

The Treatment of Agriculture in Regional Trade Agreements in the Americas



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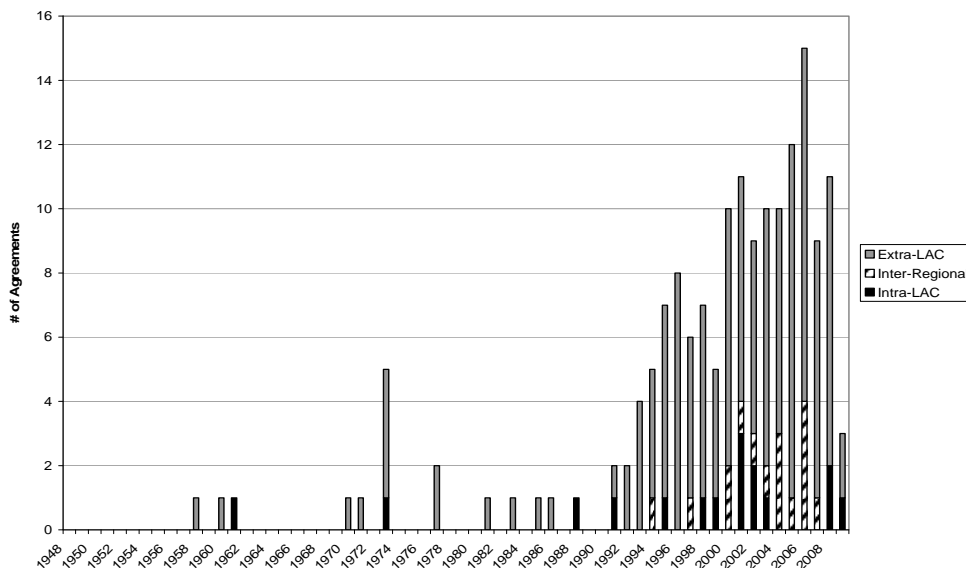
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I. Introduction

In the last years, intra- and extra-regional bilateral trade agreements have proliferated in the developing world, particularly in Asia and the Americas, where countries often belong to more than two agreements. The countries of Latin America and the Caribbean (LAC) have formed nearly three dozen regional trade agreements (RTAs) notified to the World Trade Organization (WTO) (figure 1), and more continue to be negotiated. Of the 194 RTAs in force worldwide, 21 percent involve countries of the Americas. As a consequence, the Western Hemisphere has witnessed a proliferation of sometimes overlapping trade agreements.

Over the past two decades the countries of the Americas¹ have diversified their integration schemes from regional blocs² to intra-regional bilateral trade agreements between countries (Chile-Peru, Chile-Colombia), between blocs and other countries (CAFTA-DR), and more recently extra-regional bilateral trade agreements (Chile-China). This path also includes an unrealized attempt to create a mega bloc (Free Trade Area of the Americas-FTAA).

Figure 1 - RTAs Notified to WTO in the Americas and Around the World, 2009



Source: Estevadeordal, “et. al.”, 2009.

¹ “The Americas” refers in this paper to a group composed of Canada, the Dominican Republic, Mexico, Central and South America, and the United States.

² Andean Community, Caribbean Community (CARICOM), Central American Common Market (CACM), and the Southern Common Market (Mercosur).

RTAs have not only grown in absolute numbers, but have also become more complex as the scope of cooperation has extended beyond tariff reductions into liberalization of trade in services, commitments relating to safeguards, sanitary and phytosanitary measures (SPS), technical barriers to trade (TBT), and other areas. One of the most sensitive areas in the negotiation and implementation process of these RTAs is the agricultural sector and the question of how agricultural exports between countries are to be treated. There are important variations in the degree and speed of liberalization across product categories.

Despite the importance of the subject, there have been few detailed studies of the treatment of the agricultural sector in RTAs. The purpose of this paper is to map the treatment of this sector in RTAs, analyze the depth of the related commitments, and examine the extent to which commitments under the RTAs in the Americas can impact the trade flow of agricultural products among parties. The paper covers market access commitments, subsidies, safeguards, technical barriers to trade, SPS, and other provisions pertaining to the agricultural sector. The impact on trade flows of some sensitive products, such as beef and milk, will be given specific analysis.

The paper is intended to provide an overview of how the agricultural sector is treated in RTAs involving Latin American countries, whose exports tend to be more oriented towards agriculture. As such, the paper compares the treatment of agriculture in RTAs concluded between Latin American countries (“intra-Americas agreements”), as well as with Asian countries (“trans-Pacific agreements”), and Europe and the Middle East (“trans-Atlantic agreements”). The paper also offers case studies on the impact of the agreements on agricultural trade between the signatory parties and assesses opportunities for trade liberalization in the agricultural sector afforded by RTAs in comparison with multilateral trade agreements.

The main findings are the following:

- Despite the general sensitivity of the agricultural sector, tariff liberalization is one area where considerable and measurable commitments, extending beyond WTO provisions, have been realized in the context of RTAs. Some sectors, however, are still subject to extended phase-outs or the persistence of tariffs beyond the

implementation period. Whether or not the existing set of RTAs represents low-hanging fruit is still an open question as well as the issue of how to build upon the concessions already made, perhaps at the plurilateral level.

- Tariff rate quotas are frequently resorted to in these agreements, particularly in those concluded with a developed country. The possible cumulative effects of these measures in the future, and hypothetical policy responses to such effects, should be considered.
- The provisions related to standards (SPS and TBT) and “trade remedies” do not expand much on language agreed upon at the multilateral level. The commitments that could impact agricultural trade flows among the parties to the agreement are still generic and lack key information regarding their implementation.
- Commitments tend to be weaker when trading partners at different levels of development pursue integration bilaterally. Therefore, with some exceptions, topics that could have a great impact in the liberalization of agricultural trade (such as those related to SPS) are more easily negotiated among developing countries. However, taking into account the increasing trend towards North-South integration agreements, it is important to be prepared to negotiate deeper commitments that can produce greater efficiencies for agricultural trade, notwithstanding the sensitivity of this area.

The paper closes with a set of recommendations on how countries can improve their level of commitments in the agricultural sector, a consideration of “best practices,” and the interplay between RTAs and the multilateral trading system.

II. Mapping the Treatment of Agriculture in RTAs

1. Market Access (tariffs, exceptions, tariff quotas)

i. Tariff Liberalization

GATT article XXIV provides that the parties to RTAs must eliminate tariffs on “substantially all trade” within a “reasonable length of time”.³ However, how *substantially all trade* and a *reasonable length* of time are defined is open to interpretation. The question of how “substantially all trade” is defined is commonly approached by using either quantitative benchmarks, such as 90, 85, or 80 percent of trade or tariff lines, or a qualitative definition prohibiting entire sectors from being excluded from liberalization. A “reasonable length of time” is understood to be no more than 10 years except in “exceptional cases.”⁴

One way to measure the scope of RTAs over time is by calculating the percentage of tariff lines duty-free at a given year into the agreement and constructing a time series from the entry into force of the agreement through the completion of the tariff liberalization program. Various RTAs can be compared and contrasted in such a manner.⁵ This evolution of RTAs is shown in Figure 2. Each line in the chart is a representative share of tariff line products that are duty-free at various points in time for agricultural products (intermittent black line), industrial goods (grey line), and all products (black line). Each series is an average of the 52 concessions in a 26-agreement sample (See Annex Table 1 for details).

All three averages follow similar paths across time, although agricultural products are clearly more sensitive overall. The average follows the path of industrial goods more closely, due to the greater number of products classified as industrial. Most liberalization has taken place by year 10, although some visible action occurs as late as year 16. Agriculture experiences a noticeable jump in year 15, reflecting the culmination of some of the longer-term staging

³ Estevadeordal, Antoni, Kati Suominen, and Robert Teh (Eds), *Regional Rules in the Global Trading System*, Cambridge, June 2009.

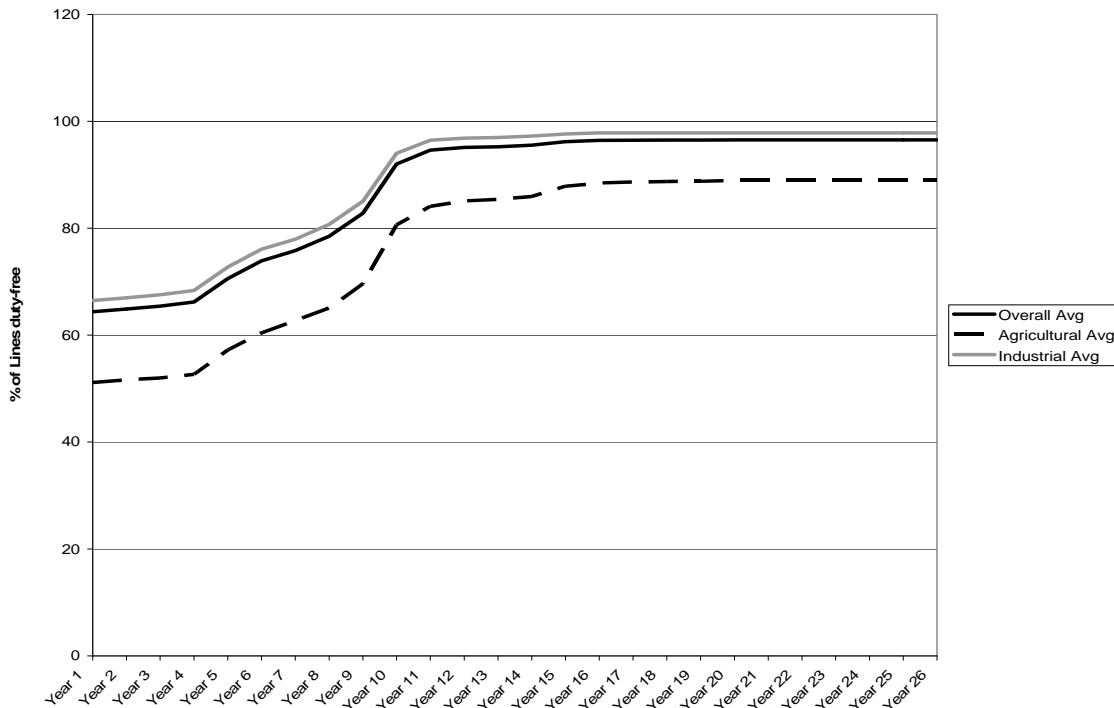
⁴ *Regional Rules in the Global Trading System*; Understanding on the Interpretation of Article XXIV of the General Agreement on Tariffs and Trade 1994.

⁵ *Regional Rules in the Global Trading System*. Alternatively, the progress of various RTAs can be viewed in terms of calendar years to visualize the “state of play” of RTAs in a given area. See Estevadeordal, Antoni, Kati Suominen, Matthew Shearer; and Harris, Jeremy, *Bridging Trade Agreements in the Americas*, IDB / Harvard University Press, Forthcoming 2009; Estevadeordal, et al., “Multilateralizing RTAs in the Americas: State of Play and Ways Forward” in Richard Baldwin and Patrick Low, (eds.) *Multilateralizing Regionalism*, Cambridge: Cambridge University Press, 2009.

categories. The smooth appearance of the trajectories is due to their nature as averages and masks a considerable variance in the approach to tariff elimination between the agreements.⁶

In terms of achieving substantially all trade within a reasonable amount of time, by year 10 the mean percentage of agricultural tariff lines that are duty-free is 81 percent and the median is 86 percent. Thus, even though the concessions in general fall short of the more stringent 90 percent, a significant amount of liberalization nonetheless takes place.

Figure 2 - Concessions by Agreement Year, Sectoral Averages



Source: IDB calculations based on agreement documents and IDB Sistema de Negociadores.

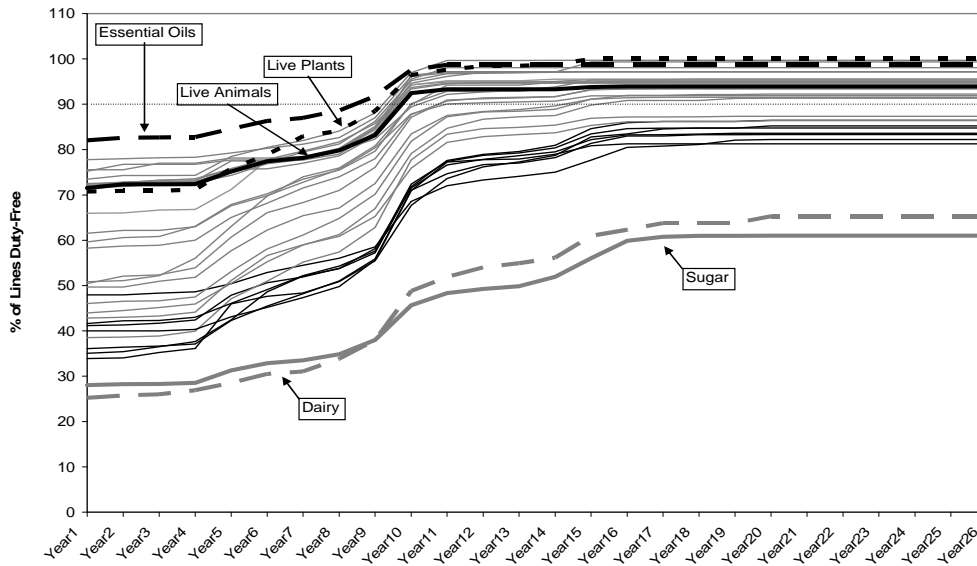
⁶ Many of the more recent RTAs use a gradual approach with distinct categories or “baskets” with varying time-frames until the granting of duty-free treatment, with progressive reductions (often equal) in tariffs in the interim. Some agreements employing this approach provide for a large share of products starting out as duty-free at entry into force with an array of baskets of different lengths and trajectories. Others start with a low duty-free coverage and proceed to liberalize substantially all trade by means of large jumps in duty-free coverage at one or two points in time. Some of the older trade agreements emphasize reduced duties, often on a positive list of goods. Still other agreements use a sectoral approach, having, for example, a single tariff elimination schedule for all industrial products, with separate protocols or annexes for agricultural products, including provisions for preferential duties without full eventual elimination, tariff rate quotas, etc. This study, which tends to focus on more recent agreements involving parties in the Western Hemisphere, includes mostly agreements taking a predominantly basket-oriented approach. See Estevadeordal, et al., *Regional Rules in the Global Trading System*.

Figure 3 shows the trajectory of liberalization within agricultural products; here the averages across RTAs are calculated for each 2-digit Harmonized System (HS) chapter (see Annex Table 2). Most of the chapters are represented by a thin grey line, while some highly sensitive product categories are highlighted with varying bold grey lines or thin black lines. Some highly liberalized sectors of interest are marked with bold black lines.

Although there are varying patterns across different RTAs depending on the provisions of each agreement, once again the trajectories appear quite similar when viewed by chapter. The main difference is the initial starting point. Interestingly, most products show stability the first few years after the initial concession.⁷ This is followed by a period of increasing liberalization from years 5 to 9, with a big push in year 10. There is typically a slower but still substantial liberalizing trend over the next year or two into the agreement, followed by a slowdown towards a steady state. The inclusion of a 15-year staging category in most agreements creates a mini-bump in this year, and by year 20 almost all scheduled liberalization has taken place, although there are still a few remaining tariffs eliminated on the margins afterwards in some agreements.

⁷ The starting point includes both products that become newly duty-free at entry into force of the agreement as well as those that were already duty-free under MFN provisions. There are occasional cases where products that are already duty-free under MFN are not assigned immediate duty-free treatment at entry into force of RTAs. These products are not included as duty-free at year zero, but in general MFN duty-free products are overwhelmingly considered as duty-free at entry into force.

Figure 3 - Concessions by Agreement Year, Averages by HS Chapter



Source: IDB calculations based on agreement documents and IDB Sistema de Negociadores.

Aside from a broad array of product chapters towards the center, some trajectories are distinct outliers. Two product chapters follow paths markedly lower than the rest of the sample. Not surprisingly, these are sugar (chapter 17) and dairy (04), both of which include a number of tariff lines that are exceptions to full tariff liberalization under most agreements due to preferential treatment rationed within a tariff rate quota, contingency upon a trade surplus requirement, or as full exclusions receiving no concessions whatsoever.

A second tier of sensitive products that starts at around 40 percent and ends around 80 or 85 percent includes tobacco (chapter 24), cereals (10), meat (02), fats and oils (15), and some processed agricultural products (16, 18, and 19). These are represented by thin black lines (see Annex Table 2 for product descriptions).

At the other end of the spectrum, less sensitive products typically start with around 70 or 80 percent of tariff lines duty-free and end with well over 90 percent. Chapter 33 (essential oils) shows a consistently high degree of liberalization across the time series, while chapters 41, 43, and 50-53, which represent raw hides and skins, fur skins, and raw textile materials, also receive more liberalized treatment than most other sectors. However, all of these products are outside of the main grouping of agricultural chapters because they include partial coverage within

predominantly industrial chapters.⁸ Cotton (52) enjoys relatively deep tariff liberalization in these RTAs despite its broader sensitivity in terms of applied most favored nation (MFN) tariffs and subsidies. Live animals (01), live trees and other plants (06), vegetable plaiting and stuffing materials, and (14) other products of animal origin (05) are also highly liberalized sectors.

Annex Figures 1 and 2 depict the statistical distribution of the 52 RTA concessions at two benchmarks - years 5 and 10. The shaded boxes show the inter-quartile ranges accounting for the middle 50 percent of values, and the bold line within each box is the median. Outliers are represented with circles and extreme values with asterisks. The conclusions that can be drawn from these charts are mostly consistent with those supported by Figure 3. The boxplots do, however, provide some additional understanding of variance among concessions. For example, in the case of live trees and other plants (06), the average (mean) concession at year 5 was 76 percent of lines duty-free (Figure 3), whereas from Figure A1 in the Annex it is apparent that this sector has not been significantly liberalized for a number of concessions. This is due to a large number of concessions (nearly half) already having fully liberalized this chapter, coupled with a small number of concessions with very low values.⁹ Hence the median concession in this chapter is over 97 percent.

Both Figure 3 and the boxplots show interesting patterns concerning the most sensitive products. At year 5, dairy (04) has the lowest median liberalization coefficient and its inter-quartile range overall is lower than the other products, although sugar (17) is a close second. The pattern reverses by year 10, however. Figure 3 shows a similar result via the crossing of the mean tariff liberalization lines, pointing to more of an emphasis on longer tariff phase-outs for dairy products as opposed to exceptions to eventual tariff elimination for sugar. However, both sectors remain the clear outliers in the latter regard at the hypothetical end of history.

