	12.5% but not less than 0.11	280.4% but not less than 1.96	5.4% but not less than 0.05	238.3% but not less than 1.67
	EU (ECU/kg)	0.16 (\$0.29)	0.51 (\$0.90)	0.16 (\$0.29)	0.33 (\$0.57)
	Mexico (\$US/kg)	50%	260% but not less than 1.68 (\$2.31)	50% ¹	234% but not less than 1.51 (\$2.30)
No Tariff-Rate Quotas	US ² (\$US/kg)	0.11 (\$0.15)	---	0.09 (\$0.13)	---
	Brazil ²	45%	---	35%	---
	Japan ²	14%	---	11.9%	---
	China ³	20% ⁴	---	---	---

All specific tariffs are converted into Canadian \$ (in brackets).

¹ Rate of Duty for Mexico is for the year 2004.

² The US, Brazil and Japan don't have TRQ on poultry products, this is a simple tariff (ordinary tariff) applied to all imports.

³ Since China is not a WTO member, tariffs are unbound and can change.

⁴ Current rate plus a 17% Value Added Tax.

Source: Individual country Harmonized Tariff Schedules.

Table 9					
Chicken, Boneless Cuts, WTO Tariffs (HS 0207.13.91)					
	Country	Base Rate of Duty 1995		Bound Rate of Duty 2000	
		In-Quota	Over-Quota	In-Quota	Over-Quota
Tariff-Rate Quotas	Canada (\$/kg)	12.5% but not less than 0.11	292.9% but not less than 7.92	5.4% but not less than 0.05	249% but not less than 6.74
	EU (ECU/kg)	0.51 (\$0.91)	1.6 (\$2.84)	0.51 (\$0.90)	1.02 (\$1.80)
	Mexico (\$US/kg)	50%	260% but not less than 1.68 (\$2.31)	50% ¹	234% but not less than 1.51 (\$2.30)
No Tariff-Rate Quotas	US ² (\$US/kg)	0.22 (\$0.30)	---	0.18 (\$0.27)	---
	Brazil ²	45%	---	35%	---
	Japan ²	14%	---	11.9%	---
	China ³	20% ⁴	---	---	---

All specific tariffs are converted into Canadian \$ (in brackets).

¹ Rate of Duty for Mexico is for the year 2004.

² The US, Brazil and Japan don't have TRQ on poultry products, this is a simple tariff applied to all imports.

³ Since China is not a WTO member, tariffs are unbound and can change.

⁴ Current rate plus a 17% Value Added Tax.

Source: Individual country Harmonized Tariff Schedules.

Table 10
Shell Egg WTO Over-Quota Tariffs: Tariff # 0407.00.xx

Country	Base Rate of Duty 1995		Bound Rate of Duty 2000	
	Ad valorem %	Minimum Specific	Ad valorem %	Minimum Specific
Canada (\$/dozen)	192.3%	0.94	163.5%	0.80
Norway (K/kg)	340.0%	15.74 (\$3.41)	272.0%	12.59 (\$2.57)
EU (ECU/kg)		0.48 (\$0.85)		0.48 (\$0.85)
Malaysia *	62.0%		55.8%	
South Korea *	30.0%		27.0%	
South Africa	26.0%		19.0%	
Switzerland (Fr/kg)		4.37 (\$5.08)		3.71 (\$4.07)
Hungary	30.0%		25.5%	
Barbados *	177.0%		135.0%	
Iceland (SDR/kg)	478.0%	2.49 (\$0.05)	406.0%	2.13 (\$0.05)
Poland (ECU/pieces)	100.0%	0.16 (\$0.29)	64.0%	0.11 (\$0.19)
Costa Rica *	55.0%		45.0%	

All specific tariffs are converted into Canadian \$ (in brackets).

Bound Rate of Duty for Malaysia, South Korea, Barbados and Costa Rica is for the year 2004.

Source: Individual country WTO notifications.

Table 11				
Whole Egg, Dried WTO Over-Quota Tariffs: Tariff # 0408.91.xx				
Country	Base Rate of Duty 1995		Bound Rate of Duty 2000	
	Ad valorem %	Minimum Specific	Ad valorem %	Minimum Specific
Canada (\$/kg)		7.20		6.12
Norway (K/kg)	516.0%	88.44 (\$19.17)	412.0%	70.75 (\$14.42)
EU (ECU/kg)		2.15 (\$3.81)		1.37 (\$2.42)
Malaysia * (RIN/dozen)	5% + 2.27 (\$1.24/dozen)		5% + 1.53 (\$0.61/dozen)	
South Korea *	30.0%		27.0%	
Switzerland (FR/kg)		7.14 (\$8.31)		5.00 (\$5.48)
Hungary	45.0%		38.3%	
Iceland (SDR/kg)	478.0%	10.48 (\$0.22)	406.0%	8.90 (\$0.19)
Poland (ECU/kg)	140.0%	2.22 (\$3.95)	89.0%	1.42 (\$2.51)
Costa Rica *	55.0%		45.0%	

All specific tariffs are converted into Canadian \$ (in brackets).

Bound Rate of Duty for Malaysia, South Korea, and Costa Rica is for the year 2004.

Source: Individual country WTO notifications.

Table 12				
Whole Egg, Other WTO Over-Quota Tariffs: Tariff # 0408.99.xx				
Country	Base Rate of Duty 1995		Bound Rate of Duty 2000	
	Ad valorem %	Minimum Specific	Ad valorem %	Minimum Specific
Canada (\$/kg)		1.79		1.52
Norway (K/kg)	687.0%	23.44 (\$5.08)	549.0%	18.74 (\$3.82)
EU (ECU/kg)		0.55 (\$0.98)		0.35 (\$0.62)
Malaysia * (RIN/dozen)	5% + 2.27 (\$1.24/dozen)		5% + 1.53 (\$0.61/dozen)	
Switzerland (FR/kg)		1.92 (\$2.23)		1.34 (\$1.47)
Iceland (SDR/kg)	478.0%	2.78 (\$0.06)	406.0%	2.36 (\$0.05)
Poland (ECU/kg)	140.0%	2.22 (\$3.95)	89.0%	1.42 (\$2.51)
Costa Rica *	55.0%		45.0%	

All specific tariffs are converted into Canadian \$ (in brackets).

Bound Rate of Duty for Malaysia, South Korea, and Costa Rica is for the year 2004.

Source: Individual country WTO notifications.

Table 13				
Egg Yolks, Dried WTO Over-Quota Tariffs: Tariff # 0408.11.xx				
Country	Base Rate of Duty 1995		Bound Rate of Duty 2000	
	Ad valorem %	Minimum Specific	Ad valorem %	Minimum Specific
Canada (\$/kg)		7.20		6.12
Norway (K/kg)	540.0%	106.91 (\$23.18)	432.0%	85.53 (\$17.43)
EU (ECU/kg)		2.22 (\$3.95)		1.42 (\$2.51)
Malaysia * (RIN/dozen)	5% + 2.27 (\$1.24/dozen)		5% + 1.53 (\$0.61/dozen)	
South Korea *	30.0%		27.0%	
South Africa	26.0%		19.0%	
Switzerland (FR/kg)		7.14 (\$8.31)		5.00 (\$5.48)
Hungary	45.0%		38.3%	
Iceland (SDR/kg)	478.0%	10.48 (\$0.22)	406.0%	8.90 (\$0.19)
Poland	140.0%	2.22 (\$3.95)	89.0%	1.42 (\$2.51)
Costa Rica *	55.0%		45.0%	

All specific tariffs are converted into Canadian \$ (in brackets).

Bound Rate of Duty for Malaysia, South Korea, and Costa Rica is for the year 2004.

Source: Individual country WTO notifications.

Table 14				
Egg Yolks, Other WTO Over-Quota Tariffs: Tariff # 0408.19.xx				
Country	Base Rate of Duty 1995		Bound Rate of Duty 2000	
	Ad valorem %	Minimum Specific	Ad valorem %	Minimum Specific
Canada (\$/kg)		1.79		1.52
Norway (K/kg)	387.0%	48.75 (\$10.57)	309.0%	39.00 (\$7.95)
EU (ECU/kg)		0.97 (\$1.72)		0.62 (\$1.09)
Malaysia * (RIN/dozen)	5% + 2.27 (\$1.24/dozen)		5% + 1.53 (\$0.61/dozen)	
South Korea *	30.0%		27.0%	
South Africa	26.0%		19.0%	
Switzerland		1.92 (\$2.23)		1.34 (\$1.47)
Iceland (SDR/kg)	478.0%	2.78 (\$0.06)	406.0%	2.36 (\$0.05)
Poland	140.0%	2.22 (\$3.95)	89.0%	1.42 (\$2.51)
Costa Rica *	55.0%		45.0%	

All specific tariffs are converted into Canadian \$ (in brackets).

Bound Rate of Duty for Malaysia, South Korea, and Costa Rica is for the year 2004.

Source: Individual country WTO notifications.

Table 15				
Egg Albumin, Dried WTO Over-Quota Tariffs: Tariff # 3502.11.xx				
Country	Base Rate of Duty 1995		Bound Rate of Duty 2000	
	Ad valorem %	Minimum Specific	Ad valorem %	Minimum Specific
Canada (\$/kg)		7.20		6.12
Norway (K/kg)	83.0%	22.94 (\$4.97)	66.0%	18.35 (\$3.74)
EU (ECU/kg)		1.93 (\$3.43)		1.24 (\$2.18)
Malaysia *	12.0%		10.0%	
South Korea *	20.0%		13.0%	
Switzerland (FR/kg)		22.80 (\$26.52)		15.96 (\$17.50)
Hungary	11.0%		8.0%	
Poland (ECU/kg)	60.0%	2.00 (\$3.55)	38.0%	1.2 (\$2.11)
Costa Rica *	55.0%		45.0%	

All specific tariffs are converted into Canadian \$ (in brackets).

Bound Rate of Duty for Malaysia, South Korea, and Costa Rica is for the year 2004.

Source: Individual country WTO notifications.

Table 16				
Egg Albumin, Other WTO Over-Quota Tariffs: Tariff # 3502.19.xx				
Country	Base Rate of Duty 1995		Bound Rate of Duty 2000	
	Ad valorem %	Minimum Specific	Ad valorem %	Minimum Specific
Canada (\$/kg)		1.79		1.52
Norway (K/kg)	83.0%	22.94 (\$4.97)	66.0%	18.35 (\$3.74)
EU (ECU/kg)		0.26 (\$0.46)		0.16 (\$0.29)
Malaysia *	12.0%		10.0%	
South Korea *	20.0%		13.0%	
Switzerland (FR/kg)		6.00 (\$6.98)		4.20 (\$4.61)
Hungary	11.0%		8.0%	
Poland (ECU/kg)	60.0%	2.00 (\$3.55)	38.0%	1.20 (\$2.11)
Costa Rica *	55.0%		45.0%	

All specific tariffs are converted into Canadian \$ (in brackets).

Bound Rate of Duty for Malaysia, South Korea, and Costa Rica is for the year 2004.

Source: Individual country WTO notifications.

Table 17 Tariff Quotas for Egg and Egg Products Summary					
Country	Commodity	Units	Initial	Final	% Increase
Barbados	shell	tonnes	47	78	67%
Canada	Shell Eggs	dozen	7,108,024		
Canada	Egg Products	kg	7,771,244		
Canada	Egg Powder	kg	409,184		
Canada	WTO Growth	dozen	0		
Canada	Total dozens		12,822,000	21,370,000	67%
Costa Rica	shell	tonnes	563	939	67%
EU	shell	tonnes	70,301	135,000	92%
EU	egg yolks	tonnes	6,105	7,000	15%
EU	egg albumen	tonnes	7,725	15,500	101%
Hungary	not in shell	tonnes	8	8	0%
Iceland	shell, not in shell	tonnes	35	76	117%
Korea	liquid/frozen	tonnes	11,710	19,516	67%
Malaysia	shell	units	47,000,000	78,500,000	67%
Norway	shell	tonnes	523	523	0%
Poland	shell	pieces	200,000,000	353,400,000	77%
Poland	dried	tonnes	50	50	0%
South Africa	shell, egg yolk	tonnes	5,400	9,000	67%
Switzerland	shell	tonnes	33,735	33,735	0%
Switzerland	dried eggs	tonnes	977	977	0%
Switzerland	liquid/frozen	tonnes	6,866	6,866	0%
	Simple Average				47%