⁸ See Annex Table 2 for a list of agricultural chapters, including those that are only defined partially as agricultural.

⁹ This appears to be due more to the nature of the overall tariff liberalization process in these concessions rather than a special sensitivity for these sectors in particular negotiations. The reason is that these agreements are typically those with few agricultural tariff lines liberalized at the outset, followed by large jumps in the duty-free coefficient several years into the agreement. However, for most of the concessions the percentage of lines duty-free in live plants is generally lower than the overall agricultural average.

ii. Exceptions

While the preceding analysis focuses mostly on the degree of liberalization taking place, it can be complemented by examining what is not being liberalized. Annex Table 3 shows agricultural sectors where there are exceptions by one or more parties to each agreement. For the purposes of this paper, exceptions include cases in which tariffs are reduced but never fully eliminated, tariff rate quotas that persist after the end of the implementation period, and products excluded from tariff concessions altogether.¹⁰

It is evident that sugar (defined in the table as chapter 17) is one of the sectors with the highest incidence of exceptions. In agreements involving the US, these often take the form of tariff rate quotas that remain after the implementation period.¹¹ Other food preparations, a catch-all category that here includes chapters 19-21, excluding fruit and vegetable juices (heading 2009), has exceptions in the largest number of agreements. This is partly due to its broad scope covering much of processed agricultural goods, and partly to the fact that much of the action is taking place in subheadings 190120 and 190190, which are considered together with sugar in some US agreements. Cocoa (chapter 18) receives similar treatment. Other sectors with exceptions in many agreements in the study are dairy (less so for butter), beef, and animal fats. The sectors least likely to include exceptions in the agreements are live animals (chapter 01), fruit and nuts (chapter 07), and coffee, et al. (chapter 08), and the higher-order agricultural sectors of chemicals, raw hides and skins, and raw textile materials (i.e. those beyond chapter 24). Cereals occupy a middle ground, with corn and rice exhibiting exceptions in more agreements than the other product groups.

It is more difficult to establish clear patterns between the agreements. Additionally, care should be taken not to attempt to “grade” agreements on the number of sectors with exceptions, as some of these product groupings are defined considerably more broadly than others. Furthermore, one agreement may be characterized by a small number of exceptions in each sector by different parties, and another with one or two sectors where all products are excluded from any kind of concession entirely.

¹⁰ Where possible, trade surplus requirements (e.g. in sugar) are also treated as exceptions.

¹¹ Imports of sugar into the US are generally subject to this treatment. In the case of CAFTA, imports of white corn or fresh onions and potatoes (depends on country) into Central America also are subject to a TRQ in perpetuity.

The RTAs signed between Latin American countries and partners outside the hemisphere (Asia and Europe) tend to be characterized by exceptions in a greater number of sectors, although this is not the case in the Chile-China and Trans-Pacific (P-4) FTAs.

There is no marked pattern across time. For example, Mexico's agreement with Nicaragua, which entered into force in 1998, has fewer sectors with exceptions than its FTA with Costa Rica. Part of this is due to the selection of the sample set, however, as this study only analyzes full-scope agreements and not the partial scope agreements that took effect earlier within the ALADI framework. This does not mean that significant liberalization has not taken place in early ALADI agreements; MERCOSUR-Bolivia (ACE 36) and MERCOSUR-Chile (ACE 35) do not appear in the table at all, as all agricultural products are eventually liberalized in each.¹² The more recent Mexico-Uruguay agreement (ACE 60), which entered into effect in 2004, follows the older pattern more closely: tariff reductions are emphasized over staged eliminations, with the result that there are many sectors where there are exceptions but where concessions are nonetheless made.

Case studies exploring the treatment of certain sensitive sectors are provided in Boxes 1 and 2. Beef and milk were chosen as two product groups that are both sensitive in most RTAs and also exhibit a variation in treatment among importing countries as well as products.

¹² Such is the case with the Chile-Peru agreement as well.

Box 1. Case study: Beef

The treatment of beef in the RTAs signed between Western Hemisphere partners presents an interesting case study in the varying ways in which sensitive products are addressed. Beef tariffs were essentially eliminated across the board among the NAFTA parties at its entry into force, with the exception of a 5-year phase-out of Canada's duties on imports of frozen boneless beef from Mexico (see also Dietrich, et al., *Impact of NAFTA on the Competitiveness of Beef Fabrication, Packaging, and Trade*).

Beef is more sensitive in the US's more recent agreements. In CAFTA, the Central American countries tend to provide immediate duty-free status on cuts rated prime and choice, with 15-year phase-outs for standard quality beef. The Dominican Republic makes a similar distinction but provides immediate duty-free treatment to select cuts only within a tariff quota. The DR has a separate TRQ for beef trimmings. All of the US's CAFTA trading partners have a 15-year elimination period on beef carcasses. The US also immediately liberalizes high quality beef cuts, as well as any beef entering under the existing MFN tariff quota. Imports of standard beef above the current quota have a 15-year phase-out period, with some additional duty-free access within TRQs with wide variations in the quantities accorded to each partner. A similar model, albeit with different liberalization periods and quantities, is used in the US-Peru and US-Colombia FTAs. Beef was less sensitive in the US-Chile agreement, with Chile employing a 4-year linear tariff staging on all beef products with immediate access within a TRQ and the US adopting a similar approach for standard cuts entering outside the MFN TRQ.

In the Mexico-Northern Triangle Agreement, tariffs on beef are eliminated in 8- to 11-year periods between Mexico and Guatemala and Honduras, while beef is excluded from the agreement between Mexico and El Salvador. There are similar 10-year phase-outs in Mexico's agreements with Costa Rica and Nicaragua. Beef duties are reduced but never eliminated in the Mexico-Uruguay agreement, and beef is excluded altogether in the Mexico-Bolivia agreement.

The agreements signed among the South American countries vary quite widely between bilateral concessions, ranging from immediate (e.g. Argentina's concessions to Colombia, Ecuador, and Venezuela) to never. On the other hand, the treatment of various beef subheadings tends to be mostly the same within a given bilateral concession. What variation does take place tends to favor carcasses, which are less sensitive (e.g. in Mercosur-Bolivia), and boneless beef, which is more sensitive (e.g. within ACE 59). Chile's concessions to Mercosur have a long phase-out with a grace period, along with an interim preferential tariff within a TRQ. In ACE 59, Ecuador liberalizes beef only on quantities within a TRQ, while Venezuela has a similar approach to boneless beef.

Once again, one must resist the temptation to score the countries' propensity towards making meaningful concessions based on these two cases, which are likely often relatively more sensitive for one country than for another. Concessions made by one RTA party in dairy, for example, may be reciprocated by a concession in poultry, or non-agricultural products, or in another discipline altogether.

Box 2. Case Study: Milk

Milk products are also considered sensitive, although treatment once again varies across agreements. In the Mexico-Nicaragua agreement, duties on condensed and evaporated milk are removed immediately, while tariffs on all other milk products are eliminated over 10-15 years, with some TRQ access provided in the meantime by Mexico on milk powder. Milk is mostly excluded in the Mexico-Northern Triangle Agreement, although condensed and evaporated milk are again less sensitive, with Mexico and El Salvador respectively providing 9-year and 11-year phase-outs, respectively, to one another. This pattern is reversed somewhat in the agreement between Mexico and Chile, where powdered and evaporated milk tend to be excluded, while liquid dairy is liberalized immediately; this is perhaps due to the distance between the countries, which mitigates the potential competitive threat from the more perishable liquid products. Milk is completely excluded in the Mexico-Costa Rica agreement, and is generally quite sensitive in Costa Rica's agreements with other parties as well, although condensed and evaporated milk are again less so.

In agreements among South American countries, duties on milk are removed over extended periods, often upwards of 8 or 10 years. In some cases tariffs are never eliminated. One notable exception is in ACE 58, where Uruguay's schedule reflects immediate removal of duties on all dairy products entering from Peru.

In the case of NAFTA, trade in dairy between Mexico and Canada is exempt from tariff elimination, while most trade between Mexico and the US becomes duty-free over a 10-year period (Mexico's powdered milk imports from the US becoming duty-free in 2008). Tariff phase-outs in CAFTA vary from 10 to 20 years. Chile's dairy imports from the US generally become duty-free within 8 years, and US imports from Chile become duty free in around 12 years. Dairy trade between the US and Peru is liberalized within a 17-year period, and between the US and Colombia within 15 years. The US liberalizes imports of liquid low fat milk immediately in the three latter agreements, a concession reciprocated by Colombia. In these agreements as well as in CAFTA, the parties generally allow more rapid tariff liberalization in some products or more sensitive products within a TRQ.

ii. Tariff rate Quotas (TRQs)

Annex Table 4 shows the use of tariff rate quotas, where different tariff treatments are provided to goods based on the volume imported, in a selection of the RTAs covered in the study. While many of the agreements use TRQs sporadically, others—especially the RTAs involving the United States—use them more heavily. In particular, the CAFTA-DR agreement is noteworthy in its use of TRQs by the United States to differentiate between the concessions provided to its counterparts within the overall context of a single schedule. For example, beef is assigned a 15-year staging category in the US's CAFTA schedule. Whereas all originating beef imports from Guatemala are subject to phased tariff reductions, the other CAFTA signatories are assigned varying quantities that receive immediate duty-free treatment. These quantities are particularly significant for Costa Rica and Nicaragua relative to the other countries.¹³ Of course the size of

¹³ Detailed information on the CAFTA-DR tariff rate quotas can be found in Tripartite Committee, *A Comparative Guide to the Chile-United States Free Trade Agreement and the Dominican Republic-Central America-United States Free Trade Agreement*, Washington DC: Economic Commission for Latin America and the Caribbean, Inter-American Development Bank, and Organization of the American States, January 2005. Available at: http://www.sice.oas.org/TPCStudies/USCAFTACH1_e/Contents.htm

any given tariff quota is only fully informative when the relative production capacity of the beneficiary country is taken into account.

In addition to different quantities, the fundamental nature of tariff rate quotas themselves can vary. In the TRQs applied by Costa Rica on goods originating from Canada in the context of the FTA between these countries, pork imports are subject to phased reductions on quantities falling *within* the quota, while quantities above the quota continue to receive MFN treatment. On the other hand, honey imports are duty-free within the quota and subject to phased tariff elimination above the quota.¹⁴ Meanwhile, the TRQ afforded by the Dominican Republic to the US in CAFTA-DR has phased tariff elimination for out-of-quota quantities, accompanied by more accelerated staging for imports falling *within* the quota.

All of this barely touches upon the philosophical question of whether such TRQs within the RTA framework should be viewed as trade-restricting, in the sense that they only provide limited concessions in the absence of deeper liberalization; or if they provide an additional window of openness for otherwise sensitive products. This depends on a number of factors spanning across time, including default negotiating positions and sensitivities going into the negotiations, which would be difficult to puzzle out without actually being present because positions evolve during the course of the negotiations, the aforementioned nature of the TRQs is determined at the completion of the negotiation, and the actual administration is determined afterwards.¹⁵ All of these complexities militate against using a quantitative approach to TRQs to make comparisons between RTAs. It is safe to say that the products subject to tariff quotas tend to be the more sensitive ones, although even this generalization has exceptions.¹⁶

Some differences in terminology should be noted, as well as overlap among the TRQs listed in Annex Table 4. While grouping and ordering by broader product sectors was performed, an effort was made to stay as consistent as possible with the (given) name and/or actual products covered by the tariff quotas.¹⁷

¹⁴ Still other TRQs in the Canada - Costa Rica agreement are subject to scarcity requirements, while the Sugar TRQs in the US RTAs with Chile, Peru, and Colombia, for example, stipulate that the counterpart have a trade surplus in sugar.

¹⁵ WTO, Proposal for Tariff Rate Quota Reform, Submission from the United States, Committee on Agriculture, G/AG/NG/W/58, November 14, 2000. Available at: <http://www.fas.usda.gov/ITP/wto/trq-proposal.html>

¹⁶ An example is the beef TRQs applied by both parties in the US-Chile FTA, which provides finite duty-free access to a product that is subject to linear tariff elimination over four years, which is a relatively short phase-out period.

¹⁷ This was complicated by the shared nature of tariff quotas in that a single TRQ may be comprised of a heterogeneous group of products.

2. Rules of Origin

The Rules of Origin chapter in RTAs does not contain substantial discussion of the agricultural sector, yet one particular area is of great significance to agricultural producers and exporters. The *de-minimis* section of the Rules of Origin chapter is the only one that contains specific references to agricultural goods and products. To distinguish between the use of this provision and the *de minimis* provision as it applies to WTO rules on dumping, we will refer to this clause as the “general tolerance rule.” Among the RTAs analyzed exists a variance as to the extent with which this clause is applied to agricultural goods. The general tolerance rule is the clause outlining the maximum percentage of non-originating material that can be used in a product transformation in order for the exported good to qualify as having originated within the border of the RTA partner without having to undergo a classification change. RTAs often include a regime-wide clause that stipulates the maximum allowance of non-originating material allowed for a product to count as originating. Yet, within some RTAs, there is an exemption provided for particular sets of products, most commonly for domestically sensitive agricultural products such as dairy, sugar, and processed agricultural products, as well as textile goods.

Exempting such products from the application of the general tolerance rule serves to prevent the use of cheaper, non-originating inputs in the production of a good. As a result, for a particular product to take advantage of preferential treatment it must be wholly obtained from the partner country, or produced using only inputs originating within that country. The inability of exporters to utilize cheaper, non-originating materials in the production of goods excluded from the application of this clause effectively raises costs for the producer, often serving as a disincentive to export. Thus, the exclusion of domestically sensitive products from the application of a general tolerance rule serves as a disincentive to exporters of such products, reducing the ability of these exporters to take full advantage of preferential treatment.

Of the 33 RTAs analyzed, most include a general tolerance rule provision within the chapter covering rules of origin. The extent to which this clause is incorporated and is used to provide a more or less stringent rules of origin regime differs amongst the various RTAs. Agreements that include this provision also tend to include exceptions for agricultural goods and processed agricultural products, as well as exceptions for some industrial products.

Only six of the agreements did not include general tolerance rule exclusions. They included MERCOSUR's agreements with Chile, Peru, and Bolivia, ACE 58, ACE 59, Chile-Peru, and the Mexico-EFTA RTA. The rest of the agreements involving Peru, and those involving Japan and Mexico, do contain these provisions, and the majority includes exceptions for particular products. The Chile-Japan FTA agreement does not include a regime-wide general tolerance rule, yet provides for such a rule to apply to particular products such as certain agricultural processed goods, textiles, and industrial products.

Agreements that do set forth a maximum allowable threshold include exceptions for agricultural or industrial products. Only three agreements do not specify a threshold requirement for non-originating material to be conferred origin; the Chile-China FTA, the P-4 agreement (Chile, New Zealand, Brunei, Singapore), and Peru-Thailand RTA are the only agreements that do not set forth exceptions for specific products or sectors.

The remaining RTAs in our analysis include a general tolerance rule threshold and an exception rule for agriculture and processed agricultural goods often accompanied by an additional exception for industrial products. Within these remaining 21 agreements, the range of allowable non-originating material ranges from 7 percent to some cases 10 percent. As pertains to agricultural products, these agreements provide exclusions for agricultural and processed agricultural goods.

Despite exempting agricultural products, several agreements provide an additional clause that permits a general tolerance rule threshold for certain products under a certain condition. More specifically, these agreements exclude agricultural exporters from utilizing the *de-minimis* threshold unless the product has undergone a transformation prompting a change in the products chapter subheading. Mexico's agreements with Bolivia and Japan, the Chile-Korea FTA, and Central America-DR all include this additional stipulation. In these cases, an exporter is able to integrate non-originating components into a final product only if a subheading change has taken place *and* if the amount of non-originating input does not cross the threshold.

It is noteworthy that while the general tolerance rule for agricultural products is measured in value added, for textiles non-originating material is measured by weight. The Chile-EU RTA and the Central America-Dominican Republic RTA are isolated examples of RTAs that specify a threshold but also only specify exclusions for textile and garment products and not agricultural goods.

3. Sanitary and Phytosanitary Measures

A separate chapter on food safety and animal and plant health standards, or SPS, is present in 31 of the 33 RTAs analyzed in this study. Only two do not include SPS provisions: Mexico-Peru and Chile-Canada FTA. This high level of coverage is due to the fact that SPS is one of the key instruments used to promote (and also obstruct) agricultural trade flows. SPS protection is cited by many authors as the number one non-tariff barrier in international trade today. The rise in prominence of SPS issues has been driven by an increasing level of concern among consumers about chemicals and other additives in their food and dangers in food related to transmission of animal diseases (e.g. mad cow disease, avian flu). Moreover, the lowering of tariffs subject to GATT/WTO negotiations has led some countries to resort to other, non-tariff, forms of protectionism, in particular SPS measures.

The SPS chapters do not involve deals on quantity and speed of liberalization, as do those related to tariffs or quotas, but rather to implementation of the core principles of the WTO Agreement on the Application of Sanitary and Phytosanitary Measures (WTO-SPS Agreement). These core principles are harmonization, equivalence, regionalization, evaluation of risk, and appropriate level of protection and transparency. This analysis examines the depth of the parties' commitments in the application of each one of these principles *vis-à-vis* the multilateral commitments under the WTO-SPS Agreement.

Table 1 reflects a high percentage of existing provisions related to the SPS Agreement core principles in the RTAs due to existing commitments by the countries under the WTO.¹⁸ Out of a total of 31 RTAs that include SPS provisions, 14 limit the SPS chapter to one or two paragraphs instructing the parties to observe the rights and obligations set forth in the SPS Agreement (identified in the figure with the symbol “/a”). Of the 17 RTAs that include additional provisions, one simply repeats the text of the related multilateral agreement and 16 go beyond that to either add additional commitments or to stipulate a procedure to operationalize the SPS principles with specific steps and within a certain timeframe (in this last case we classify the agreement as WTO Plus).

The high percentage of agreements classified as WTO Plus is due to the fact that almost all make additional commitments on “transparency” aspects. This means that the parties provide for a greater degree of detail than that provided for under the SPS Agreement and commit the

¹⁸ For more details on each of the principles please refer to the WTO-SPS .

RTAs to follow some sort of procedure and/or timeframe for the notifications of changes in their SPS-related regulation. This can also refer to the notification of any related emergency situations, discoveries of epidemiological importance, and significant changes related to disease and pest status. One could conclude that it's easier to reach a consensus on this issue because it benefits both parties independent of the size and importance of their agricultural sectors.