Source: World Trade Organization, WTO members

Table 18					
Tariff Quotas for Egg and Egg Products 1995					
Country	Commodity	Units	Commitments	Imports	Fill Rate
Barbados	shell	tonnes	N.R.	N.R.	
Canada	Shell Eggs	dozen	7,108,024		
Canada	Egg Products	kg	1,771,244		
Canada	Egg Powder	kg	409,184		
Canada	WTO Growth	dozen	0		
Canada	Total in dozens		12,822,000	12,535,053	98%
Costa Rica	shell	tonnes	N.R.	N.R.	
EU	shell	tonnes	82,651	77	0%
EU	egg yolks	tonnes	6,553	6,553	100%
EU	egg albumen	tonnes	8,863	2,854	32%
Hungary	not in shell	tonnes	8	4	50%
Iceland	shell, not in shell	tonnes	35	54.1	155%
Korea	liquid/frozen	tonnes	11,710	N.R.	
Malaysia	shell	units	47,000,000	N.R.	
Norway	shell	tonnes	523	157	30%
Poland	shell	pieces	N.R.	N.R.	
Poland	dried	tonnes	25	0	0%
South Africa	shell, egg yolk	tonnes	5,400	149	3%
Switzerland	shell	tonnes	33,735	26,934	80%
Switzerland	dried eggs	tonnes	977	942	96%
Switzerland	liquid/frozen	tonnes	6,866	10,081	147%
	Simple Average				57%

Note: N.R. indicates the corresponding statistics were not reported.

Source: World Trade Organization, Country notifications

Table 19					
Tariff Quotas for Egg and Egg Products 1996					
Country	Commodity	Units	Commitments	Imports	Fill Rate
Barbados	shell	tonnes	N.R.	N.R.	
Canada	Shell Eggs	dozen	7,118,153		
Canada	Egg Products	kg	1,774,352		
Canada	Egg Powder	kg	409,164		
Canada	WTO Growth	dozen	1,617,793		
Canada	Total in dozens		14,531,600	13,777,247	95%
Costa Rica	shell	tonnes	N.R.	N.R.	
EU	shell	tonnes	83,241	620	1%
EU	egg yolks	tonnes	6,284	6,284	100%
EU	egg albumen	tonnes	9,280	4,232	46%
Hungary	not in shell	tonnes	8	0	0%
Iceland	shell, not in shell	tonnes	43	71	165%
Korea	liquid/frozen	tonnes	12,577	N.R.	
Malaysia	shell	units	50,150,000	N.R.	
Norway	shell	tonnes	523	407	78%
Poland	shell	pieces	N.R.	N.R.	
Poland	dried	tonnes	50	31	61%
South Africa	shell, egg yolk	tonnes	6,120	12	0%
Switzerland	shell	tonnes	33,735	27,715	82%
Switzerland	dried eggs	tonnes	977	605	62%
Switzerland	liquid/frozen	tonnes	6,866	9,634	140%
	Simple Average				69%

Note: N.R. indicates the corresponding statistics were not reported.

Source: World Trade Organization, Country notifications

Table 20					
Tariff Quotas for Egg and Egg Products 1997					
Country	Commodity	Units	Commitments	Imports	Fill Rate
Barbados	shell	tonnes	N.R.	N.R.	
Canada	Shell Eggs	Dozen	7,154,354		
Canada	Egg Products	Kg	1,783,376		
Canada	Egg Powder	Kg	411,265		
Canada	WTO Growth	Dozen	3,261,716		
Canada	Total dozens		16,241,200	19,534,092	120%
Costa Rica	shell	Tonnes	N.R.	N.R.	
EU	shell	Tonnes	N.R.	N.R.	
EU	egg yolks	Tonnes	N.R.	N.R.	
EU	egg albumen	Tonnes	N.R.	N.R.	
Hungary	not in shell	Tonnes	8	0	0%
Iceland	shell, not in shell	Tonnes	N.R.	N.R.	
Korea	liquid/frozen	Tonnes	N.R.	N.R.	
Malaysia	shell	Units	N.R.	N.R.	
Norway	shell	Tonnes	N.R.	N.R.	
Poland	shell	Pieces	N.R.	N.R.	
Poland	dried	Tonnes	50	4	8%
South Africa	shell, egg yolk	Tonnes	N.R.	N.R.	
Switzerland	shell	Tonnes	N.R.	N.R.	
Switzerland	dried eggs	Tonnes	N.R.	N.R.	
Switzerland	liquid/frozen	Tonnes	N.R.	N.R.	
	Simple Average				43%

Note: N.R. indicates the corresponding statistics were not reported.

Source: World Trade Organization, Country notifications

Table 21						
WTO Tariff- Rate Quota Levels (initial, eggs)						
Country	All Eggs	Hatching Eggs	Access Level	Tariff Rate		Transition Date
				Within Access	Over Access	
Canada		95,388,000	21.1%	1.3%	280.4%	2000
Costa Rica		11,265,800	N/A	55.0%	55.0%	2004
Finland	29,223,000		2.3%	N/A	401.0%	N/A
Iceland		700,000	N/A	N/A	478.0%	N/A
Malaysia	47,000,000		0.8%	50.0%	62.0%	2004
Norway	8,364,000		0.9%	272.0%	340.0%	N/A
Poland		25,000,000	N/A	25.0%	100.0%	N/A
South Africa	91,800,000		2.2%	N/A	26.0%	N/A
Switzerland	573,495,000		98.3%	14.4%	125.9%	N/A

N/A: Non available

Source: The Uruguay Round Results (WTO CD-ROM).

Table 22						
WTO Tariff- Rate Quota Levels (final, eggs)						
Country	All Eggs	Hatching Eggs	Access Level	Tariff Rate		Transition Date
				Within Access	Over Access	
Canada		95,388,000	21.1%	0.5%	238.3%	2000
Costa Rica		18,776,600	N/A	45.0%	5.0%	2004
Finland	48,705,000		3.8%	N/A	341.0%	N/A
Iceland		1,520,000	N/A	N/A	406.0%	N/A
Malaysia	78,500,000		1.3%	50.0%	56.0%	2004
Norway	22,015,000		2.4%	272.0%	272.0%	N/A
Poland		25,000,000	N/A	N/A	64.0%	N/A
South Africa	153,000,000		3.5%	N/A	19.0%	N/A
Switzerland	573,495,000		98.3%	14.4%	106.8%	N/A

N/A: Non available

Source: The Uruguay Round Results (WTO CD-ROM).