It is interesting to note that an important percentage of the WTO Plus agreements have been concluded among Latin American economies.¹⁹ Chile and Mexico are the regional countries that have made the most notable efforts to establish more detailed SPS provisions, which is to be expected since they have signed the most agreements of any countries in the region.

A common trend among RTAs is the low incidence of a provision addressing mutual recognition of each other's respective SPS-related inspection, control, or/and certification procedures.²⁰ This is despite the importance of such an instrument to facilitate the flow of agricultural products between the parties.²¹ Central America-DR, Mexico-Northern Triangle, Mercosur-Bolivia, Mercosur-Chile and Chile-EU agreements serve as the only ones in the Americas with a mutual recognition section. However, these agreements simply state that the parties shall make efforts to identify areas that allow the mutual recognition of inspection, control, and certification procedures.

Within the provision on technical cooperation found in the vast majority of RTAs in the Americas, most agreements also include an additional institutional component mandating the creation of a special committee or working group to address SPS issues. Twenty-three of the 30 RTAs that address this aspect establish an institutional framework (77 percent). The related provisions specify the committee composition, functions, and mode of operation. The development of this kind of institutionalism can be helpful in fostering transparency and harmonization among the parties.

¹⁹ G3, ACE58, ACE59, Chile-US, Chile-EU, Chile-Korea, Chile-Mexico, Chile-Peru, Chile-Central America, Mexico-Bolivia, Mexico-Costa Rica, Mexico-Nicaragua, Mexico-Northern Triangle, Mexico-Uruguay, NAFTA, Peru-Thailand.

²⁰ A difference between mutual recognition and equivalence lies in that one involves reciprocity when the other does not. The WTO-SPS states that a member is committed, in principle, to granting equivalence to the SPS measures adopted by an exporting country "if the exporting Member objectively demonstrates to the importing Member that its measure achieve the importing Member's appropriate level of sanitary or phytosanitary protection" (Article 4.1).

²¹ More details of the impact of mutual recognition can be found in Amurgo-Pacheco, 2006.

Table 1- Coverage and Depth of the WTO-SPS Principles

| RTA | SPS Principles | | | | | | Additional commitments | | WTO plus |
|--|----------------|---------------|-------------|-----------------|---|--------------|------------------------|--------------------|----------|
| | Year* | Harmonization | Equivalence | Regionalization | Assessment of risk-determination of the appropriate level of SPS protection | Transparency | Technical Cooperation | Mutual Recognition | |
| NAFTA | 1992 | √ | √ | √ | √ | √ (+) | Inst. | * | yes |
| United States-Colombia /a | 2006 | √ | √ | √ | √ | √ | Inst. | * | no |
| United States-Peru /a | 2006 | √ | √ | √ | √ | √ | Inst. | * | no |
| Canada-Costa Rica /a | 2001 | √ | √ | √ | √ | √ | Inst. | * | no |
| CAFTA /a | 2004 | √ | √ | √ | √ | √ | Inst. | * | no |
| Chile-United States a/ | 2003 | √ | √ | √ | √ | √ | Inst. | * | no |
| Chile-Canada | 1996 | * | * | * | * | * | * | * | no |
| Chile-Japan /a | 2007 | √ | √ | √ | √ | √ | Inst. | * | no |
| Chile-China | 2005 | √ | √ | √ | √ | √ (+) | Inst. | * | yes |
| Chile-Korea | 2003 | √ | √ | √ | √ | √ (+) | Inst. | * | yes |
| Chile-Mexico | 1998 | √ | √ | √ | √ | √ (+) | Inst. | * | yes |
| Chile-Peru | 1998 | √ | √ | √ | √ | √ (+) | Inst. | * | yes |
| Chile-EU | 2002 | √ | √ (+) | √ (+) | √ | √ (+) | Inst. | √ | yes |
| Chile-New Zealand-Singapore-Brunei (P4) /a | 2005 | √ | √ | √ | √ | √ | √ | * | no |
| Mercosur-Chile /a | 1996 | √ | √ | √ | √ | √ | √ | √ | no |
| Mercosur-Bolivia /a | 1996 | √ | √ | √ | √ | √ | √ | √ | no |
| Mexico-EU /a | 2000 | √ | √ | √ | √ | √ | Inst. | * | no |
| Mexico-Bolivia | 1994 | √ | √ | √ | √ | √ (+) | Inst. | * | yes |
| Mexico- Costa Rica | 1994 | √ | √ | √ | √ | √ (+) | Inst. | * | yes |
| Mexico-Nicaragua | 1997 | √ (+) | √ | √ | √ | √ (+) | Inst. | * | yes |
| Mexico-Northern Triangle | 2001 | √ (+) | √ | √ | √ (+) | √ (+) | Inst. | √ | yes |
| Mexico-Uruguay | 2003 | √ | √ | √ (+) | √ (+) | √ (+) | Inst. | * | yes |
| Mexico-Peru | 1995 | * | * | * | * | * | * | * | no |
| Mexico-EFTA /a | 2000 | √ | √ | √ | √ | √ | * | * | no |
| Mexico-Japan /a | 2004 | √ | √ | √ | √ | √ | Inst. | * | no |
| Mexico-Israel /a | 2000 | √ | √ | √ | √ | √ | √ | * | no |
| Mexico-Colombia | 1994 | √ | √ | √ | √ (+) | √ (+) | Inst. | * | yes |
| Mercosur-Peru (ACE 58) | 2005 | √ | √ (+) | √ | √ | √ (+) | √ | * | yes |
| Mercosur-Andean Community (ACE 59) | 2004 | √ | √ (+) | √ (+) | √ | √ (+) | √ | * | yes |
| Panama-Singapore /a | 2006 | √ | √ | √ | √ | √ | √ | * | no |
| Peru-Thailand | 2005 | √ | √ | √ | √ | √ (+) | Inst. | * | yes |
| Cent.Amer-DR | 1998 | √ | √ | √ | √ | √ | Inst. | √ | no |
| Cent.Amer-Chile | 1999 | √ | √ | √ | √ (+) | √ (+) | Inst. | * | yes |

* Date of signature

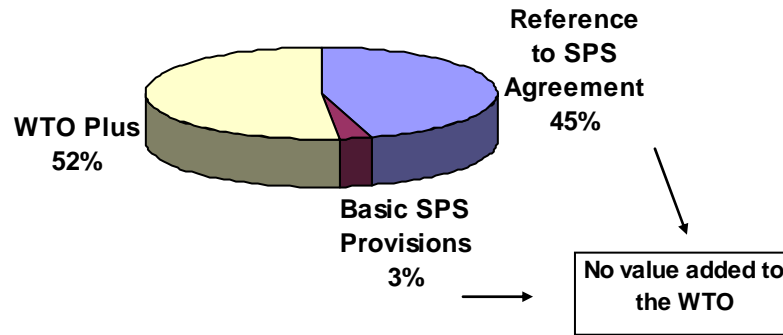
/a Stipulates that the rights and obligations of the Parties in respect of sanitary and phytosanitary measures shall be governed by the WTO SPS Agreement

(+) When the provisions specify the steps and/or timeframe to apply the related SPS principle

Figure 4 shows in percentage the disparity between the depths of coverage afforded to SPS provisions within RTAs in the Americas. As mentioned before, considering the 31 RTAs with SPS chapters, 16 (52 percent) could be viewed as WTO Plus in terms of incorporating more

specific provisions than are present in the multilateral regime,²² which are mainly commitments related to procedures for notifying about changes to new SPS regulations (transparency). On the other hand, 48 percent of the RTAs do not add value to the WTO-SPS Agreement. In this classification we have the RTA that only addresses the core SPS Agreement principles (category called “Basic SPS provisions”) and the ones that indicate that the parties shall respect the rights and obligations set forth in the WTO-SPS Agreement (category called “Reference to SPS Agreement”).

Figure 4- Depth of Regional Provisions *vis-a-vis* Multilateral Commitments



Agreements involving Latin American countries with non-regional countries are particularly prevalent within the last category²³ (“Reference to SPS Agreement”), which is considered the most superficial one. This suggests that SPS negotiations are less complicated among Latin American countries than when agreements are signed with countries outside this region. For instance, the agreements signed by Mexico with other regional members include detailed provisions, whereas those signed with non-regional members (EC, Japan, EFTA, and Israel) take the opposite approach. We also note that this superficiality is present in the RTAs Mexico later signed with the US and Japan.

²² The presence of any additional or more specific SPS provisions related to the core principles than are present in the SPS Agreement are taken into account. The core principles are harmonization, equivalence, regionalization, evaluation of risk and appropriate level of protection and transparency.

²³ US-Colombia, US-Peru, Mexico-EFTA, Mexico-Japan, Mexico-Israel, Mexico-EU, Mercosur-Chile, Mercosur-Bolivia, CAFTA, Canada-Costa Rica, Chile-Japan, Chile-New Zealand-Singapore-Brunei (P4), Panama-Singapore.

In some cases, the depth of SPS provisions in terms of specification of steps and schedules for applying the commitments have increased over time in some intra-Latin American agreements.²⁴ However this relationship with time could not be verified in all cases because the depth of SPS provisions is much more related to the sensitivity of the agricultural sector for the parties involved and the degree of integration sought by them.

The SPS principles that have a more direct impact in the liberalization of agricultural flows (harmonization, equivalence, mutual recognition, regionalization and the assessment of risk, and determination of appropriate level of SPS protection) are more superficially treated in the RTAs analyzed. They can only be found in the agreements signed within Latin American countries and in the Chile-EU and Chile-US agreements. Indeed Chile was the only Latin American country so far that was able to negotiate deeper commitments on these key topics with a developed country.

One could say that the basic texts of the RTAs are still generic on aspects related to standards, and any deeper commitments among parties are usually treated in the annex, in a memorandum of understanding or in a *ad hoc* agreement (another agreement signed during the course of the RTA negotiations in order to specify any particular commitment²⁵). Examples include the annex of the US-Chile FTA, which regulates the mutual recognition of beef grading systems;²⁶ the Annex 9.2.2 of Chile-Peru, that regulates cooperation on sanitary issues;²⁷ and the *ad hoc* agreements signed between US and some Latin American countries.

These *ad hoc* agreements represent a good opportunity to deepen specific commitments between the parties. For instance, in the P-4 agreement, the parties signed an *ad hoc* agreement to establish the process to determine equivalence. However, it does not contemplate a timeframe for each of the steps in this process.²⁸

Another example of deep commitments agreed upon by countries in *ad hoc* agreements is the one signed during the course of the US-Colombia RTA negotiations. The Colombian authorities committed to recognize the US inspection system for meat and poultry as equivalent,

²⁴ Mercosur-Bolivia and Mercosur-Chile, both signed in 1996, are examples of this superficial category. On the other hand, the most recently agreement signed, Mercosur-Peru (ACE58) and Mercosur-CAN (ACE59), are considered WTO Plus.

²⁵ These Agreements can take the form of exchange of letters or an Implementing arrangement.

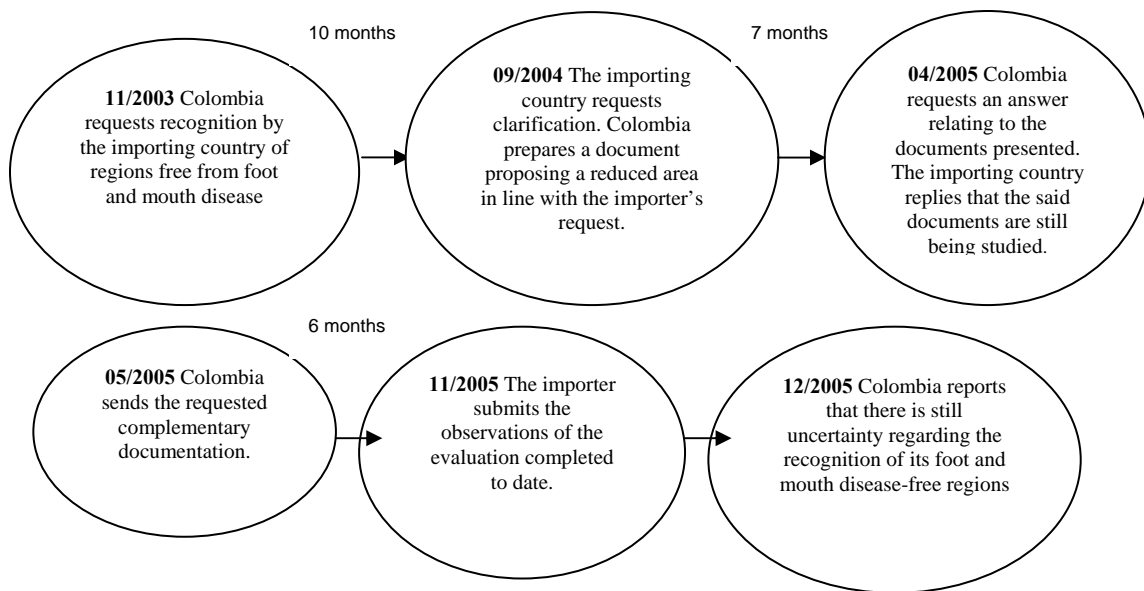
²⁶ Annex 3.17- Mutual Recognition of Grading Programs For the Purpose of Marketing Beef.

²⁷ Annex 9.2.2- “Acuerdo de Cooperación y Coordinación en Materia de Sanidad Agropecuaria entre el Servicio Nacional de Sanidad Agraria del Ministerio de Agricultura de la Republica del Perú y el Servicio Agrícola y Ganadero del Ministerio de Agricultura de la Republica de Chile”.

²⁸ Available at: http://www.sice.oas.org/Trade/CHL_Asia_e/Imple_Arrangements/SPS_8_e.pdf.

and to accept the USDA/FSIS Export Certificate.²⁹ This development provided continuity for US livestock exports to Colombia, despite outbreaks of “mad cow disease” in US territory. The agreement did not provide for the same beneficial treatment for Colombia, whose exports were jeopardized due to outbreaks of foot- and-mouth disease. This would have been a good opportunity for Colombia to have pushed for a deal to obtain the recognition of the concept of regionalization and for the elimination of a US ban against Colombian meat exports originating from disease-free areas. As illustrated in Figure 5, at this point, Colombia had been trying to accomplish this for more than two years.

Figure 5- Difficulty in Obtaining Recognition of Disease-Free Regions



Source: G/SPS/GEN/612, 12 December 2005

Peru also faced similar challenges to exporting its livestock products to the US at a time when both countries were negotiating their FTA.³⁰ But the commitment to apply the regionalization principle was only granted by Peru to benefit US exports, not vice versa.

²⁹ Understanding signed between US and Colombia in February 26, 2006. Available at: http://www.sice.oas.org/TPD/AND_USA/COL_USA/Draft_text_0607_e/asset_upload_file544_10194.pdf

³⁰ WTO notification: G/SPS/GEN/607, 6 December 2005.

That happened because during the negotiations of the US-Peru and the US-Colombia agreements, the parties signed *ad hoc* agreements (understandings signed within the scope of the RTA) in which Peru and Colombia recognize the US inspection system for meat and poultry as equivalent to their own and forego approval of individual US establishments by their authorities. These agreements also establish that Peru and Colombia should continue to accept US meat and poultry shipments accompanied by USDA/FSIS Export Certificates and should recognize the measures taken by the US with regard to BSE. Finally, they state that Peru and Colombia should permit the importation of US meat, poultry, and related products no later than the date specified in the agreement.³¹

Clearly, these *ad hoc* agreements establish specific obligations with regard to equivalence, recognition of sanitary certificates, regionalization, and deadlines to permit imports of US poultry and meat. However, these commitments are not reciprocal since, unlike “mutual recognition,” equivalence does not involve reciprocity. Therefore it does not establish a commitment by the US to recognize a sanitary certificate issued by the Peruvian or Colombian authorities, nor to recognize the Peruvian or Colombian inspection system as equivalent, nor to accept the imports coming from the zones declared by the competent authorities to be free of foot-and-mouth disease.

Panama also signed an *ad hoc* agreement with the US during the course of the US-Panama FTA negotiations regarding certain SPS measures and technical standards affecting trade in agricultural products. Similar to the aforementioned situation, duties and obligations are

³¹ Letter of Understanding signed between US and Peru in January 5, 2006. Available at: http://www.sice.oas.org/TPD/AND_USA/PER_USA/Updated_Draft_0607_e/asset_upload_file549_9551.pdf .Letter of Understanding signed between US and Colombia in February 26, 2006. Available at: http://www.sice.oas.org/TPD/AND_USA/COL_USA/Draft_text_0607_e/asset_upload_file544_10194.pdf

only spelled out for Panama.³² Moreover, Panama agreed to recognize the US beef grading system and committed to a strict deadline (24 hours) to notify the US authorities any time the shipment of a US product is detained due to an SPS concern.

4. Technical Barriers to Trade in Agricultural Products

The texts of the RTAs provide generic guidelines on technical barriers and usually reinforce the commitments made at the multilateral level under the TBT Agreement. Accordingly, the chapters on technical barriers usually do not contain provisions directed specifically at agricultural products. However, there are some exceptions. From the list of 33 RTAs analyzed, six contain specific provisions for technical barriers to agricultural trade: Mexico-Costa Rica, Mexico-Bolivia, Mexico-Nicaragua, Chile-US, Panama-US (regulated in a side agreement) and NAFTA.

The Mexico-Costa Rica, Mexico-Bolivia and Mexico-Nicaragua agreements reinforce the commitment to respect the principle of national treatment when applying marketing requirements to agricultural goods in the areas of packaging, grading, and sizes of the products. Hence, the party shall accord to the same agricultural goods originating in another party treatment no less favorable than that accorded to goods of that party regarding the implementation of these standards. The parties also commit to establish a special committee on standardization of measures applied specifically to agricultural products. The committee should review the operation

³² This country, in regards to meat, poultry, dairy and related products, recognized that:

- i) The US sanitary system and food safety inspection are equivalent to those of Panama's inspection system and shall not require as a condition for the importation of those products the approval of individual establishment by any Panamanian authority.
- ii) The US sanitary and phytosanitary regulations are equivalent to those of Panama for these products.
- iii) The USDA certificate or any other one issued by the US authorities meet all the Panama's requirement for the importation of these products and Panama can not require any additional certification.
- iv) The measures taken by US with respect to avian influenza and Newcastle conform with IOE guidelines and Panama shall permit the importation of these products. See "US-Panama Agreement regarding certain sanitary and phytosanitary measures and technical standards affecting agricultural trade," signed December 20, 2006.

of classification and quality standards affecting agricultural trade between the parties and resolve issues that may arise in connection with the operation of the rules.³³

NAFTA includes a specific section for agricultural grading and marketing standards that reinforces the national treatment commitment when applying measures related to classification, grading, or marketing of agricultural goods. It also created a working group to review the operation of agricultural grading and quality standards as they affect trade between the parties and to resolve issues that may arise regarding the operation of the standards.³⁴

Similarly, the Chile-US FTA accords national treatment for like products as regards measures on classification, grading, or marketing agricultural goods. Likewise, the parties agree to national treatment regarding measures to expand, maintain, or develop their domestic markets for an agricultural good. Moreover, this agreement goes further by specifying a particular product grading/classification system that should receive immediate recognition, stating that the parties shall recognize each other's grading programs for beef.³⁵ Indeed, it is the only agreement where a Latin American country succeeds in securing a detailed commitment on the mutual recognition of a specific process or program that affects an agricultural product.³⁶ It also establishes a Working Group on Agricultural Trade to review the operation of agricultural grade and quality standards and programs of expansion and development that affect trade between the parties, in coordination with the Committee on Technical Barriers to Trade that was established in the agreement. In addition, the working group will resolve issues that may arise regarding the operation of those standards and programs.