Table 23							
WTO Tariff Schedule-Hatching Eggs (Over-quota Tariffs)							
	Product	Initial		Bound		Other Tariff Measures	
Country	Coverage	Tariff	Type	Tariff	Type	Rates	Description
Iceland	All Eggs	478%	Base	406%	Base		
Finland	All Eggs	401%	Base	341%	Base		
Norway	Hatching Eggs	340%	Base	272%	Base		
Tunisia	All Eggs	250%	Base	200%	Base		
Bangladesh	Annex 1	200%	Ceiling	N/A	N/A	2.5%	Not Specified
Lesotho	Annex 1	200%	Ceiling	N/A	N/A		
Sweden	All Eggs	186%	Base	119%	Base		

N/A: Non available

Source: The Uruguay Round Results (WTO CD-ROM).

Table 24				
Whole Turkey, Canner Pack, WTO Over-Quota Tariffs: Tariff # 0207.10.22				
	Base Rate of Duty 1995		Bound Rate of Duty 2000	
Country	Ad valorem %	Minimum Specific	Ad valorem %	Minimum Specific
Canada (\$/kg)	182%	2.48	154.7%	2.11
EU (ECU/kg)		0.58 (\$1.04)		0.37 (\$0.66)
Norway (K/kg)	295%	32.29 (\$7.00)	251%	27.45 (\$5.59)
Mexico* (\$US/kg)	260%	1.68 (\$2.31)	234%	1.51 (\$2.30)
Brazil*	45%		35%	

All specific tariffs are converted into Canadian \$ (in brackets).

*Bound Rate of Duty for Mexico and Brazil is for the year 2004.

Source: The Uruguay Round Results (WTO CD-ROM).

Table 25				
Turkey, Cuts, Boneless, WTO Over-Quota Tariffs: Tariff # 0207.39.23				
	Base Rate of Duty 1995		Bound Rate of Duty 2000	
Country	Ad valorem %	Minimum Specific	Ad valorem %	Minimum Specific
Canada (\$/kg)	194.5%	5.67	165.3%	4.82
EU (ECU/kg)		1.33 (\$2.36)		0.85 (\$1.50)
Norway (K/kg)	500.0%	119.56 (\$25.92)	425.0%	101.63 (\$20.71)
Mexico* (\$US/kg)	260%	1.68 (\$2.31)	234%	1.51 (\$2.30)
Brazil*	45%		35%	

All specific tariffs are converted into Canadian \$ (in brackets).

*Bound Rate of Duty for Mexico and Brazil is for the year 2004.

Source: The Uruguay Round Results (WTO CD-ROM).

WTO Members' reduction commitments in Agriculture

Member	Tariff-rate quotas	Domestic support	Export subsidies
Australia	✓	✓	✓
Barbados*	✓		
Brazil*	✓	✓	✓
Bulgaria	✓	✓	✓
Canada	✓	✓	✓
Colombia*	✓	✓	✓
Costa Rica*	✓	✓	
Cyprus		✓	✓
Czech Republic	✓	✓	✓
Ecuador*	✓		
El Salvador*	✓		
European Union	✓	✓	✓
Guatemala*	✓		
Hungary	✓	✓	✓
Iceland	✓	✓	✓
Indonesia*	✓		✓
Israel*	✓	✓	✓
Japan	✓	✓	
Korea*	✓	✓	
Malaysia*	✓		
Mexico*	✓	✓	✓
Morocco*	✓	✓	
New Zealand	✓	✓	✓
Nicaragua*	✓		
Norway	✓	✓	✓
Panama*	✓		✓
Papua New Guinea		✓	✓
Philippines*	✓		
Poland	✓	✓	✓
Romania	✓		✓
Slovak Republic	✓	✓	✓
Slovenia*	✓	✓	
South Africa	✓	✓	✓
Switzerland	✓	✓	✓
Liechtenstein			
Thailand*	✓	✓	
Turkey			✓
Tunisia*	✓	✓	
United States	✓	✓	✓
Uruguay			✓
Venezuela*	✓	✓	✓
TOTAL	36	28	25

*Developing countries.

25 WTO Members have reduction commitments only on tariffs:

Antigua and Barbuda	Macau*
Argentina	Namibia
Bangladesh	Peru
Botswana	Saint Kitts and Nevis
Chile	Saint Lucia
Côte d'Ivoire	Saint Vincent
Cuba	Singapore
Dominica	Suriname
Egypt	Swaziland
Fiji	Trinidad and Tobago
Ghana	Zambia
Hong Kong*	Zimbabwe
India	

*Hong Kong and Macau have no reduction commitments, but their tariffs are bounded at 0%.

51 WTO Members have no reduction commitments (least developed countries):

Angola	Guinea	Mozambique
Bahrain	Guinea Bissau	Myanmar
Belize	Guyana	Niger
Benin	Haiti	Nigeria
Bolivia	Honduras	Pakistan
Brunei Darussalem	Jamaica	Paraguay
Burkina Faso	Kenya	Quatar
Burundi	Kuwait	Rwanda
Cameroon	Lesotho	Senegal
Central African Republic	Madagascar	Sierra Leone
Chad	Malawi	Solomon Islands
Congo	Maldives	Sri Lanka
Djibouti	Mali	Tanzania
Dominican Republic	Malta	Togo
Gabon	Mauritania	Uganda
Gambia	Mauritius	United Arab Emirates
Grenada	Mongolia	Zaire

It should be noted that the statuses of “developing country” and “least developed country” has been determined by the countries themselves. There is no specific criteria imposed by the WTO for the determination of those statuses.

Source: World Trade Organization

Glossary of Agricultural Policy Terms

***Ad valorem* tariff:** A tax imposed on commodity imports expressed as a fixed percentage applied on the customs value of the imported good.

Aggregate Measurement of Support (AMS): Indicator of the overall level of domestic support provided by each country to its agri-food sector in the Amber Box category. The AMS, as defined in the Agreement on Agriculture, includes both budgetary outlays as well as revenue transfers from consumers to producers as a result of policies that distort market prices.

Agreement on Agriculture: Resulting from the last round of multilateral trade negotiations (the Uruguay Round), this agreement covers three major areas related to agriculture: market access, export subsidies and internal support. The agreement is implemented over a 6-year period, 1995-2000 (the implementation period is 10 years for developing countries). The Agreement on Agriculture is made up of two components: the text of the Agreement and the Country Schedules of commitments submitted to the WTO which include base year data and commitments. The Agreement on Agriculture is one of the 29 individual legal texts included under the umbrella agreement establishing the WTO.