In the US-Panama *ad hoc* agreement on SPS measures and technical standards affecting agricultural trade, Panama commits to recognize the US beef grading system. Therefore the Panama authorities should not require, as a condition for the importation or sale of any beef or beef product of US, that such products be labeled with grade or cuts nomenclature other than

³³ Artículo 4-07: Medidas de normalización y de comercialización agropecuarias (Mexico-Costa Rica); Artículo 4-07: Normas técnicas y de comercialización agropecuarias (Mexico-Bolivia); Artículo 4-07: Normas técnicas y de comercialización agropecuaria (Mexico-Nicaragua).

³⁴ Annex 703.2: Market Access, article 23-25.

³⁵ Article 3.17

³⁶ Through this provision US recognizes the competency of the Chilean certification entities to certify Chilean meats destined for the American market and both countries recognize each other's respective beef grading systems.

those applied in the US.³⁷ Unlike the US-Chile FTA, in the US-Panama agreement the commitment is not reciprocal.

5. “Trade remedies” and Correspondent Measures

The regulation of “trade remedies” (antidumping, countervailing duties and safeguards) and their corresponding measures (dumping and subsidies) are present in the text of the majority of the RTAs. The most common commitments verified in these areas are applied to all sectors and involve the observation of rights and obligations under the GATT, WTO Agreement on Antidumping and Agreement on Subsidies and Countervailing Measures. However, given the particular sensitivity of the agricultural sector, a considerable number of RTAs analyzed include specific trade remedy commitments applied exclusively to agricultural products. As shown in Table 2, more than half of these agreements regulate the application of agricultural export subsidies, while fewer include commitments on agricultural safeguards and domestic support for the agricultural sector. There are no specific agricultural commitments regarding the practice of dumping because this measure is traditionally applied in the industrial and mining sectors.

³⁷ “US-Panama Agreement regarding certain sanitary and phytosanitary measures and technical standards affecting agricultural trade,” signed on December 20, 2006.

Table 2- Agriculture-Related Provisions in the RTAs

| RTA | Year | Subsidios de Exportación | Agricultural Safeguards | Domestic Support | Committee on Agricultural Trade |
|---|------|--------------------------|-------------------------|------------------|---------------------------------|
| NAFTA | 1992 | √ | √ | √ | √ |
| United States-Colombia | 2006 | √ | √ | * | √ |
| United States-Peru | 2006 | √ | √ | * | √ |
| Canada-Costa Rica | 2001 | √ | √ | √ | √ |
| CAFTA-DR | 2004 | √ | √ | * | √ |
| Chile-United States | 2003 | √ | √ | * | √ |
| Chile-Canada | 1996 | √ | * | * | √ |
| Chile-Japan | 2007 | √ | √ | * | * |
| Chile-China | 2005 | √ | * | * | * |
| Chile-Korea | 2003 | * | √ | * | * |
| Chile-Mexico | 1998 | √ | * | √ | √ |
| Chile-Peru | 1998 | * | * | * | * |
| Chile-EU | 2002 | * | √ | * | * |
| Chile-New Zealand-Singapore-Brunei (P4) | 2005 | √ | √ | * | * |
| Mexico-EU | 2000 | * | * | * | * |
| Mexico-Bolivia | 1994 | √ | * | √ | √ |
| Mexico- Costa Rica | 1994 | √ | * | √ | √ |
| Mexico-Nicaragua | 1997 | √ | * | √ | √ |
| Mexico-Northern Triangle | 2001 | √ | √ | √ | √ |
| Mexico-Uruguay | 2003 | √ | * | √ | * |
| Mexico-Peru | 1995 | * | * | * | * |
| Mexico-EFTA | 2000 | √ | * | √ | * |
| Mexico-Japan | 2004 | * | * | * | √ |
| Mexico-Israel | 2000 | * | * | * | * |
| Mexico-Colombia | 1994 | √ | √ | √ | √ |
| Mercosur-Peru (ACE 58) | 2005 | √ | * | √ | * |
| Mercosur-CAN (ACE 59) | 2004 | √ | * | √ | * |
| Mercosur-Chile | 1996 | * | * | * | * |
| Mercosur-Bolivia | 1996 | * | * | * | * |
| Cent.Amer-DR | 1998 | * | * | * | * |
| Cent.Amer-Chile | 1999 | * | * | * | * |
| Panama-Singapore | 2006 | √ | * | * | * |
| Peru-Thailand | 2005 | √ | * | * | * |
| TOTAL: 33 RTAs | | 22 | 12 | 12 | 14 |

* Date of signature

** Chapter/article not related to tariff or quota

i. Agricultural Export Subsidies and Countervailing Duties

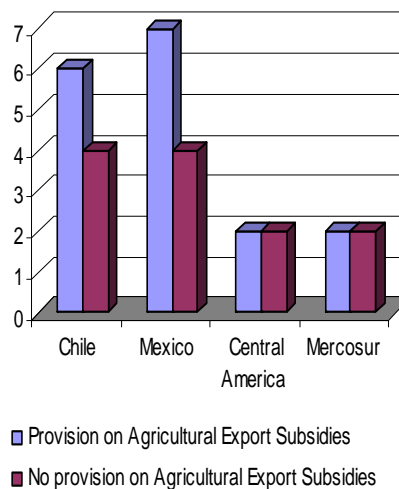
Sixty-seven percent of the RTAs analyzed include special provisions on export subsidies for agricultural goods. Figure 6 illustrates the number of agreements that do and do not contain language specifying the treatment of agricultural export subsidies.

With the exception of the Mexico-Peru RTA, all of the agreements signed by Mexico with other Latin American countries contain provisions regulating agricultural subsidies. On the other hand, this provision is absent in most of the agreements signed with non-regional developed countries, with the exception of Mexico-EFTA and NAFTA.³⁸

Regarding Chile, the situation is reversed. Almost all of the agreements signed by Chile with non-regional countries contain commitments on agricultural export subsidies (with the exception of Chile-EU and Chile-Korea). Of Chile's agreements that do not contain export subsidy provisions, 60 percent were with a Latin American country, 20 percent were with Asian countries, and 20 percent were with European countries. Notably, the old agreements signed in the nineties by Mercosur and Central America do not contain such provisions.³⁹ On the other hand, the more recent RTAs do contain them.⁴⁰ However, it is important to keep in mind that this relationship between agreement date and depth of coverage is not always clear.

Provisions on agricultural export subsidies reinforce the parties' commitments at the multilateral level to eliminate export agricultural subsidies according to a timeframe and establish

Figure 6-Agricultural Export Subsidies



³⁸ I.e., in the Mexico-EU, Mexico-Japan and Mexico-Israel agreements. However, it's interesting to notice that in the Joint Declaration XII of the EC-Mexico (Joint Council of March 23rd, 2000) the parties agreed that EC exports of some products are only entitled to the reduced tariff if they have been exported without export subsidies (EC Official Journal 2000 L157/29). This rule applies to products under the tariff codes 1509.10, 1509.90, 1510.00, 1517.10, 1517.90.02, 1517.90.99, 2204.10, 2204.21, 2204.29, 2207, 2208.20, 2208.90.91, 2208.90.99, 2905.43, 2905.44, 3502.20, 3505.10.50, 3505.20, 3809.10 and 3824.60.

³⁹ Mercosur-Chile, Mercosur-Bolivia, Central America-DR, Central America-Chile.

⁴⁰ Mercosur-Peru, Mercosur-CAN, CAFTA-DR.

their commitment to not adopt or maintain any export subsidy on any agricultural good destined for the territory of each other after this elimination. Some RTAs establish a grace period during which agricultural export subsidies would not be considered to violate the parties' obligations (the Mexico-Northern Triangle agreement states a grace period of five years from the day it enters in force⁴¹), others state a deadline or a phase-out for the elimination. Still other agreements require the immediate elimination of all export subsidies from the date the agreement enters into force.

Figure 7 – Timing of Subsidy Elimination

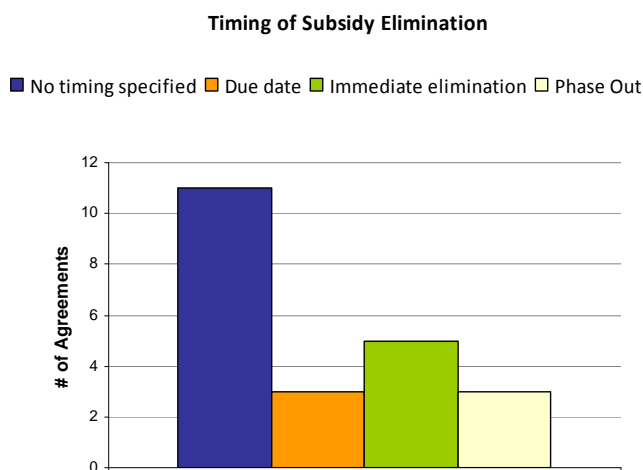


Figure 7 shows deadlines for eliminating export subsidies for the two-thirds of agreements that contained such provisions. The remaining agreements did not specify a specific deadline for eliminating subsidies, but simple stated that all parties involved would work toward that end. Noteworthy is that none of the agreements where a Latin American country partnered with the U.S. or an Asian country specified timing for the elimination of agricultural subsidies. The Mercosur-Peru and Mercosur-CAN agreements also do not specify timing.

Three agreements specify deadlines by which all subsidies are to be eliminated (averaging 4.7 years),⁴² while another three, all among Latin American countries, allow parties to phase out agricultural subsidies according to a schedule. In this regard Mexico-Colombia, Mexico-Costa Rica, and Mexico-Nicaragua agreements commit the parties to a complete elimination

⁴¹ “Artículo 4-08: Subvenciones a la exportación. Cinco años a partir de la entrada en vigor de este tratado, ninguna Parte podrá mantener o adoptar subsidios a la exportación sobre bienes agropecuarios en su comercio recíproco.”

⁴² Chile-Canada (5.5 years), Mexico-Northern Triangle (5 years), Chile-Mexico (3.5 years).

of agricultural export subsidies when the tariffs specified in the Tariff Elimination Schedule reach zero.⁴³ On the other hand, four agreements, all of them involving Mexico, provide an exception that allows for the introduction of subsidies at any time if both sides agree to it.⁴⁴ Five agreements require the immediate elimination of all agriculture export subsidies upon activation of the agreement (three of them are between Latin American countries).⁴⁵

In a case where one of the parties does not comply with these provisions, agreements commonly provide for countervailing measures such as suspension of benefits related to tariff elimination or through additional tariffs. Some of these RTAs also establish an alternative solution when any of the parties imports agricultural products subsidized by a non-party to the agreement. In this case, the parties shall agree on specific measures that the importing signatory may adopt to counter the effect of such subsidized imports. The provisions on agricultural export subsidies in the RTAs signed with US have included similar provisions (i.e. US-Colombia, US-Peru, CAFTA-DR, US-Chile), with the exception of NAFTA agreement, which provides the most detailed chapter on agricultural export subsidies thus far. Besides basic commitments, this agreement also establishes a Working Group on Agricultural Subsidies to work toward the elimination of all export subsidies affecting agricultural trade between the parties. On the other hand, it permits the application of such measures and provides that the damaged country may apply countervailing duties. It also establishes a timeframe for notification if one signatory decides to apply export subsidies on an exported agricultural good.⁴⁶

Few commitments on agricultural export subsidies can be found in *ad hoc* agreements. The Mexico-EFTA agreement does not include any agricultural commitments in its main text, which can be attributed to the complexity of reaching a common agreement among five countries in such a sensitive area. However, the parties signed agreements on trade in agricultural products on a bilateral basis. These agreements state that the parties shall not apply export subsidies, as defined in Article 9 of the WTO Agreement on Agriculture, in their bilateral trade on products subject to tariff concessions. Should a party introduce or re-introduce a subsidy on exports of a product subject to a tariff concession that is traded with the other party, that other party may

⁴³ In the Mexico-Colombia agreement the article 5.08-4 includes an exception to this commitment. Therefore, the parties can apply agricultural subsidies if they reach a mutual agreement on that.

⁴⁴ Mexico-Chile, Mexico-Colombia, Mexico-Bolivia and NAFTA.

⁴⁵ Mexico-Uruguay, Mexico-Bolivia, Mercosur-Peru, P-4 (Chile, New Zealand, Singapore, Brunei), Costa Rica-Canada.

⁴⁶ That is, written notice at least three days prior to adopting such measures followed by 72 hours of consultation between the parties. Article 705: Export Subsidies.

increase the rate of duty on such imports up to the applied most-favored-nation tariff in effect at that time. NAFTA is the only agreement that set up a working group to monitor agricultural export subsidies.⁴⁷

ii. Domestic Support for Agricultural Goods

Of the RTAs analyzed, 36 percent contemplate specific chapters regulating trade-distorting domestic support measures to the agricultural sector (i.e. support prices, subsidies directly related to production quantities, etc). Given the role domestic supports play in the agricultural development of some Latin American countries, it's easier to find provisions regulating forms of government support to this sector in agreements signed between these countries.

In this regard, the parties emphasize that when a party decides to support its domestic agricultural producers, it should ensure that this support conforms to the provisions of the WTO Agriculture Agreement; i.e., that the measure only minimally distorts effects on trade and is exempt from any commitment to reduce domestic support that could be negotiated under the GATT.⁴⁸ This restriction on domestic support to national agricultural producers is found mainly in the agreements signed by Mexico (with Bolivia, Costa Rica, Nicaragua, Northern Triangle, EFTA, Chile, and Uruguay).⁴⁹ Of the four agreements signed by Mercosur, the ACE 58 and ACE 59 agreements between Mercosur and CAN contain such a provision.⁵⁰

The Canada-Costa Rica agreement sets forth the different categories of domestic support outlined in the WTO Agreement on Agriculture and reinforces the commitment to limit the support of all types (“green”, “blue” and “amber” boxes).⁵¹ Included in the provisions is the right to apply nullification or impairment of concessions granted under this agreement in order to compensate for damages caused by the party that does not respect the terms of the agreement.

⁴⁷ “Article 6: The Parties hereby establish a Working Group on Agricultural Subsidies, comprising representatives of each Party, which shall meet at least semi-annually or as the Parties may otherwise agree, to work toward elimination of all export subsidies affecting agricultural trade between the Parties”.

⁴⁸ Within the P-4 Agreement the parties granted exemption of similar commitments for the New Zealand *Meat Board Act 2004* and *Pork Industry Board Act 1997*, legislations that regulate the funding provided to the industry-good activities (e.g. market promotion and research).

⁴⁹ Artículo 4-05: Apoyos internos.

⁵⁰ See article 18.

⁵¹ In the multilateral system subsidies in general are identified by boxes which are given the colors of traffic lights: green (permitted), amber (slow down — i.e. be reduced), red (forbidden), although this last one does not relate to agriculture subsidies. More detail in: http://www.wto.org/english/tratop_e/agric_e/agboxes_e.htm

These provisions cannot be considered WTO Plus since they just reinforce the obligations already undertaken at the multilateral level.

The US-Colombia and US-Peru RTAs do not include a specific chapter for domestic support, but the parties commit to work towards a WTO agreement on state trading enterprises that eliminates any special financing granted directly or indirectly to such enterprises that export a significant share of their country's total exports of an agricultural good.

iii. Agricultural Safeguard Measures

Of the RTA's in our study, 36 percent contain special provisions regarding the application of safeguards for agricultural goods. Two countries stand out as having agricultural safeguards specified more frequently than others: the United States and Chile. All five of the RTAs analyzed that include the US specify commitments on this issue. Chile included agricultural safeguards in half of the agreements it signed, all with non-regional countries. The agreements exclusively between Latin American parties rarely contain agricultural safeguard provisions.

The objective of agricultural safeguards is to address the expected increase of agricultural imports during the first years of the application of an agreement due to the progressive reduction or elimination of duties and tariffs agreed by the parties.⁵² The RTAs authorize the application of such measures when agricultural imports increase drastically and in such a manner as to cause or threaten to cause serious injury or market disturbance of like or directly competitive products. Usually the parties specify the list of agricultural products subject to such measures. Livestock products are the safeguard applicable items most frequently specified, as shown in the Table 3.

⁵² In this regard, for instance, in the P-4 agreement the parties agreed that Chile could apply a special safeguard measure to a limited number of specified sensitive agricultural goods (listed in Annex 3.B) during a grace period following the completion of tariff elimination. See article 3.13.

Table 3- Products Frequently Appearing in Safeguard Lists

| Product | RTAs |
|----------------|--|
| Beef (5 RTAs) | Mexico-Northern Triangle, CAFTA-DR, NAFTA, US-Colombia, US-Peru |
| Pork (5) | Mexico-Northern Triangle, CAFTA-DR, NAFTA, US-Colombia, US-Peru |
| Poultry (2) | Mexico-Northern Triangle, CAFTA-DR |
| Dairy (4) | US-Colombia, US-Peru, P4 (for Chile), CAFTA-DR |
| Vegetables (6) | NAFTA, US-Colombia, US-Peru, US-Chile, CAFTA-DR, Mexico-Colombia, Mexico-Northern Triangle |
| Fruits (5) | NAFTA, US-Colombia, US-Peru, US-Chile, Mexico-Northern Triangle |

Normally, the RTAs’ annexes establish the quantity of imports considered not to cause serious injury to the national market (trigger level). If import quantities exceed the levels specified for that good in the agreement, the damaged party is authorized to apply safeguards. For instance, a quantitative trigger level was included in the US-Peru and US-Colombia FTAs). In the US-Chile agreement, the trigger level is measured not by quantity but by price.⁵³ The procedure to apply such measures involves notification and consultations between the parties. Some agreements allow for a faster safeguards procedure when perishable agricultural goods are involved.⁵⁴

Because trigger levels vary by product and country, it is very difficult to categorize them and assign them to different groups. Each country has its own set of sensitive products, and the quantity that impacts the domestic market will vary according to the size of the market, the importance of the good to the particular country, the strength of domestic lobbying groups pressuring governments, etc. For instance, in the case of US-Peru, Peru places safeguards on beef, chicken, rice, milk, butter, and cheese. The trigger levels as percentages of the TRQ range from 130 to 150 percent. On the other hand, the US places a safeguard on beef at a trigger level of 140 percent.⁵⁵

⁵³ In this regard, a party may impose such measure only if the unit import price of the good enters the pParty’s customs territory at a level below a trigger price set out in the agreement.