Amber Box Programs: Popular term that describes domestic support policies that are subject to reduction commitments under the Agreement on Agriculture and that are included in the calculation of the AMS. These programs are assumed to distort the operation of markets such as, market price support, direct payments, and input subsidies.

Analysis and Information Exchange process (AIE): Process agreed to at the First WTO Ministerial Conference (held in Singapore in 1996) to allow WTO Members to produce informal paper on agricultural trade concerns. This process permits WTO Members to better understand the issues involved and identify their interests before undertaking the upcoming negotiations.

Anti-dumping duty: Additional duty levy imposed on imported goods to offset injuries caused by dumping. Article VI of the GATT permits special anti-dumping duties that are equal to the difference between the import price and the normal value of the product in the exporting country (the “dumping margin”).

APEC (Asia-Pacific Economic Cooperation): Founded in 1989, APEC is a regional institutional arrangement among member countries linked by Pacific Ocean trade. APEC’s long-term goal is free and open trade and investment in the Asia-Pacific region. APEC holds annual ministerial meetings to discuss strategies for reducing barriers to trade and investment and to promote the free flow of goods, services, and capital within the region. Member countries are: Australia, Brunei Darussalam, Canada, Chile, People’s Republic of China, Hong Kong (China), Indonesia, Japan, Republic of Korea, Malaysia, Mexico, New Zealand, Papua New Guinea, Peru, Republic of the Philippines,

Russia, Singapore, Chinese Taipei, Thailand, the United States and Vietnam.

Blue Box Programs: Popular term that describes domestic support policies that are not subject to reduction commitments under the Agreement on Agriculture and that are exempted from the calculation of the Aggregate Measurement of Support (AMS). These programs are payments from production-limiting programs, such as diversion payments on set-aside land. These domestic support programs are defined in the Agreement on Agriculture (Article 6, paragraph 5a). To qualify for this exemption, payments must be based on fixed areas or yields, on 85 per cent or less of the base level of production, or on a fixed number of livestock.

Bound tariff rates, Tariff “binding”: Tariff rates resulting from GATT/WTO negotiations or accessions that are incorporated as part of a country’s schedule of concessions. These tariffs are fixed and can not be increased. Bound rates are enforceable under Article II of GATT. If a WTO Member raises a tariff above the bound rate, the affected countries have the right to retaliate against an equivalent value of the offending country’s exports or receive compensation, usually in the form of reduced tariffs on other products they export to the offending country.

Built-in agenda (Agriculture): The expression “built-in agenda” is commonly used, in the agricultural sector, to refer to those issues that are subject to further negotiations, beginning in 1999. These issues are: market access, domestic support, export subsidies and non-trade concerns.

Built-in agenda (WTO): In the context of the WTO, the expression “built-in agenda” refers to the timetables for future work set in many of the Uruguay Round agreements. The built-in agenda includes new negotiations to be undertake in some areas (mandatory negotiations), and assessments of the situation (review process) at the specified times in others. For instance, the upcoming negotiations on agriculture and on services are subject to mandatory negotiations beginning in 1999 and 2000 respectively.

Cairns Group: An informal association of 15 agricultural exporting countries, formed in 1986 at Cairns, Australia. The Cairns Group was a strong coalition in the Uruguay Round of multilateral trade negotiations, seeking removal of trade barriers and substantial reductions in subsidies affecting agricultural trade. The Cairns Group includes major food exporters from both developed and developing countries. They are: Argentina, Australia, Brazil, Canada, Chile, Colombia, Fiji, Indonesia, Malaysia, New Zealand, Paraguay, the Philippines, South Africa, Thailand, and Uruguay.

Common Agricultural Policy (CAP): The agricultural policy of the European Union. The CAP has two components: market policy and structural policy. The CAP is currently under reform in the context of Agenda 2000.

Countervailing duty: Additional levy imposed on imported goods to offset subsidies provided to producers or exporters by the government of the exporting country. Countervailing duties are permitted under Article VI of the GATT.

Country Schedules of commitments: The official schedules of subsidy commitments and tariff bindings as agreed to under GATT for member countries.

Customs Union: Economic integration in which member countries eliminate all tariff and non-tariff barriers among themselves and establish a common external tariff on goods from third countries.

Customs Value: The value of a good for purposes of levying customs duties on an imported good.

Decoupled: Payments to farmers that are not linked to current production decisions. When payments are decoupled, production decisions made by the farmers are likely based on expected market returns.

Deficiency payment: An output subsidy, in which the rate per unit of output of a commodity is the difference between the administered price and the market price.

De minimis rule: The total AMS includes a specific commodity support only if it equals more than 5 percent of its value of production. The non-commodity specific support component of the AMS is included in the AMS total, only if it exceeds 5 percent of the value of total agricultural output.

Direct payments: Budgetary payments paid directly to producers to support their income. The category includes a wide range of different types of payments, such as deficiency payments, area and headage payments, insurance and disaster payments, diversion payments for temporary retirement of resources and compensatory payments as part of the reform process, each which may have a different effect on the sector.

Dispute Settlement Body (DSB): The General Council of the WTO, composed of representatives of all member countries, convenes as the Dispute Settlement Body to administer rules and procedures agreed to in various agreements. The DSB has authority to establish panels, adopt panel and Appellate Body reports, maintain surveillance of implementation of rulings and recommendations, and authorize suspension of concessions or other obligations under the various agreements.

Dumping: When a company exports a product at a price lower than the price it normally charges on its own home market. The importing country may impose an anti-dumping duty to correct the situation if its domestic industry has been injured.

Duty free (Tariff free): Free of customs duty.

Eastward enlargement: European process of accession to the Union. Of the 10 countries that have requested membership in the EU, 5 Eastern European countries (Hungary, Poland, Estonia, the Czech Republic and Slovenia) and Cyprus have been identified as potential candidates to join by the turn of the millennium.

European Free Trade Association (EFTA): The member states of EFTA are Iceland, Liechtenstein, Norway and Switzerland. The objective of EFTA's founding members was to remove trade barriers in relation to each other. The EFTA is the vehicle for joint efforts by the EFTA member states to deepen their preferential relations with the European Community. EFTA-European Community cooperation was taken a significant step further with the signing of the Agreement on European Economic Area in 1992. The EFTA nations are currently negotiating a free trade agreement with Canada.