⁵⁴ Article 6-014:15 of the RTA Chile-Mexico; Annex 803.3:12 of the NAFTA Administration of Emergency Action Proceedings.

⁵⁵ For Peru: beef – 150 percent of TRQ, chicken – 130 percent of TRQ, rice – 130 percent of TRQ, milk – 130 percent of TRQ, utter and preads – 130 percent of TRQ, heese –130 percent of TRQ. For US: bBeef – 140 percent TRQ.

Some RTAs stipulate other circumstances, usually called emergency situations, that justify the application of provisional safeguards. The Chile-Korea and Chile-EU agreements contain a chapter called Emergency Clause for Agricultural Goods that authorizes the application of immediate provisional safeguards for a maximum period of 120 days when exceptional circumstances require immediate action, although there is no guidance on what constitute exceptional circumstances.⁵⁶ In this case, the consultation procedure that normally should take place before the committee is waived due to the emergency situation.

Agricultural safeguards can take the form of an additional import duty on an originating agricultural good or the suspension of a further reduction in any customs duties established in the agreement. This last option is contemplated, for instance, in Chile-Korea and Chile-EU agreements. The safeguard shall not exceed what is necessary to remedy the difficulties or redress the injury or disturbance.

The duration of an agricultural safeguard varies depending on when it is initiated and on what kind of safeguard it is. The agricultural safeguard regulated in Article 5 of the WTO Agreement on Agriculture lasts until the end of the year in which the measure has been imposed. The exceptional safeguards have a shorter length. The “emergency safeguard” of the Chile-Korea, Chile-EU agreements can last a maximum of 120 days. It is noteworthy that NAFTA and the US-Chile agreement do not provide limits for the duration of the agricultural safeguard, but the generic safeguard regulated under the “Emergency Action” chapter, which is applicable to any kind of product, cannot exceed three years. In the P-4 agreement, Chile is the only country allowed to impose an agricultural safeguard, and it can be imposed in any semester until these goods reach a duty-free status (i.e. tariff equals zero). The safeguard will last until the end of the semester, and the trigger level is based on import volumes, which varies according to nine categories. The goods listed are primarily dairy products.

It is important to note that the average duration of an agricultural safeguard is shorter than those applied to other sectors. The average for the first is six months to one year and for the second is three years. The RTAs also establish a sunset clause for the safeguards. The Mexico-Colombia agreement calls for recourse to safeguards to end 15 years after the agreement’s date of entry into force. In the US-Chile agreement, the period is 12 years. Most agreements state that

⁵⁶ NAFTA stipulates a similar safeguard under the Emergency Action chapter (Chapter Eight). However it applies to all sectors, not only agriculture.

agricultural safeguards can be applied only during the period in which tariffs are being eliminated.⁵⁷

Table 4- Durations of Application of Safeguards

| Duration | RTAs |
|--|---|
| Until end of the year in which the measure has been imposed one year (can be extended for one more year) | CAFTA-DR, US-Peru, US-Colombia, Chile-Japan, Chile-Korea, Chile-EU, Costa Rica-Canada, Mexico-Northern Triangle (just Mexico-El Salvador) |
| Until end of the semester in which the party* applies the measure | Mexico-Colombia, Mexico-Northern Triangle ** |
| Unspecified | P4 (Chile-NZ-Singapore-Brunei) |
| Maximum period of 120 days (for “provisional safeguard”) | NAFTA, US-Chile |
| | Chile-Korea, Chile-EU |

* *This length is applicable for Chile*

** *Applicable for Mexico-Guatemala and Mexico-Honduras*

iv. Antidumping

No specific provision with respect to the practice of dumping in the agricultural sector was found in the RTAs analyzed. The commitments in this area are applicable to all sectors or products and are related to the compliance with the WTO Agreement on Implementation of Article VI of the GATT 1994 (Agreement on Antidumping). That can be explained by the fact that this measure is traditionally applied to industrial products.

6. Other Specific Provisions

i. Geographical Indication

A cursory review of some of the free trade agreements in this study finds that most of the product coverage of geographical indication focuses on alcoholic beverages. For example in the case of NAFTA, Annex 313 states that the signatories will recognize Bourbon Whiskey and Tennessee Whiskey as distinctive products of the United States, Canadian Whisky as a distinctive product of Canada, and Tequila and Mezcal as distinctive products of Mexico: products carrying these

⁵⁷ It is also common to stipulate a grace period allowing for the application of safeguards after the complete elimination of the tariffs.

labels cannot be sold unless they are produced by the indicated country. DR-CAFTA and the US-Chile FTAs include similar language regarding Bourbon and Tennessee Whiskey, with Chileno (Chilean Pisco), Pajarete, and Vino Asoleado recognized by the US as distinctive products of Chile (Tripartite Committee, 2005).

Tequila and Mezcal are also provided geographical indications in the Mexico-Japan FTA, along with some Japanese spirits. Chilean Pisco is provided similar status in its agreement with Japan. On the other hand, Annex XII of the EFTA-Chile agreement simply makes reference to Articles 22 through 24 of the WTO agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). This treatment can be contrasted with the broad range of protected designations for alcoholic drinks recognized in Chile's agreement with the EU.

The stronger protections afforded to wines and spirits reflects the two levels of protection contained in the TRIPS agreement. Article 23 provides for more stringent labeling requirements for wines and spirits than that for other products in Article 22, which allows the use of certain modifiers.⁵⁸ While the analysis of the use of geographic indications in trade agreements in this study is limited, there does not appear to be much use of the agreements by the European countries, which tend to favor more protected indications for products such as cheese and meats, to obtain more stringent treatment for non-beverage products.

ii. Technical Cooperation on Agricultural Issues

It's common to find provisions, particularly in the Economic Complementations Agreements (ACEs), that establish specific cooperation in the agriculture and rural sector. In the Chile-EU, Mexico-EU and Mexico-Japan agreements, the parties commit to cooperate in any effort designed to support and stimulate agricultural policy measures in order to promote and consolidate the parties' efforts towards sustainable agricultural and rural development. This cooperation should focus on technical assistance and capacity building to strengthen SPS system and health standards, productivity, and the quality of agricultural products. The parties also

⁵⁸ For more information see Asia-Pacific Economic Cooperation, Geographical Indications Implication of Article 23 Extension, Submission by USA to Intellectual Property Experts' Group Meeting (2004/ IPEG1/005), Beijing, April 20-21, 2004 and Hufbauer, Gary Clyde and Richard E. Baldwin, "The Shape of a Swiss-US Free Trade Agreement", Peter G. Peterson Institute for International Economics, Policy Analyses in International Economics 77, February 2006.

commit to support agricultural trade promotion activities and collaborate on technology transfers (e.g. on alternative crop technology).⁵⁹

The Chile-Peru, MERCOSUR-Peru, and Mercosur-Andean Community RTAs establish similar cooperation on scientific and technological transfers.⁶⁰ The P-4 agreement emphasizes cooperation in the primary industry sectors through exchange of information, ideas, technology, and research.⁶¹ This agreement also encourages exchanges among industries and joint ventures to develop the primary industry sectors. Even though the parties agree to cooperate in the agricultural sector, the implementation of such commitments is another issue.

iii. Evolution Clause or Review Clause

The “evolution or review clause” refers to the establishment of periodic assessments of the specific commitments that have been entered into. The Chile-EU and Mexico-EU RTAs provide that the countries have agreed to examine, during the third year after the entry into force of the agreement, the opportunities for granting each other further concessions for each agricultural product specified, with a view to improving liberalization of trade in agricultural and processed agricultural products.⁶²

To date, five meetings have been held by the Mexico-EU Joint Committee. In the overall area of trade, the second meeting stressed the acceleration of tariff phase-outs for a group of products in the automotive and pharmaceutical sectors, batteries, bicycles, and mechanical equipment, for a total estimated value of US\$1.7 billion.⁶³ No assessment of the agricultural sector has been undertaken during these meetings. The most recent meeting (5th session of the Joint Committee) simply declared that “the Parties examined the state of play of negotiations on the review clauses on agriculture and confirmed their intention to make progress.”⁶⁴ The

⁵⁹ Article 24

⁶⁰ Chapter 5 of the Annex 9.2.2 “Acuerdo de Cooperación y Coordinación en Materia de Sanidad Agropecuaria entre el Servicio Nacional de Sanidad Agraria del Ministerio de Agricultura de la Republica del Perú y el Servicio Agrícola y Ganadero del Ministerio de Agricultura de la Republica de Chile”.

⁶¹ It fosters the development of joint research in: (i) sustainable agricultural and fisheries practices;(ii) bio-security (including quarantine and pest management); and (iii) post harvest technologies in horticulture, including transportation and storage. See:http://www.sice.oas.org/Trade/CHL_Asia_e/Imple_Arrangements/Srat_Partner_e.pdf

⁶² Article 74 of the agreement Chile-EU and Article 10 of the Decision No 2/2000 of the EC-Mexico Joint Council of 23 March 2000 (2000/415/EC).

⁶³ EU-Mexico: Joint Council - 2nd Session Brussels, 13 May 2002 - Joint press release.

⁶⁴ EU-Mexico Joint Council, Santo Domingo, 19 April 2007.

transcripts for the meetings of the Joint Committees Chile-EU do not provide an assessment of progress on agricultural trade.

In the minutes of both joint committees (Chile-EU, Mexico-EU), participants have shown a clear preference for a discussion on implementation questions dealing with cooperation in areas such as promotion of human rights, sustainable development, counter-terrorism, and environmental protection.

iv. Export Restrictions

Export restrictions – in the form of quotas, taxes or bans – are often imposed by governments as a means to promote domestic food security or to internally retain the benefits of national food assistance programs. The Mexico-Bolivia and Mexico-Colombia agreements stipulate the possibility of establishing or increasing an export tax in three situations: i) if the volume of exports of essential food goods threatens internal food security, ii) to maintain domestic benefits of a national food assistance program or, iii) to avoid an increase in the domestic price of these products.⁶⁵ In any of these situations, this measure can be applied for a maximum period of one year, or a longer period if agreed to by the parties. What is considered “essential food goods” in the first situation varies from country to country, as shown in the Table 5.

⁶⁵ Artículo 3-10: Impuestos a la exportación (Mexico-Bolivia) and Artículo 3-11: Impuestos a la exportación (Mexico-Colombia). The agreement Mexico-Colombia also grants an additional exemption of the commitment to eliminate any form of export tax or tariff applied to agricultural export. In this regard Colombia can keep the stabilization funds for agricultural exports (called “mecanismo de fondos de estabilización de productos agropecuarios de exportación”) and can apply export tax to coffee beside other mineral products (crude oil, natural gas, ferronickel). Mexico can also keep export tax to a list of products (Annex 2, article 3-11).

Table 5- Agricultural Products Subject to Export Restrictions

| RTA Mexico-Colombia | | RTA Mexico-Bolivia |
|--|-------------------------------|---|
| Mexico | Colombia | Both (Mexico and Bolivia) |
| Vegetable oil | Vegetable oil | Vegetable oil |
| Rice | Rice | Rice |
| Canned tuna | Pea | Canned tuna |
| Sugar | Sugar | Sugar |
| Beef steak | Coffee | Beef steak |
| Coffee | Chicken | Coffee |
| Ground beef | Boneless beef\ | Ground beef |
| Beer | Onion | Beer |
| Chili packed | Beer | Chili packed |
| Chocolate | Chocolate | Powdered chocolate |
| Chicken | Beans | Concentrated chicken |
| Beans Sweet and salty | Cornmeal | Beans |
| biscuits | Eggs | Sweet and salt biscuits |
| GelatinCornmeal | Pasteurized and powdered milk | Gelatin |
| Wheat flour | Maize | Corn meal |
| Beef liver | Butter | Wheat flour |
| Oat flakes | Panela | Beef liver |
| Egg | Potato | Oat flakes |
| Ham | Pasta | Eggs |
| Condensed, powder ed and pasteurized milk | Cheese | Ham |
| Butter and margarine | Salt | Condensed, powdered, pasteurized and evaporated milk |
| Corn and corn products | Tomatoes | Butter and margarine |
| Bread | Carrots | Bread |
| Mix for soup | | Mix for soup |
| Tomato sauce | | Tomato sauce |
| Soft drinks | | Soft drinks |
| Bone-cutting | | Bone-cutting |
| Salt | | Salt |
| Canned sardine | | Canned sardines |
| Corn tortillas | | Corn tortillas |

Source: Annex 1 of the article 3-11 (Mexico-Colombia) Artículo 3-10 (Mexico-Bolivia)

Article 12 of the WTO Agreement on Agriculture regulates export prohibitions and restrictions; however, it does not specify which products are subject to these measures. In this sense the mentioned agreements represent a WTO Plus since they specify export restrictions for some specific products.⁶⁶

*v. Committee (or sub-committee) on Agricultural Trade*⁶⁷

When RTAs are implemented, institutions are established that support the implementation of the related commitments. Of the RTAs analyzed, 42 percent set up a specific committee on agricultural trade that comprises representatives from each party. There is a near absence of such committees in the agreements involving Asian countries and in those involving more than three parties, particularly those including integration blocks (Mercosur, CAN). NAFTA has the highest number of institutions related to agricultural trade - the Committee on Agricultural Trade, the Working Group on Agricultural Subsidies and the Advisory Committee on Private Commercial Disputes regarding Agricultural Goods.

The general goal of the committees on agricultural trade is to provide a forum for consultation between the parties and to monitor and promote cooperation on the implementation of the commitments in the agricultural sector. These committees meet at least annually and all decisions are made by consensus. Minutes or summaries of these meetings are not published, however, which limits any effort to evaluate what parties perceive to be problem areas and how to solve them.

⁶⁶ Although export restrictions may bring some short-term relief to domestic consumers, their overall impact on the domestic economy as well as on the rest of the world can be negative. It can, for instance, trigger even higher global prices and cause unreliability of suppliers. Tim Josling suggests that there are some alternative measures governments could take to safeguard food security, such as the creation of domestic demand management measures, boosting agricultural production, or creating innovative supply side measures, i.e. real or virtual multilateral grain reserves (Josling and Mitra, 2009).

⁶⁷ This section does not study the Committee on SPS and the Committee on Technical Barriers since they are analyzed in their respective section.

7. Specific Provisions for Particular Products

i. Sugar

Sugar has received detailed attention in regional trade negotiations. Six of the 33 RTAs (18 percent) contain a specific chapter on this product. Agreements involving the US that contain such a chapter (US-Colombia, US-Peru, CAFTA-DR) stipulate a “Sugar Compensation Mechanism,” that allows the United States, at its option, to compensate a party’s sugar exporter in lieu of according duty-free treatment to some or all of the duty-free quantity of sugar goods as stipulated in the agreement. Such compensation shall be equivalent to the estimated economic rents the party’s exporters would have obtained on exports to the United States.⁶⁸

Within the Mexico-Northern Triangle agreement, Guatemala and Mexico agreed to establish a committee on sugar to determine, on a case by case basis, the preferential terms of trade in sugar when a party seeks preferential access for that product in a particular year. These countries agreed that if one party has been an exporter of sugar in a particular year, it will not receive preferential access in the following year.⁶⁹

The Mexico-Nicaragua agreement established a duty-free quota for sugar exported from Nicaragua to Mexico during the first four years after the agreement’s entry into force. This is only applicable, however, during those years when Mexico requires sugar imports. The Committee on Sugar created by the parties is responsible for defining participation in subsequent years.⁷⁰ In the Mexico-Costa Rica Agreement, the preferential quota granted by Mexico to the imports of sugar from Costa Rica was 19 percent for those years that Mexico requires sugar imports. In years when Mexico does not need imported sugar from Nicaragua or Costa Rica, no preferential quota will be granted to these countries.⁷¹

⁶⁸ Article 2.19 of US-Colombia and US-Peru, Article 3.16 of CAFTA-DR.

⁶⁹ Anexo 4-11- Comercio de azúcar entre Guatemala y México.

⁷⁰ Anexo 2 al Artículo 4-04.

⁷¹ In the Agreement Mexico-Costa Rica the parties also establish a Committee on Sugar. All related provisions can be found in the Annex 3 of the article 4-04 (Comercio en azúcar).

ii. Chicken

Three agreements with the US (US-Colombia, US-Peru, CAFTA-DR) stipulate a provision on consultations on trade in chicken by which the parties shall consult on, and review, the implementation and operation of the agreement as it relates to trade in chicken in the ninth year after the agreement's entry into force.⁷²

III. Case Studies of Potential Impacts of Provisions in RTAs

The formation of an RTA can have an immediate impact on the volume of agricultural commerce conducted between trading partners. The liberalization of markets, through removal and phasing out of tariffs, can be a strong impetus for encouraging producers to seek greater export opportunities abroad. In this section, we focus on two specific examples that demonstrate how agricultural producers can benefit as a result of tariff reductions. More specifically, we analyze the effects of NAFTA on the U.S. and Mexican beef markets, and the immediate consequences of DR-CAFTA on U.S. exports of apples and grapes.

Conversely, not all agricultural products in an RTA are subject to the immediate or rapid removal or phasing out of tariffs. In fact, within the agricultural market there are particular industries or sectors that are deemed politically sensitive, in which the potential of increased market access to foreign competitors could serve as the impetus for opposition to the proposed RTA. Thus, we will also examine the treatment of sugar in the DR-CAFTA agreement and its potential assessed impact on the liberalization of the US sugar market *vis-à-vis* considerable US domestic opposition.

1. NAFTA and its Effect on the Beef Market

The ratification of the North American Free Trade Agreement (NAFTA) in 1994 has created additional incentives for American agricultural producers to expand into the Mexican market. The immediate elimination of tariffs on a range of agricultural products, and the gradual phasing out of tariffs on other agricultural goods over 5, 10, or 15 years, has served to increase US agricultural market opportunities to its neighbor to the south. Currently, NAFTA partner

⁷² Article 2.20 at US-Colombia and US-Peru, Article 3.17 at CAFTA-DR.

countries Mexico and Canada are the top destinations for US agricultural products.⁷³ Most notable has been the impact of these tariff reductions on the annual value of US beef exported to the Mexican market.

Prior to the enactment of NAFTA, US beef exporters to Mexico encountered relatively high tariff levels with live slaughter animals subject to a 15 percent tariff, fresh/chilled beef a 20 percent tariff, and frozen beef a 25 percent tariff. With the enactment of NAFTA, all tariffs on the aforementioned beef products were immediately eliminated. The effects of liberalizing Mexico's agricultural sector were felt immediately by American producers, who by 1996 had doubled the volume of beef exports to the region, as shown in Figure 12.⁷⁴ The liberalization of Mexico's beef market has been a boon for American producers, with beef exports reaching record levels in 2006 worth nearly US\$750 million (see Figure 8 for reference). The Mexican beef market has since become the United States' second largest market for beef exports.⁷⁵

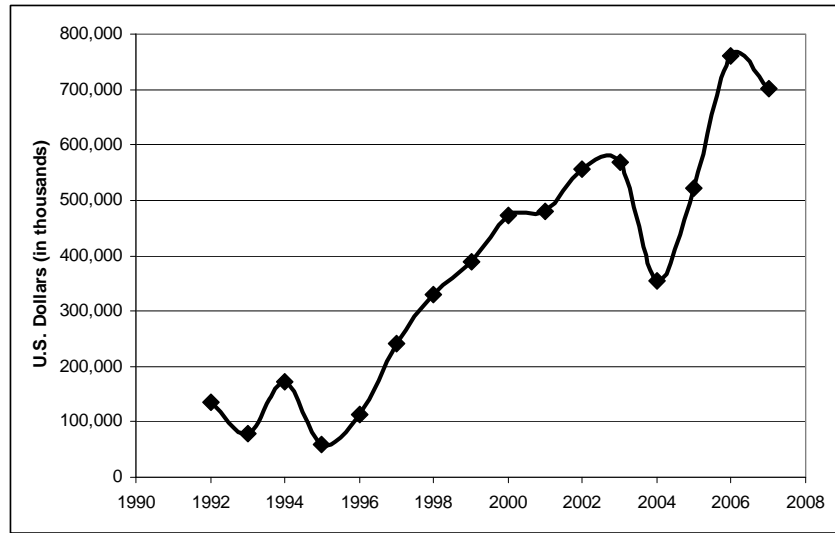
Of the three beef categories for which tariffs on U.S. exports to Mexico were eliminated, the increase has been most marked for fresh or chilled meat of bovine animals. In dollar amounts, exports of fresh or chilled beef dwarf those of live slaughter animals and frozen beef, accounting for nearly 80 percent of the total amount of sales. In 2007, US exports of such products totaled US\$700 million, a seven-fold increase over fresh or chilled beef exports in 1993, the year prior to the ratification of NAFTA.

⁷³ Outlook for U.S. Agricultural Trade, Agriculture Electronic Outlook Report from the Economic Research Service and Foreign Agricultural Service. <http://usda.mannlib.cornell.edu/usda/ers/AES//2000s/2009/AES-02-26-2009.pdf>

⁷⁴ WTO and Agriculture. What's at Stake for Beef? U.S. Department of Agriculture, Foreign Agricultural Service, June 1999.

⁷⁵ U.S. Department of Agriculture, Economic Research Service, U.S. Beef and Cattle Industry, Background and Statistics. <http://www.ers.usda.gov/news/BSECoverage.htm>

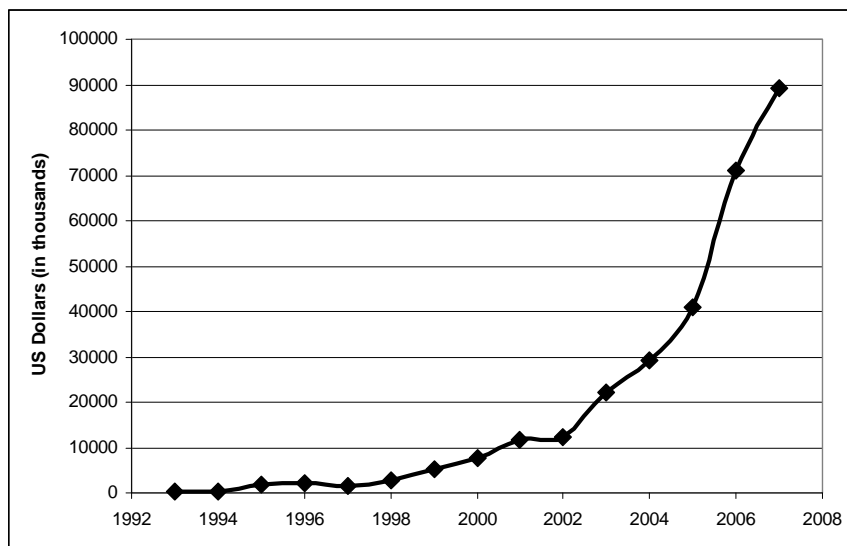
Figure 8- US Exports of Fresh and Chilled Beef to Mexico



Source: IDB calculations based on data from United Nations Comtrade database, DESA/UNSD.

Conversely, Mexican beef producers also sought greater liberalization of the US beef market. Prior to NAFTA, U.S. imports of edible offal meat were already exempt from tariff duties, yet as a result of NAFTA, the United States removed existing tariffs on imports of both beef cattle and fresh, chilled, and frozen beef originating in Mexico.

Figure 9- US imports of Mexican Beef



Source: IDB calculations based on data from United Nations Comtrade database, DESA/UNSD.

While not comparable in value to US beef exports to Mexico, greater liberalization of the US domestic beef market in 1994 has resulted in a considerable increase in the value of Mexican exports of fresh or chilled meat, as demonstrated in Figure 9. Before 1994, Mexican fresh or chilled beef exports to the United States were valued at a paltry US\$273,000. By 1995 this figure had grown to nearly US\$2 million. Apart from a slight drop in 1997, Mexican beef exports to the United States have continued to grow, with 2007 exports to the United States reaching US\$89 million.

2. DR-CAFTA and US Fruit

The Dominican Republic-Central America Free Trade Agreement has brought new commercial opportunities for agricultural exporters in its member countries. As a result of the Caribbean Basin Initiative, approximately 99 percent of such products originating in DR-CAFTA partner countries already enjoyed duty-free preferential access to the US market, prior to DR-CAFTA. The ratification of the CAFTA agreement effectively locked in the duty-free access of most agricultural product exports from partner countries to the US – an important benefit considering the need for US trade preference programs to be periodically renewed by Congress. An important incentive for the US in negotiating this agreement was the prospect of eliminating or phasing out existing tariffs governing the import of US agricultural products to Honduras, Costa Rica, El Salvador, Dominican Republic, Guatemala, and Nicaragua. According to the Office of the United States Trade Representative in 2005, nearly every major US agricultural sector would benefit from expanded market access under DR-CAFTA, with gains in such sectors as feed grains, wheat, rice, soybeans, poultry, pork, beef, dairy, fruits, vegetables, and processed products.⁷⁶

In the year immediately following the ratification of CAFTA, US agricultural exports to the region climbed to a record high of US\$2.24 billion.⁷⁷ Among products experiencing the highest increase in export value were those directly impacted by the granting of duty free access as a result of tariff reductions. The greatest growth in exports of US agricultural products to DR-

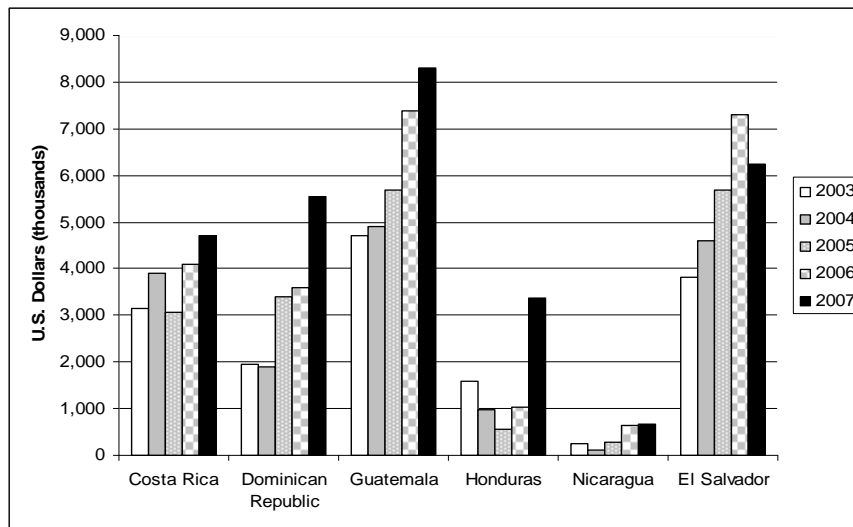
⁷⁶ Office of the United States Trade Representative, *Opportunities for Agriculture*, CAFTA Policy Brief, February 2005, <http://www.ustr.gov>

⁷⁷ Office of the United States Trade Representative, *Benefits of the Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR) for Agriculture*, www.ustr.gov

CAFTA partners was seen in table grape exports as well as exports of apples, which increased by rates of 34 percent and 66 percent respectively.⁷⁸ As a result of DR-CAFTA, both grapes and apples from the US, along with other fruits, including peaches, pears, raisins, and cherries, were granted immediate duty free access by all of the DR-CAFTA partner countries. Previously, fruit and nut producers had faced average import tariffs of 15 percent, with some tariff rates as high as 25 percent. The immediate granting of duty free access to 70 percent of American fruits and grains served as an impetus for US producers to seek greater market opportunities in Central America and the Dominican Republic. The remainder of fruits and nuts not granted immediate duty free access are subject to the phasing out of import tariffs in five or ten years. Over time, all American fruits and nuts will enter the six partner countries free of import tariffs. All six of the US's counterparts have ratified DR-CAFTA, with El Salvador, Honduras, Nicaragua, and Guatemala doing so in 2006, Dominican Republic in 2007, and Costa Rica in January 2009.

United States grape exports to all the DR-CAFTA partners have increased since the agreement was signed in 2005. Current levels of US grape exports are higher than pre-agreement values for all six countries. In fact, except for El Salvador, all partner countries showed record levels of American grape imports in 2007, and El Salvador's 2007 imports of US grapes were higher than for all years prior to 2006, as shown in Figure 10.

Figure 10-US Grape Exports to DR-CAFTA Partners



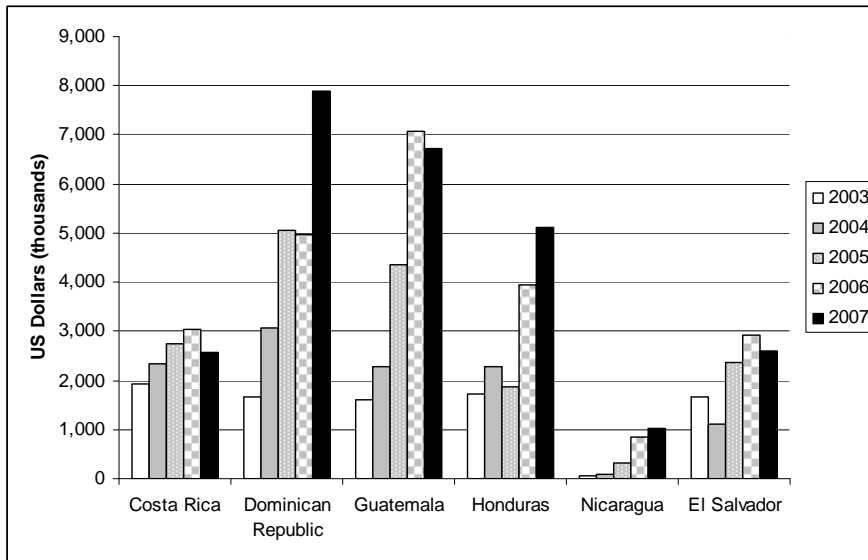
Source: IDB calculations based on data from United Nations Comtrade database, DESA/UNSD.

⁷⁸ Office of the United State Trade Representative, CAFTA Policy Brief-July 2007, www.ustr.gov

As shown in Figure 11, US apple exports to all six DR-CAFTA markets have increased, with the Dominican Republic increasing its imports to nearly four times pre-DR-CAFTA levels. While Costa Rica, Guatemala, and El Salvador experienced a decrease in the value of American apple imports in 2007, in all countries except for Costa Rica, these levels still remain higher than before DR-CAFTA. It is important to note that Costa Rica did not ratify DR-CAFTA until January of 2009.

Conversely, the permanence of duty free access to US markets has translated into increased overall agricultural exports from DR-CAFTA countries, with 2006 agricultural exports reaching a record high of US\$3.07 billion. US imports from DR-CAFTA partners exhibiting increases since the agreement include fresh fruit and vegetables, sugars and other sweeteners, and nursery products and cut flowers. In addition, US imports of cheese and dairy products, previously not exempt from duties under the Caribbean Basin Initiative, increased 41 percent in the year after the signing of the agreement.⁷⁹

Figure 11- US Exports of Apples to DR-CAFTA Partners



Source: IDB calculations based on data from United Nations Comtrade database, DESA/UNSD.

⁷⁹ Office of the United States Trade Representative, Benefits of the Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR) for Agriculture.

3. Sugar, DR-CAFTA and Market Liberalization

Trade agreements are generally assumed to serve as market liberalizing forces. Yet the viability of an agreement often depends on the level of protection provided within an RTA for sensitive domestic industries against cheaper foreign imports. Thus, in order to ensure the necessary support for the passage of an RTA, measures must often be included within the agreement to prevent or mitigate the potential adverse impacts of liberalization on a particular domestic industry. While DR-CAFTA would over time eliminate tariffs on nearly all agricultural products, several items were excluded from full liberalization, including sugar for the US, fresh potatoes and onions for Costa Rica, and white corn exports to other Central American countries.⁸⁰ The treatment of sugar exports to the United States from the other DR-CAFTA partners demonstrates that while an RTA can provide for the broad liberalization of agricultural products, this cannot be assumed to be true for all cases.

Prior to the passage of DR-CAFTA, American sugar growers and producers were “vehement opponents”⁸¹ of the agreement. As a result, given the sensitivity of sugar, DR-CAFTA provided for some liberalization of the US sugar market in the form of increasing the total quota of sugar imports over time, yet several steps were taken to provide for the necessary mechanisms and provisions to protect US growers and producers.

First, while DR-CAFTA increased the quota of allowable sugar imports into the US, this increase will have very little impact on increasing market access for DR-CAFTA producers or growers. The agreement provided that in its first year, the US sugar quota would rise to 35 percent of the net trade surplus, increasing to 50 percent in fifteen years. Yet, these figures do not amount to significant gains in market access for DR-CAFTA sugar producers, whose increased market access for sugar represents only 1.2 percent of current US consumption, only increasing slightly by year 15 to 1.7 percent.⁸² As a result of this provision, the maximum allowable quantity of sugar imports from all countries is capped at 107,000 metric tons in the first year. Fifteen years later, the maximum allowable quantity will not have been significantly raised, with this figure increasing to only 151,000 metric tons. These figures remain miniscule when one

⁸⁰ Congressional Research Service, Report RL31870, The Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR), J.F. Hornbeck, Specialist in International Trade and Finance, January 8, 2009.

⁸¹ *ibid.*

⁸² Office of the United States Trade Representative, Sugar: A Spoonful a Week, CAFTA Policy Brief-February 2005.

takes into consideration that US sugar production in 2003 reached nearly 7.8 million metric tons.⁸³

Second, to ensure the ability of the US government to respond to changes in market conditions and maintain the cap on sugar imports as outlined by the US sugar program, the agreement provides for a mechanism which allows the US government to restrict eligible imports (under the agreement), substituting such imports with compensation to DR-CAFTA partner sugar exporters who would face losses in revenue as a result of this restriction.

In a more general context, the total amount of increased sugar imports to the US as a result of DR-CAFTA will have little liberalizing effects on the US sugar industry. The total volume of sugar imports allowed from DR-CAFTA partner countries has been estimated at less than “one-quarter of one percent of total annual US trade with these countries.”⁸⁴

Thus, while a trade agreement may in fact liberalize agriculture across the majority of the product spectrum, the treatment of sugar in the DR-CAFTA negotiations highlights the restrictions that can be placed on market liberalization as a result of domestic producer interests and pressures. In fact, the inclusion of provisions that would limit access to the US sugar market and mitigate the potential result of this increased access were crucial in obtaining support for ratification of the agreement.

IV. Key Findings and Best Practices

Despite the sensitivity of the agricultural sector, the RTAs analyzed in this study all include commitments specifically covering the agricultural sector. The most substantial commitments are in the market access area.⁸⁵ The main findings and best practices in each area are summarized below.

Market Access

Among the various disciplines covered in this paper, tariff liberalization is the area where the greatest commitments beyond WTO provisions have been realized through the implementation

⁸³ Office of the United States Trade Representative, Free Trade With Central America and the Dominican Republic Highlights of the CAFTA, CAFTA Policy Brief – February 2005.

⁸⁴ Office of the United States Trade Representative, Sugar: A Spoonful a Week, CAFTA Policy Brief-February 2005.

⁸⁵ Of course, the very nature of tariffs lends themselves to measurable, quantifiable commitments.

of RTAs. By the tenth year after implementation of the RTAs examined in this study, the mean percentage of agricultural tariff lines that are duty free stands at 81 percent, and the median is 86 percent. Most of the agreements thus helped eliminate tariffs on most agricultural products, but there is still substantial room for improvement.

RTA tariff provisions by their nature are WTO Plus, since they reduce tariffs between the parties below their *applied* MFN rates, not to mention their WTO tariff bindings. Similarly, tariff rate quotas, when they are included in the agreement, are WTO Plus. Whether they open quantitative access to an RTA party on a new product, or reduce rates within and/or open additional quantities beyond that provided under an existing WTO TRQ, they contribute to trade liberalization.⁸⁶

While liberalization has already taken place among RTA signatories across a number of sectors, the question remains whether the existing market access commitments merely represent low-hanging fruit, and if so, whether commitments made in future agreements will be more limited or less likely. Yet, in cases where major concessions have been made in relatively sensitive sectors, future concessions in these products might be less painful (Estevadeordal, Shearer, and Suominen, 2009). In terms of best practices, local production patterns, and thus product sensitivity, vary widely by country. Mexico's opening of the corn sector in NAFTA can be contrasted with the Northern Triangle agreement, in which corn was excluded from tariff liberalization. The size of the NAFTA concession would have rendered a similar concession to Mexico's relatively smaller Northern Triangle counterparts as less costly. At the same time, improved adjustment assistance, in addition to yielding better outcomes for domestic producers, would likely have resulted in more favorable public sentiment towards free trade.