European Union (EU): Established by the Treaty of Rome in 1957 and known previously as the European Economic Community. Originally composed of six European nations, it has expanded to 15 and is in the process of enlargement to the east. The EU attempts to unify and integrate member economies by establishing a customs union and common economic policies. Member nations are Austria, Belgium, Denmark, Germany, Greece, Finland, France, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain, Sweden and the United Kingdom.

Export subsidies: Special incentives, such as cash payments, extended by governments to encourage increased foreign sales; often used when a nation's domestic price for a good is artificially raised above world market prices.

"Fast track" authority: American expedited procedure for congressional consideration of trade agreements. The U.S. Congress has the exclusive authority to set tariffs and enact other legislation governing international trade. The U.S. President has the constitutional authority to negotiate international agreements. If the President negotiates a trade agreement that requires changes in U.S. tariffs or in other domestic laws, the implementing legislation of that trade agreement must be submitted to Congress. "Fast track" authority gives the President Congressional approval in advance of any changes needed to the legislation. This means that the U.S. Congress would vote on a trade agreement without reopening any of its provisions, while retaining the ultimate power of voting for or against.

Final Act: Formally called the "Final Act Embodying the Results of the Uruguay Round of Multilateral Trade Negotiations," the Final Act is the legal document containing the texts of all provisions agreed upon during the Uruguay Round. The signing and adoption of the Final Act initiated the transition from the GATT to the WTO.

Food and Agriculture Organization (FAO): A United Nations agency, founded in 1945, whose mandate is to monitor and improve the distribution and production of food and agricultural products throughout the world.

Formula-based tariff reductions: A method of negotiating tariff reductions using an agreed-upon formula applied to tariff rates by all contracting parties, and could include exceptions for particular items.

Free Trade Area of the Americas (FTAA): The Free Trade Area of the Americas was officially launched in December, 1994 at the Summit of the Americas when leaders from 34 countries in the Western Hemisphere resolved to "begin immediately to construct the FTAA, in which barriers to trade and investment will be progressively eliminated." The Heads of State of the 34 democracies in the region agreed to construct a "Free Trade Area of the Americas", or FTAA, and to complete negotiations for the agreement by 2005.

General Agreement on Tariffs and Trade (GATT): A multilateral agreement, among 23 countries, originally negotiated in 1947 in Geneva, Switzerland, to increase international trade by reducing tariffs and other trade barriers. The agreement provides a code of conduct for international commerce and a framework for periodic multilateral negotiations on trade liberalization and expansion. Before the creation of the WTO, adherents to the GATT were referred to as "Contracting Parties". The term GATT also refers to the institution responsible for organizing and overseeing multilateral trade negotiations and dispute resolution that was superseded by the WTO.

General Council: Composed of representatives from all WTO member countries, the General Council is responsible for the day to day work of the WTO. It receives its "work orders" from the Ministerial Conference, to whom it must report.

Green Box Programs: Popular term that describes domestic support policies that are not subject to reduction commitments under the Agreement on Agriculture and that are exempted from the calculation of the AMS. These programs are assumed to affect trade minimally, and include policies related to such activities as research, extension, food security stocks, disaster payments, the environment, and structural adjustment programs. The criteria for these programs are in Annex 2 of the Agreement on Agriculture.

Harmonized System (HS): The Harmonized System refers to the universal nomenclature that correlates national tariff structures into a common format (to the six digit level). The Harmonized Commodity Description and Coding System, and its legal notes and rules, are adopted and implemented by the Parties in their respective tariff laws. The Harmonized System is under the supervision of the World Customs Organization.

In-quota tariff rate (within-access commitments tariff rate): the rate of customs duty to be applied to quantities within the quantity specified under a tariff rate quota.

International Labor Organization (ILO): The International Labour Organization is the United Nations (UN) specialized agency which seeks the promotion of social justice and internationally recognized human and labour rights. The ILO was created in 1919, at the end of the First World War, at the time of the Peace Conference, which convened first in Paris, then at Versailles. It became the first specialized agency of the UN in 1946. The ILO formulates international labour standards in the form of Conventions and Recommendations setting minimum standards of basic labour rights: freedom of

association, the right to organize, collective bargaining, abolition of forced labour, equality of opportunity and treatment, and other standards regulating conditions across the entire spectrum of work related issues.

Implementing period: Means the length of time agreed by parties to apply the rules of an agreement. For instance, the implementation period for the Agreement of Agriculture is 6 years (1995 to 2000) and 10 years for developing countries.

Import quota: Quantitative limit on the level of imports of a given product imposed by a country.

International Dairy Agreement (IDA): GATT plurilateral agreement signed by most of the major dairy exporters (excluding the U.S.). The purpose of this agreement was to ensure that exporters did not price their products below GATT/IDA minimum prices. The Agreement was terminated in 1997.

International Organization for Standardization (ISO): The International Organization for Standardization (ISO) is a worldwide federation of national standards bodies from some 100 countries, one from each country. ISO is a non-governmental organization established in 1947. The mission of ISO is to promote the development of standardization and related activities in the world with a view to facilitating the international exchange of goods and services, and to developing cooperation in the spheres of intellectual, scientific, technological and economic activity. ISO's work results in international agreements which are published as International Standards.

Market access: Opening of a domestic market to exporting countries, which allows imports to compete fairly freely with similar domestic goods. A variety of tariff and non-tariff trade barriers can be used to limit the entry of foreign products.

Market price support (MPS): Transfers to producers resulting from measures that raise prices to consumers of farm commodities by way of tariffs, import quotas, administered prices or trade licensing arrangements. Market price support per unit of volume (tonne) of production is referred to as the unit MPS.

MERCOSUR: The Common Market of the Southern Cone, also known as the Treaty of Asunción, is a customs union created on March 26, 1991, by Argentina, Brazil, Paraguay and Uruguay.

Ministerial Conference: The highest WTO authority is composed of ministers of all WTO member countries. The Ministerial Conference is required to meet at least once every two years to make decisions on all matters under any of the multilateral trade agreements (Ministers met in Singapore in December 1996, in Switzerland in 1998).

Modalities: Documents from the Negotiating Group on Agriculture (Uruguay Round), which had no legally binding force but were agreed to by the negotiating parties as the suggested set of procedures to use to calculate various indicators and commitments.

Most-favoured-nation (MFN) treatment: This principle is embodied in Article I of the GATT. This stipulates that countries must treat each of their trading partners (those with which they have exchanged such an obligation) on an equal basis. The “most-favoured-nation” treatment is a commitment that a country will extend to another country the best conditions to its home market that it applies to a third country.