The large amount of tariff rate quotas found in various RTAs - mostly instituted by developed countries - raises the question of whether and at what point concluding multiple RTAs with TRQ provisions in a sensitive sector (e.g., where there is MFN treatment for imports above the quota) has the cumulative effect of effectively opening the sector to competition, which could complicate national policymaking. At some point the country granting such concessions might

⁸⁶ An exception would be if a party to an RTA grants its counterpart greater quantities within an existing WTO TRQ at the expense of other parties, as opposed to opening additional quantities while maintaining existing access for the rest of the world. No such cases were encountered during the course of this study, although they were not expressly searched for.

be less inclined to grant similar treatment to future RTA partners, or may react defensively in the context of existing agreements through more subtle measures.

Sanitary and Phytosanitary Measures

Many RTAs analyzed in this paper refer to the core principles in the SPS Agreement. The majority (55 percent) can be viewed as WTO Plus, in particular since they elaborate on the SPS provisions related to transparency. Yet effective commitments on those SPS principles more likely to facilitate trade flows (harmonization, equivalence, mutual recognition, regionalization, and risk assessment) are still lacking. Such provisions are primarily found in agreements signed among Latin American countries, with the exception of the Chile-EU and Chile-US agreements, which demonstrates the difficulty of negotiating SPS provisions with developed countries. In fact these agreements could be viewed as best practices with regards to concrete SPS-related commitments since most of their provisions specify the concrete steps and timeframes to apply those commitments.

Moreover, out of the very few specific SPS commitments made as part of RTAs, all – with the two exceptions mentioned – benefit the developed country RTA party. This imbalance is particularly evident in the US-Panama, US-Colombia and US-Peru agreements; in all three the US was able to obtain, but not have to commit to, important concessions.

Technical Barriers to Trade

RTA provisions related to technical barriers also tend to be superficial. Moreover, these provisions usually do not contain commitments specific to the agricultural sector. Exceptions are agreements to which Mexico and Chile are parties, which reinforce the respect for “national treatment” in the area of marketing requirements for agricultural goods. Only three RTAs – all involving the US (US-Panama, US-Chile, NAFTA) – include detailed commitments on a specific agricultural product, namely with regard to the recognition of beef grading programs. The US-Chile RTA is a good example of a concrete commitment to technical standards applied to beef.

“Trade Remedies” and Correspondent Measures

Commitments relating to “trade remedies” are traditionally included in all trade agreements. These apply to all sectors and call upon parties to observe the rights and obligations laid out in

the correspondent WTO agreement. Yet, a number of RTAs also include language on trade remedies specific to the agricultural sector. The majority of these pertain to the application of export subsidies. A smaller number pertains to agricultural safeguards and domestic support. No RTA includes language on dumping specific to the agricultural sector, since this measure is traditionally applied to the industrial sector.

It is interesting to note that with one exception,⁸⁷ all of the agreements signed by Mexico with other Latin American countries contain commitments on agricultural export subsidies. Yet, such commitments are absent in most of the agreements signed with countries outside the region. The opposite occurs in RTAs to which Chile is a party; these include commitments related to export subsidies only when they involve a non-regional party. The issue of agricultural export subsidies thus arises not only in North-South agreements, but also in South-South agreements as well.

A majority of RTAs establish a deadline for removing export subsidies (67 percent), and call for immediate elimination—including a set date for elimination averaging 4.7 years—or for gradual elimination according to a schedule. Most RTAs stipulate the immediate elimination of all agriculture export subsidies upon activation of the agreement.⁸⁸ However, none of the agreements in which a Latin American country partnered with the US or an Asian country sets a specific deadline for eliminating agricultural subsidies. The agreements that can be considered as best practices specify an immediate elimination upon activation of the agreement such as Mexico-Uruguay and Mexico-Bolivia. In the worst case scenario the countries should at least agree upon a deadline for the complete removal of export subsidies within a reasonable period of time.

The majority of RTAs among Latin American countries includes provisions related to domestic support, but do not go beyond the provisions contained in the WTO Agreement on Agriculture. Only two agreements include specific commitments, namely on domestic support provided to state trading enterprises (US-Colombia and US-Peru).

Commitments on agricultural safeguards are more commonly found in agreements involving the United States or Chile. Agreements signed exclusively between Latin American parties rarely include agricultural safeguard provisions. Livestock products are the most

⁸⁷ Mexico-Peru.

⁸⁸ Mexico-Uruguay, Mexico-Bolivia, Mercosur-Peru, P4 (Chile, New Zealand, Singapore, Brunei), Costa Rica-Canada.

frequently specified safeguard-applicable items. The average duration of an agricultural safeguard (six months to one year) is shorter than the generic safeguard that is applied to all sectors (three years). The measures can be applied for up to 15 years and are linked to the tariff elimination schedule. Since duty-free status is granted for most of the agricultural products between the fourth and tenth year after the agreement's entry into force, the safeguard option is considered necessary even after the tenth year. It is unrealistic to specify agreements that could be considered best practices with regard to safeguards commitments since the quantity of imports considered to not cause serious injury to the national market (trigger level) can vary tremendously according to products and countries. As each country has its own set of "sensitive products" as well as thresholds for the quantity that adversely impacts the domestic producers, these quantities will vary according to the size of the market and the importance of this good to the particular country.

Impact of RTAs on the agriculture sector. As outlined in Section III, the enactment of an RTA can provide great impetus for increased agricultural market access. The immediate elimination of tariffs or the gradual phasing out of previously high tariffs can serve as an immediate catalyst for domestic exporters seeking greater opportunities abroad. The effect of NAFTA on exports of US beef to Mexico and the increase in US exports of grapes and apples to DR-CAFTA countries are examples of the ability of an RTA, through its liberalizing provisions, to effectively grow a previously small and nascent export market.

As was the case in the years following NAFTA, the immediate removal of tariffs on American fresh and chilled beef exports stimulated greater participation in Mexico's beef sector by the US, with such exports growing to record levels. Conversely, the removal of tariffs on Mexican beef exports to the US helped to increase the value of these exports to previously unattained levels as well. Prior to the ratification of NAFTA in 1994, the protected Mexican beef market was a mere fraction of what it represents today.

US exports of apples and grapes to DR-CAFTA partner countries, while still small in relative value, have grown to higher levels than prior to 2005, the year in which the agreement was signed. In the case of US apple exports, the Dominican Republic has become the largest destination of the DR-CAFTA nations for such products, with 2007 figures having grown four times in value since 2003. Following the granting of duty-free preferential access, US grape

exports have also hit record levels, with Guatemala and the Dominican Republic showing the greatest increase in such imports since 2005. Again, the removal of previously existing tariffs has served as an impetus for US domestic producers to access previously unreachable consumers.

The treatment of sugar in the DR-CAFTA agreement demonstrates the impact domestic political pressures can have on the liberalization of sensitive agricultural products. While trade agreements are often expected to have broad liberalizing effects across sectors, such liberalization doesn't always apply to products considered politically sensitive. Thus, while allowances are made to liberalize the market, the intended long-term liberalization effects are minimal and developed to mitigate potential opposition to an RTA by domestic producers and growers.

Moving from negotiation to implementation requires practical considerations and political capital, especially in such a sensitive area. In this regard, in order to have more effective RTAs, commitments must be accompanied by practical considerations such as timeframes and detailed steps for implementation. Notwithstanding the positive impact on agricultural trade generated by tariff and quota elimination, countries should also make an extra effort to agree on procedures and deadlines to implement their commitments in other topics that are key to the agricultural sector. As shown by our case studies, RTAs can be a powerful tool to improve agricultural market access if accompanied by effective commitments from all signatory parties.

V. Recommendations

The paper closes with a set of recommendations targeted at the following:

- Improving the level of commitments in the agricultural sector.
- Creating greater convergence among RTAs.
- Addressing some of the implications for the multilateral trade system and fostering the interplay between multilateralism and regionalism.

1. Recommendations on How RTAs can Improve their Level of Commitments in the Agricultural Sector

Strengthening tariff concessions. Despite considerable liberalization in market access, some agricultural products still have non-zero residual tariffs or were excluded outright from RTA commitments, particularly in earlier agreements. Yet, some sensitive sectors may have been effectively opened up in subsequent agreements. In these cases, countries might wish to consider amending existing agreements with the objective of further reducing barriers in the agricultural sector and increasing commitments in new agreements.

Benchmarking of tariff rate quotas. Given the large quantity of TRQs in RTAs, a multilateral mechanism could be developed to examine how much liberalization is actually taking place within them. Some TRQs guarantee limited preferential access at the start of the implementation period for products that would be otherwise exempt from tariff liberalization or subject to long phase-outs, while allowing domestic producers to adjust to new market conditions over time. At other times, however, relatively small quantities are provided for. Understanding the degree of the concession granted is particularly problematic for tariff quotas, as both the size of the importer market and the productive capacity of the exporter must be taken into account. As such, ex-post analysis of the administration of TRQs may be necessary.

With the exception of tariffs and TRQs, RTAs often still deal with other topics such as technical barriers, SPS, and rules of origin, with guidelines rather than clear-cut commitments. When RTAs include countries at different levels of development, deeper commitments become more difficult to undertake. Considering the increasing trend towards North-South integration agreements, such RTAs should include deeper commitments if they are to result in increased trade flows of agricultural products.

Rules of origin – general tolerance rule. A general tolerance rule or *de-minimis* clause, is necessary to prevent products that are non-originating from entering a market with benefits accrued from the formation of a preferential tariff agreement. The inclusion of this clause in

RTAs “provides leniency, to the application of product specific rules of origin.”⁸⁹ In essence, the inclusion of a general tolerance rule allows exporters to utilize lower cost non-originating inputs in product transformations as long as the value of these inputs does not exceed the threshold limit provided. The ability of exporters to utilize a certain percentage of non-originating low-cost inputs in transformations reduces costs associated with transformations, as the low-cost inputs are preferable to higher-cost, domestically produced inputs. As found by Estevadeordal and Suominen, this clause “can be expected to cut producers’ production costs by amplifying their pool of low-cost inputs.” Yet, as is commonplace in RTAs, many agreements exclude agricultural products and textile goods (often the most domestically sensitive sectors) from taking advantage of low- cost non-originating inputs in their product transformations. The exclusion of these sectors from applying the threshold may serve as a disincentive to exporters seeking to enter agricultural or textile markets of their RTA partners.

To address this limitation, RTA partners may consider applying a regime-wide general tolerance rule or clause to all products, without exempting those sectors that are typically subject to domestic protective measures. While removing sector-specific exclusions may not be welcomed by domestic producers, an initial step to eliminating exclusions may be to only leave out the most sensitive products within a given sector, and not the entire sector. Essentially, this would eliminate the need for an exemption that allows for the use of non-originating inputs for products within a sector only if they undergo a chapter subheading. The desired outcome of such changes would reduce the use of the general tolerance rule as a tool to insert measures into an RTA that would provide protection to a particular domestic sector. This, in turn, would allow greater flexibility for domestic producers to incorporate low-cost non-originating inputs.

SPS requirements. Since technical, food safety, and animal and plant health standards have a significant impact on trade in food and agricultural products, RTAs should strive for more specific commitments in this area. Further clarification of key SPS provisions will be difficult to achieve at the multilateral level, but may be easier to address regionally. RTAs made up of a smaller and more motivated countries that are likely more familiar with each other’s regulations and disease/pest-status may find such negotiations easier, and therefore should aim for a greater

⁸⁹ Estevadeordal, Antoni, and Kati Suominen. 2005. "Rules of Origin in Preferential Trading Arrangements: Is All Well with the Spaghetti Bowl in the Americas?" *Economia* 5(2):63–92.

specificity in their commitments. Some RTA partners, for example, may find it possible to clarify key provisions of the SPS agreement, such as Article 5.7, which allows countries to adopt temporary, precautionary bans to prevent the introduction of risks when sufficient scientific evidence is absent, but does not specify the meaning of “temporary” and what constitutes “sufficient scientific evidence.”

Beyond clarifying some SPS commitments, RTA parties could also agree to take some of them a step further. In certain cases, for example, they could agree not to choose levels of protection above and beyond those spelled out in the recommendations, guidelines and standards developed by the international organizations (Codex Alimentarius, World Organization for Animal Health-OIE, International Plant Protection Convention- IPPC and International Organization for Standardization-ISO). Such a commitment to not go beyond international standards, would, for example, be most useful when implementing the concept of regionalization in recognizing disease- or pest-free areas. Many developing countries have witnessed disruptions in their agricultural exports when importing countries deviate from international guidelines on regionalization and apply additional and unnecessarily stricter requirements.⁹⁰ These disruptions could be ameliorated if the RTAs establish that the parties should apply the OIE recommended procedure to recognize regionalization and accept the status of pest-free zones granted by this institution.

In order to address the reluctance of some countries to apply the regionalization principle, several Latin American countries have presented other proposals before the WTO SPS Committee on how to improve implementation of this aspect.⁹¹ While waiting for a potential solution at the multilateral level, these countries should take advantage of RTA negotiations to make greater progress on this issue at the regional level. Besides stipulating the mandatory respect for the technical recommendations and status granted by the international institutions, the parties should specify steps and time frames for recognizing that the area of the counterpart is free of any pest or animal disease.

⁹⁰ See WTO notifications: G/SPS/GEN/610, 7 December 2005, G/SPS/GEN/612, 12 December 2005, G/SPS/GEN/607, 6 December 2005.

⁹¹ Chile has suggested the preparation of a notification form to be used to notify countries of the recognition (or rejection) of an area as free from pests and disease (G/SPS/W/181). Argentina has presented the most controversial issues regarding the recognition procedure (G/SPS/GEN/606). Colombia has presented a flowchart with the necessary steps in an effort to facilitate recognition (G/SPS/GEN/611).

With regards to the other three key aspects of SPS-related issues (harmonization, equivalence, and mutual recognition) it is important to keep in mind that harmonization of SPS-related regulations will be especially difficult and costly for countries with strongly divergent sanitary and phytosanitary systems and/or levels of development, as each country will be required to move away from its optimal point of regulation. In large regional groupings, the transaction costs associated with negotiating a mutual recognition agreement are surely lower than those associated with standard-by-standard discussions on harmonization. However, mutual recognition presupposes a high degree of trust among partners, and is probably only feasible in contexts where a good deal of regulatory and institutional convergence has already taken place. Accordingly, in any case it is recommended that priority sectors be identified for harmonization and/or mutual recognition instead of seeking a broad approach.

Promoting mutual recognition, as well as equivalence of sanitary controls and inspection systems, is crucial for agricultural trade, especially in view of the disparities among countries' SPS-related regulations and institutional capacity to apply and enforce such measures. Both mutual recognition and equivalence aim to preserve a diversity of rules and procedures provided that equivalent objectives are met.⁹² RTA parties should therefore be encouraged to take advantage of the good momentum inherent in negotiations and agree upon concrete commitments with regards to the mutual recognition of their inspection, control, and certificate system. The RTA negotiation process should involve the identification of similarities of each party's SPS inspection, control and certificate system and the definition of areas that should be granted mutual recognition, or at least equivalence. As a second-best alternative, this process could be left to a second phase (after the activation of the agreement), and the RTA signed should clearly spell out the procedure and timeframe to achieve such a goal. It is important to keep in mind that mutual recognition is preferable to equivalence, since the latter does not involve reciprocity and can lead to imbalanced outcomes, as occurred in the US-Colombia, US-Peru and US-Panama RTAs.

Further progress on SPS matters should also be facilitated by the fact that a considerable number of RTA's have set up agricultural or even SPS working groups. Such fora can facilitate mutual trust through regular dialogue, e.g. round-tables with the technicians of each party's plant and animal health institutions and on-site visits to exchange know-how and best practices. These

⁹² The difference lies in that one involves reciprocity whereas the other does not.

working groups can foster a degree of trust among partners in regards to each other's institutional capacity, which is required for harmonization or mutual recognition. When specific challenges are identified, these should be addressed with targeted assistance.

2. Creating Greater Convergence Among RTAs

This paper has examined RTAs that include at least one Latin American country. A key question for the region, therefore, is how to create greater convergence among these different agreements, each with its own set of tariff treatments, rules of origin, etc. As already outlined by Estevadeordal, Shearer, and Suominen, the process of coordinating among a large number of RTAs with varying provisions is inherently complex. The first step in such a process could be to identify the scope of convergence negotiations, which might be addressed by analyzing the extent and commonalities of liberalization in existing RTAs, and hence their compatibility with one another. The authors suggest the following three options: i) an “all disciplines-all RTAs” approach that seeks to harmonize all rules (e.g. services, investment, competition policy, etc.) among all RTAs in the region; ii) “selected RTAs-selected disciplines” approach where convergence could initially focus on provisions that have more impact on agricultural trade; iii) a hybrid of the two aforementioned approaches, such as one that covers all disciplines but only selected RTAs.⁹³

The second step might be to launch a regional mechanism, such as a group of technical experts, who would analyze the provisions of existing agreements and propose reforms to make RTAs more effective. The goal of such regional convergence efforts should also be to promote more liberal trade globally, allowing signatories to access supplies outside the expanded RTA zone, which would reduce the risk of trade diversion and ensure that expanded accumulation zones do not result in discrimination vis-à-vis third parties.⁹⁴

⁹³ Estevadeordal, Antoni, Matthew Shearer, and Kati Suominen, 2009, “Multilateralizing RTAs in the Americas: State of Play and Ways Forward” in Richard Baldwin and Patrick Low, (eds.) *Multilateralizing Regionalism*, Cambridge: Cambridge University Press.

⁹⁴ Ob. Cit. footnote 98.

3. Implications for the Multilateral Trading System

There is no doubt that RTAs have delivered important trade gains for their participants while at the same time serving as a source of trade diversion and complicating the ease of trading among countries envisioned in the multilateral system.

RTAs are clearly easier to negotiate than multilateral agreements, since they include fewer parties at the negotiating table than the 153 members of the WTO. This greater simplicity is key to reaching consensus in such a sensitive area as agriculture. As a consequence, RTAs have offered substantial improvements in market access, in particular since tariffs have been reduced from their applied—rather than bound—levels. As shown in this paper, some go beyond multilateral rules to create deeper commitments in specific areas such as TBT and SPS, although they represent the exception, not the rule. In addition to the clear positive impact, RTAs can also contribute indirectly and in the medium/long-term to improve trade negotiations in different spheres. The more focused scope of some of their provisions can provide insights and guidance for future efforts to define generic terms such as “reasonable length of time” in a more precise fashion at the multilateral level as well as for negotiators of new RTAs to meet and move beyond the liberalization achieved in past agreements.