National treatment: An agreement between countries to extend the same rules to foreigners and foreign products that apply in their domestic market to nationals and national products.

Non-tariff trade barriers: Government measures, other than tariffs, that restrict trade flow. Examples of non-tariff barriers include quantitative restrictions, import licensing, variable levies, import quotas, and technical barriers to trade.

Non-trade concerns on agriculture: Social and non-purely economic concerns such as food security, environmental protection and viability of rural areas.

North American Free Trade Agreement (NAFTA): A trade agreement involving Canada, Mexico, and the United States, implemented on January 1, 1994, with a 15-year implementation period. The major agricultural provisions of NAFTA include: 1) the elimination of non-tariff barriers - immediately upon implementation, generally through their conversion to tariff-rate quotas or ordinary quotas; 2) elimination of tariffs - many immediately, most within 10 years, and some sensitive products gradually over 15 years; 3) special safeguard provisions; and 4) country-of-origin rules to ensure that Mexico does not serve as a platform for exports from third countries to the U.S.

Notification process: The process by which member countries report information on commitments, changes in policies, and other related matters as required by the various agreements to the WTO.

Organization for Economic Cooperation and Development (OECD): An organization established in December 1960 to study and discuss trade and related matters. The member countries are Australia, Austria, Belgium, Canada, the Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Korea, Luxembourg, Mexico, the Netherlands, New Zealand, Norway, Poland, Portugal, Spain, Sweden, Switzerland, Turkey, the United Kingdom, and the United States.

Over-quota tariff rate (over-access commitments tariff rate): The rate of customs duty to be applied to quantities in excess of the quantity specified under a tariff rate quota. These tariffs resulted from the Uruguay Round Tariffication process and are equivalent to the non-tariff measures they were converted from (i.e. tariff equivalents).

Panel (WTO): A panel is established by two or more WTO Members who have a trade dispute to settle. They agree to submit their arguments to three experts that they have chosen.

“Peace Clause” or Due Restraint: Provision of the Agreement on Agriculture (Article 13) that aims to reduce the likelihood of disputes or challenges on agricultural subsidies, over a period of nine years (expiring in 2003). While the Peace Clause effectively prevents countervailing measures on Green Box programs, it also prevents countervailing measures on Blue Box programs and export subsidies, unless a determination of injury or threat thereof is made.

Preferential tariff: Lower tariff granted to selected trade partners through special agreement.

Production control: Any government program or policy intended to limit production. These have included acreage allotments, acreage reduction, set-asides, and diverted acreage.

Protectionism: Trade policy which aims to protect domestic production against international competition by prohibiting or restricting imports of goods.

Quad: Group of four leading economies in international trade in agri-food products. It includes Canada, the United States, the European Union and Japan.

Quint Group: Quad group and Australia.

Sanitary and Phytosanitary (SPS) Measures: Technical barriers designed for the protection of human health or the control of animal and plant pests and diseases. Under the Uruguay Round Agreement on the Application of Sanitary and Phytosanitary Measures, WTO member countries agreed to base SPS measures on an assessment of risks posed by the import in question and to use scientific methods in assessing the risk.

Special Safeguard Provisions (SSG): Provisions within the Agreement on Agriculture (Article 5) designed to protect products which are subject to tariffication from surges in imports or large price declines.

Special and Differential Treatment: Provisions within the Agreement on Agriculture (Article 15) that allows developing countries the flexibility to implement reduction commitments over a period of up to 10 years instead of the 6-year-period for developed countries. The provision also allows least-developed countries not to undertake reduction commitments.

Special Treatment Clause (market access): A clause in the Agreement on Agriculture (Annex 5) that gives countries the option of foregoing tariffication on some commodities. Instead, minimum imports above the minimum access commitments must

represent 4% of base period domestic consumption in the first year of the implementation period and increase to 8% by the end of the implementation period. This clause was added to temporarily placate Japan and South Korea by providing protection for their rice sectors.

Specific tariff: A tax imposed on commodity imports expressed as a fixed charge per unit of product imported.

State Trading Enterprise (STE): Either a government agency or a non-government agency that has been granted exclusive or special privileges regarding imports or exports.

Tariff: A tax imposed on commodity imports. A tariff may be either a specific tariff (fixed charge per unit of product imported) or an *ad valorem* tariff (a fixed percentage of value). There are three types of tariffs: ordinary tariffs (simple tariffs), in-quota tariffs (within access commitments), and over-quota tariffs (tariff equivalents or over access commitments).

Tariff equivalents (over-quota tariffs or over access commitments): Tariffs that resulted from the Uruguay Round Tariffication process. Tariffs that represented about the same level of protection as the previous restrictions maintained in the base period (non-tariff barriers) but in a more transparent manner than a non-tariff barrier.

Tariff escalation: Means that a country sets low tariffs on imported materials used by an industry, and higher tariffs on finished products.

Tariff peaks: Imposition of high tariff.

Tariff rate quota: A quantitative limit (quota) applicable to imports above which a higher tariff is applied. The lower tariff rate applies to imports within the quota.

Tariffication: The process of converting non-tariff trade barriers to bound tariffs resulting from the Uruguay Round in order to improve the transparency of existing agricultural trade barriers and facilitate their proposed reduction.

Technical barriers to trade: Refers to regulations, standards (including packing, marking and labeling requirements), testing and certification procedures, and other non-tariff barriers that can create obstacles to trade.

Tokyo Round: The GATT negotiations formally initiated by the Tokyo Declaration in 1973 and completed in 1979. More countries were involved in the Tokyo Round than in previous rounds (including many developing countries and several East European countries), and discussions were expanded to include non-tariff trade barriers.

Trade liberalization: A term which describes the complete or partial elimination of government policies or subsidies that adversely affect trade. The removal of trade-distorting policies may be done by one country (unilaterally) or by many (multilaterally).

Trade Policy Review Body: The WTO General Council acts as the Trade Policy Review Body to conduct regular reviews of the trade policies of individual WTO Members to ensure that they respect the WTO agreements.

Uruguay Round: The eighth round of multilateral trade negotiations conducted within the framework of the GATT. Launched in Punta del Este, Uruguay, in 1986 and concluded in December 1993, the final Uruguay Round agreement, signed in Marrakesh in April 1994, embraces 110 countries and came into effect in 1995. The negotiations were broad and included the following subjects: tariffs, non-tariff measures, rules, services, intellectual property, dispute settlement, textiles, agriculture, and the creation of the WTO.

World Customs Organization (WCO): The World Customs Organization, established in 1952 as the Customs Co-operation Council, is an independent intergovernmental body with world-wide membership whose mission is to enhance the effectiveness and efficiency of Customs administration. The maintenance of the Harmonized System is a WCO priority. This activity includes measures to secure uniform interpretation of the HS and its periodic updating in light of developments in technology and changes in trade patterns. The WCO manages this process through the Harmonized System Committee (representing the Contracting Parties to the HS Convention), which examines policy matters, takes decisions on classification questions, settles disputes and prepares amendments to the Explanatory Notes.

World Trade Organization (WTO): Established on January 1, 1995, as a result of the Uruguay Round, the WTO replaces GATT as the legal and institutional foundation of the multilateral trading system of member countries. It provides the principal contractual obligations determining how governments frame and implement domestic trade legislation and regulations. The WTO is also the platform on which trade relations among countries evolve through collective debate, negotiation and adjudication. The WTO Agreements include the provisions of the GATT, as well as the Agreement on Agriculture and the other WTO Agreements.

Zero-for-zero arrangement: Concept that would permit WTO Members to agree to complete trade liberalization for particular sector(s) where international trade already occurs, relatively free of trade-distorting domestic and border practices. Under zero-for-zero, WTO Members would agree to abolish all tariffs and any non-tariff barriers that obstruct the flow of goods in that sector. The sector considered most seriously for zero-for-zero is oilseeds.

Acronyms

AAFC:	Agriculture and Agri-Food Canada
AIE:	Analysis and Information Exchange process (WTO)
AILP:	Agreement on Import Licensing Procedures (WTO)
AMS:	Aggregate Measurement of Support (WTO)
APEC:	Asia-Pacific Economic Cooperation
CAP:	Common Agricultural Policy (European Union)
CBHEMA:	Canadian Broiler Hatching Egg Marketing Agency
CDC:	Canadian Dairy Commission
CEMA:	Canadian Egg Marketing Agency
CFC:	Chicken Farmers of Canada
CITT:	Canadian International Trade Tribunal
CIF:	Cost, Insurance and Freight
CTMA:	Canadian Turkey Marketing Agency
DFC:	Dairy Farmers of Canada
DSB:	Dispute Settlement Body (WTO)
DFAIT:	Department of Foreign Affairs and International Trade
ECU:	European Currency Unit
EFTA:	European Free Trade Association (Norway, Switzerland, Iceland, Liechtenstein)
EICB:	Export and Import Control Bureau (Canada)
EU:	European Union
FAO:	Food and Agriculture Organization (United Nations)
FOB:	Free on Board
FTAA:	Free Trade Agreement of the Americas
GATT:	General Agreement on Tariffs and Trade
GNG:	Group on Negotiations on Goods in the Uruguay Round
GNS:	Group on Negotiations on Services in the Uruguay Round
HS:	Harmonized System (Harmonized Commodity Description and Coding System)
ICL:	Import Control List (Canada)
IDA:	International Dairy Arrangement
IFAP:	International Federation of Agricultural Producers
ILO:	International Labor Organization
ISO:	International Organization for Standardization
MFN:	Most- Favoured-Nation treatment
NAFTA:	North American Free-Trade Agreement (United States, Mexico and Canada)
NGA:	Negotiating Group on Agriculture in the Uruguay Round

OECD: Organization for Economic Cooperation and Development

SM5: Organization of the five national supply management organizations (Canada)

SPS: Sanitary and Phytosanitary Measures (WTO)

SSG: Special Safeguards Provisions (WTO)

STE: State Trading Enterprise

TE: Tariff Equivalent

TRIMS: Trade-Related Investment Measures (WTO)

TRQ: Tariff-Rate Quota

UR: Uruguay Round

U.S.: United States

USDA: United States Department of Agriculture

USTR: United States Trade Representative

WCO: World Customs Organization

WTO: World Trade Organization

Website Addresses

International organizations:

- World Trade Organization (WTO): www.wto.org
- United Nations (UN): www.un.org
- Food and Agriculture Organization (FAO): www.fao.org
- World Customs Organization (WCO): www.wcoomd.org
- International Standards Organization (ISO): www.iso.ch
- World Organization for Animals Health: www.oie.int
- Organization for Economic Cooperation and Development (OECD): www.oecd.org
- NAFTA Secretariat: www.nafta-sec-alena.org
- International Federation of Agricultural Producers (IFAP): www.ifap.org
- Pan-American Dairy Federation (in Spanish): www.fepale.org
- Free-Trade Agreement of Americas (FTAA): www.ftaa-alca.org
- Asia Pacific Economic Cooperation (APEC): www.apecsec.org.sg
- APEC Tariff data base: www.apectariff.org
- EFTA Secretariat: www.efta.int/structure/EFTA/efta-sec.cfm

Canada:

- Canadian Parliament: www.parl.gc.ca
- Government of Canada: www.gc.ca
- Ministry of Agriculture and Agri-Food (AAFC): www.agr.ca
- Ministry of Foreign Affairs and International Trade (DFAIT): www.dfait-maeci.gc.ca
- Canadian Federation of Agriculture (CFA): www.cfa-fca.ca
- Dairy Farmers of Canada (DFC): www.dairyfarmers.org
- Chicken Farmers of Canada (CFC): www.cdn-chicken.com
- Canadian Egg Marketing Agency (CEMA): www.canadaegg.ca
- Canadian Dairy Information Center (CDIC): www.dairyinfo.agr.ca

United States:

- U.S. Trade Representative (USTR): www.ustr.gov
- U.S. Department of Agriculture (USDA): www.usda.gov
- U.S. Customs Service: www.customs.ustreas.gov

Europe:

- European Union (EU): www.europa.eu.int
- EU Agriculture (DG6): www.europa.eu.int/comm/dg06

France:

- Maison du lait: www.maison-du-lait.com

Australia:

- Australian Department of Foreign Affairs and Trade: www.dfat.gov.au
- The Australian Dairy Industry: www.dairy.com.au

New Zealand:

- NZ Ministry of Agriculture and Forestry: www.maf.govt.nz
- New Zealand Dairy Board: www.nzmilk.co.nz

Japan:

- Ja-Zenchu: www.rim.or.jp/ci/ja/ejahome.html