Some authors affirm that RTAs may help governments carry out economic reforms by mobilizing domestic forces in support of opening up to the wider world. This effect occurs as a country entering in a trade agreement captures economic benefits, for example, through foreign direct investment inflows from its RTA partners that tilt the domestic political imbalance in favor of economic reform and multilateral liberalization.⁹⁵ Others argue that the costs to producers of overlapping rules would lead them to pressure governments to harmonize or “multilateralize” these rules.⁹⁶

Despite their benefits, RTAs also create distortions in international trade. A multitude of trade agreements in a particular geographical area, such as Latin America, leads to a “spaghetti bowl” of varying concessions and rules. Moreover, non-parties are negatively impacted since they do not benefit from the commitments agreed upon by the parties involved. Also, looking only at the concessions made by countries participating in RTAs ignores relationships between countries in which RTAs are not in force. A similar situation holds true with regard to

⁹⁵ Ethier, Wilfred J., 1998. Regionalism in a Multilateral World, *Journal of Political Economy* 106: 1214-45.

⁹⁶ Baldwin, Richard E., 2006, Multilateralizing Regionalism: Spaghetti Bowls as Building Blocs on the Path to Global Free Trade, *The World Economy* 29: 1451-518.

geographical indications. Although two economies may agree upon a set of geographical indications, this would still leave 151 WTO members for whom such designations may not necessarily be recognized. In balance, without prejudging the scope or coverage of these indications, the multilateral system seems an ideal forum with which to achieve greater structure, if not consensus, in addressing this issue.

A less evident impact of RTAs is the possibility they might undermine countries' incentives to undertake further multilateral liberalization because members are unwilling to dilute the preferential access they have gained to the markets of their RTA partners. They can also create incompatible regulatory structures and standards that lock in members' policies and increase adjustment costs associated with multilateral liberalization, thus making it less attractive.⁹⁷ Finally, the attention that governments invest in RTA negotiations draws scarce political and human resources away from multilateral negotiations.

Instead of judging whether a multilateral or a regional approach is better, countries should attempt to create more synergies and convergence among the various trade arrangements in which they participate. Through the multilateral trade system, they might consider requesting that countries periodically review the state of their existing RTA concessions and identify where broader liberalization can be consolidated at the plurilateral level across certain sectors that have been effectively liberalized by all or most parties. More precise impact analysis of RTAs on trade flows both of parties and non-parties is advisable.

A plurilateralization of RTAs will be helpful, but the very best option and the ultimate goal should be multilateral trade liberalization; this is the only way to guarantee the same level of agricultural trade access for all countries. Countries should also take advantage of multilateral trade negotiations, which are much better suited for achieving deeper commitments in domestic supports and export subsidies, as compared to their more limited coverage in RTAs.⁹⁸

Finally, to address the challenges created by multilateral *vis-a-vis* regional commitments, the WTO Committee on Regional Trade Agreements was established in 1996 to examine individual regional agreements and consider the systemic implications of the agreements for the multilateral trading system and the relationships between them. This committee is also useful in providing greater transparency on coverage of RTAs. The WTO Secretariat is tasked with

⁹⁷ Robert Teh, Antoni Esteveordal and Kati Suominen. *Regional Rules in the Global Trade System*. IDB/WTO, Cambridge University Press 2009.

⁹⁸ Josling, 2009.

examining and drafting reports that ensure transparency of RTAs and allow members to evaluate an agreement's consistency with WTO rules. However, due to a lack of consensus, no examination reports have been prepared, much less adopted, since the committee was formed.

At the Doha Ministerial conference, ministers agreed to establish negotiations to clarify and improve disciplines and procedures on RTAs. Prior to the agreement on a Single Undertaking, the Negotiating Group on Rules negotiated, and the General Council in December 2006 provisionally established, a new transparency mechanism for all RTAs. WTO members were asked to review and possibly modify the decision, with the aim of establishing a permanent mechanism as part of a Doha Round Agreement. Such a transparency mechanism is no doubt useful. WTO members should also consider developing a set of guidelines which future RTAs should be encouraged to follow. Once such guidelines exist, parties to existing RTAs should be encouraged to amend their agreements accordingly.

The recommendations raised in this paper serve as examples for improving compatibility between the different regional commitments in which a country might be involved and its roles on the broader multilateral stage. However, since RTAs are here to stay, more effort needs to be taken in two fronts: to convert agreed upon commitments into more effective tools to facilitate agricultural trade; and to manage this “net” of agreements to achieve a more convergent approach that avoids the creation of “knots” that can impair both regional and global trade. There is a long road ahead, and all governments should be ready to move in the direction that leads to a constructive interplay between multilateralism and regionalism.

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Annex

Table 1: RTAs considered in the study

| RTA | Year* |
|---|--------------|
| NAFTA | 1992 |
| United States-Colombia | 2006 |
| United States-Peru | 2006 |
| Canada-Costa Rica | 2001 |
| CAFTA-DR | 2004 |
| Chile-United States | 2003 |
| Chile-Canada | 1996 |
| Chile-Japan | 2007 |
| Chile-China | 2005 |
| Chile-Korea | 2003 |
| Chile-Mexico | 1998 |
| Chile-Peru | 1998 |
| Chile-EU | 2002 |
| Chile-New Zealand-Singapore-Brunei (P4) | 2005 |
| Mexico-EU | 2000 |
| Mexico-Bolivia | 1994 |
| Mexico- Costa Rica | 1994 |
| Mexico-Nicaragua | 1997 |
| Mexico-Northern Triangle | 2001 |
| Mexico-Uruguay | 2003 |
| Mexico-Peru | 1995 |
| Mexico-EFTA | 2000 |
| Mexico-Japan | 2004 |
| Mexico-Israel | 2000 |
| Mexico-Colombia | 1994 |
| Mercosur-Peru (ACE 58) | 2005 |
| Mercosur-CAN (ACE 59) | 2004 |
| Mercosur-Chile | 1996 |
| Mercosur-Bolivia | 1996 |
| Cent.Amer-DR | 1998 |
| Cent.Amer-Chile | 1999 |
| Panama-Singapore | 2006 |
| Peru-Thailand | 2005 |
| TOTAL: 33 RTAs | |

* *Date of the signature*

Table 2-: HS Chapters with Agricultural Products

| HS Chapter | Description | Notes |
|------------|---|-------|
| 01 | Live animals | |
| 02 | Meat | |
| 04 | Dairy, eggs and honey | |
| 05 | Products of animal origin, nes | * |
| 06 | Live trees and other plants | |
| 07 | Edible vegetables; roots and tubers | |
| 08 | Edible fruit and nuts | |
| 09 | Coffee, tea, etc. | |
| 10 | Cereals | |
| 11 | Flour, malt, starches, etc. | |
| 12 | Oil seeds and oleaginous fruits | |
| 13 | Vegetable gums, resins, saps, etc. | |
| 14 | Vegetable plaiting & stuffing materials, etc. | |
| 15 | Animal or vegetable fats & oils | * |
| 16 | Preparations of meat, fish or crustaceans | * |
| 17 | Sugars and sugar confectionery | |
| 18 | Cocoa and cocoa preparations | |
| 19 | Preparations of cereals, flour, starch or milk | |
| 20 | Preparations of vegetables, fruit or nuts | |
| 21 | Miscellaneous edible preparations | |
| 22 | Beverages, spirits & vinegar | |
| 23 | Residues & waste from the food industries | * |
| 24 | Tobacco | |
| 29 | (Mannitol & sorbitol) | ** |
| 33 | (essential oils) | ** |
| 35 | (albuminoidal substances, modified starches, glues) | ** |
| 38 | (finishing agents & sorbitol nes) | ** |
| 41 | (hides and skins) | ** |
| 43 | (raw furskins) | ** |
| 50 | (raw silk and silk waste) | ** |
| 51 | (wool and animal hair) | ** |
| 52 | (raw cotton, waste and cotton carded or combed) | ** |
| 53 | (raw flax & hemp) | ** |

*excluding some products that include fish other aquatic animals.

**only of the chapter is included under agriculture. The descriptions in parentheses show the descriptions of the agricultural products and not the descriptions of the entire chapter.

Chapter descriptions are unofficial.

Table 3: Sectors with Exceptions to Full Tariff Elimination, by Agreement

| Sector | ACE 58 | ACE 59 | CAFTA | Canada-Chile | Canada-Costa Rica | Chile-Cent. Amer. | Chile-China | Chile-Korea | Chile-Mexico | EU-Chile | Mexico-Bolivia | Mexico-Costa Rica | Mexico-Japan | Mexico-Nicaragua | Mexico-Northern Triangle | Mexico-Uruguay | NAFTA | P4 | Panama-Singapore | Peru-Thailand | US-Chile | US-Colombia | US-Peru | |
|--|--------|--------|-------|--------------|-------------------|-------------------|-------------|-------------|--------------|----------|----------------|-------------------|--------------|------------------|--------------------------|----------------|-------|----|------------------|---------------|----------|-------------|---------|--|
| Live Animals, Equine | | | | | | | | | | | | | | | | | | | | | | | | |
| Live Animals, Cattle | | | | | | | | | | | | | | | | | | | | | | | | |
| Live Animals, Swine | | | | | | | | | | | | | | | | | | | | | | | | |
| Live Animals, Sheep & Goats | | | | | | | | | | | | | | | | | | | | | | | | |
| Live Animals, Poultry | | | | | | | | | | | | | | | | | | | | | | | | |
| Live Animals, Other | | | | | | | | | | | | | | | | | | | | | | | | |
| Meat, Beef | | | | | | | | | | | | | | | | | | | | | | | | |
| Meat, Pork | | | | | | | | | | | | | | | | | | | | | | | | |
| Meat: Lamb, Mutton, or Goat | | | | | | | | | | | | | | | | | | | | | | | | |
| Meat, Poultry | | | | | | | | | | | | | | | | | | | | | | | | |
| Meat: Preparations, Sausage, Other | | | | | | | | | | | | | | | | | | | | | | | | |
| Dairy, Milk & Cream, Not Concentrated or Sweetened | | | | | | | | | | | | | | | | | | | | | | | | |
| Dairy, Milk & Cream, Concentrated or Sweetened | | | | | | | | | | | | | | | | | | | | | | | | |
| Dairy, Butter etc. | | | | | | | | | | | | | | | | | | | | | | | | |
| Dairy, Cheese | | | | | | | | | | | | | | | | | | | | | | | | |
| Dairy, Other | | | | | | | | | | | | | | | | | | | | | | | | |
| Eggs | | | | | | | | | | | | | | | | | | | | | | | | |
| Honey | | | | | | | | | | | | | | | | | | | | | | | | |
| Edible products of animal origin nes | | | | | | | | | | | | | | | | | | | | | | | | |
| Products of animal origin, nes | | | | | | | | | | | | | | | | | | | | | | | | |
| Vegetables, Potatoes | | | | | | | | | | | | | | | | | | | | | | | | |
| Vegetables, Tomatoes | | | | | | | | | | | | | | | | | | | | | | | | |
| Vegetables: Onions, Shallots, Garlic, Leeks, etc | | | | | | | | | | | | | | | | | | | | | | | | |
| Vegetables, Beans and Peas | | | | | | | | | | | | | | | | | | | | | | | | |
| Vegetables, Sweet Corn | | | | | | | | | | | | | | | | | | | | | | | | |
| Vegetables, Other | | | | | | | | | | | | | | | | | | | | | | | | |
| Nuts | | | | | | | | | | | | | | | | | | | | | | | | |
| Fruit, Bananas | | | | | | | | | | | | | | | | | | | | | | | | |
| Fruit, Pineapples | | | | | | | | | | | | | | | | | | | | | | | | |
| Fruit, Citrus | | | | | | | | | | | | | | | | | | | | | | | | |
| Fruit, Grapes | | | | | | | | | | | | | | | | | | | | | | | | |
| Fruit, Apples | | | | | | | | | | | | | | | | | | | | | | | | |
| Fruit, Other | | | | | | | | | | | | | | | | | | | | | | | | |
| Coffee and Coffee Substitutes | | | | | | | | | | | | | | | | | | | | | | | | |
| Tea | | | | | | | | | | | | | | | | | | | | | | | | |
| Mate | | | | | | | | | | | | | | | | | | | | | | | | |
| Spices | | | | | | | | | | | | | | | | | | | | | | | | |
| Cereals, Wheat and Meslin | | | | | | | | | | | | | | | | | | | | | | | | |
| Cereals, Maize (Corn) | | | | | | | | | | | | | | | | | | | | | | | | |
| Cereals, Rice | | | | | | | | | | | | | | | | | | | | | | | | |
| Cereals, Sorghum | | | | | | | | | | | | | | | | | | | | | | | | |
| Cereals, Other | | | | | | | | | | | | | | | | | | | | | | | | |
| Flours and Other Milling Industry Products | | | | | | | | | | | | | | | | | | | | | | | | |
| Oil Seed etc | | | | | | | | | | | | | | | | | | | | | | | | |
| Lac, Gums, Resins, Vegetable Saps, etc | | | | | | | | | | | | | | | | | | | | | | | | |
| Vegetable Plaiting Materials | | | | | | | | | | | | | | | | | | | | | | | | |
| Animal Fats | | | | | | | | | | | | | | | | | | | | | | | | |
| Vegetable Oils | | | | | | | | | | | | | | | | | | | | | | | | |
| Other Animal Fats & Vegetable Oils, Margarine, Wax | | | | | | | | | | | | | | | | | | | | | | | | |
| Sugars and Sugar Confectionery | | | | | | | | | | | | | | | | | | | | | | | | |
| Cocoa and Cocoa Preparations | | | | | | | | | | | | | | | | | | | | | | | | |
| Fruit and Vegetable Juices | | | | | | | | | | | | | | | | | | | | | | | | |
| Other Food Preparations | | | | | | | | | | | | | | | | | | | | | | | | |
| Beverages, Waters and Non-alcoholic | | | | | | | | | | | | | | | | | | | | | | | | |
| Beverages, Alcoholic | | | | | | | | | | | | | | | | | | | | | | | | |
| Vinegar | | | | | | | | | | | | | | | | | | | | | | | | |
| Food Residues and Wastes; Animal Fodder | | | | | | | | | | | | | | | | | | | | | | | | |
| Tobacco | | | | | | | | | | | | | | | | | | | | | | | | |
| Chemicals | | | | | | | | | | | | | | | | | | | | | | | | |
| Raw Hides and Skins, Fur Skins | | | | | | | | | | | | | | | | | | | | | | | | |
| Raw Textile Materials | | | | | | | | | | | | | | | | | | | | | | | | |

| | | US- Peru USA-PER PER-USA | US- Colombia COL-USA USA-COL | Mercosur-Chile CHL-PRY CHL-BRA CHL-ARG URY-CHL URY-CHL URY-CHL ARG-CHL | ACE 59 EU-PRY EU-BRA EU-ARG EU-URY EU-PRY EU-BRA EU-ARG EU-URY | Chile-Cent. Am. CHL-CRI CRI-CHL | Mexico- Uruguay MEX-URY URY-MEX | Korea- Chile KOR-CHL CHL-KOR | Mexico- Japan MEX-JPN JPN-MEX | EU- Chile EU-CHL |
|---|--|-----------------------------------|---------------------------------------|---|--|--|--|---------------------------------------|--|------------------------|
| Animal Fats | Pig & Poultry Fat; Lard; Hydrog. Animal Oils Pig Fat Pig Fat; Lard; Hydrogenated Animal Oils | | | | | | | | | |
| ... | Avocados | | | | | | | | | |
| ... | Baby Formula | | | | | | | | | |
| Beef | Beef | | | | | | | | | |
| | Beef Trimminings | | | | | | | | | |
| | Beef Variety Meats | | | | | | | | | |
| | Beef, Boneless | | | | | | | | | |
| | Beef, Cuts with Bone in | | | | | | | | | |
| | Beef, Fine Cuts | | | | | | | | | |
| | Beef, Fresh or Chilled | | | | | | | | | |
| | Beef, Frozen | | | | | | | | | |
| | Beef, Other Boneless and Variety Meats | | | | | | | | | |
| | Beef, Prime and Choice | | | | | | | | | |
| | Beef, Salted, Smoked, Dried, or in Brine | | | | | | | | | |
| | Beef, Standard Quality | | | | | | | | | |
| Beef, Variety Meats | | | | | | | | | | |
| Cereals & Milling | Barley and Malt | | | | | | | | | |
| Industry Products | Cereal, Processed Grains and Germs | | | | | | | | | |
| Chocolate and Cocoa | Chocolate Chocolate and Other Cocoa Preparations Cocoa Powder, Sweetened | | | | | | | | | |
| Citrus | Mandarins, Excluding Korean Citrus | | | | | | | | | |
| | Orange Juice | | | | | | | | | |
| | Orange Juice, Frozen | | | | | | | | | |
| | Orange Juice, Not Frozen | | | | | | | | | |
| Corn | Oranges | | | | | | | | | |
| | Corn | | | | | | | | | |
| ... | Corn, White | | | | | | | | | |
| | Corn, Yellow | | | | | | | | | |
| ... | Cotton | | | | | | | | | |
| ... | Cut Flowers | | | | | | | | | |
| Dairy | Butter | | | | | | | | | |
| | Buttermilk, Curdled Cream, and Yogurt | | | | | | | | | |
| | Cheese | | | | | | | | | |
| | Cheese, Cheddar | | | | | | | | | |
| | Cheese, Fresh | | | | | | | | | |
| | Cheese, Grated or Powdered and Other | | | | | | | | | |
| | Cheese, Mozzarella | | | | | | | | | |
| | Cheeses, Other | | | | | | | | | |
| | Dairy Products, Other | | | | | | | | | |
| | Dairy Products, Processed | | | | | | | | | |
| | Dairy, Liquid | | | | | | | | | |
| | Ice Cream | | | | | | | | | |
| | Milk | | | | | | | | | |
| | Milk and Cream, Concentrated | | | | | | | | | |
| | Milk and Cream, Condensed & Evaporated | | | | | | | | | |
| | Milk and Cream, Dried, Low Fat | | | | | | | | | |
| | Milk and Cream, Fluid | | | | | | | | | |
| | Milk and Cream, Fluid Fresh, & Sour Cream | | | | | | | | | |
| | Milk and Cream, Fluid or Frozen | | | | | | | | | |
| | Milk and Cream, Powdered | | | | | | | | | |
| | Milk Powder | | | | | | | | | |
| Milk, Condensed | | | | | | | | | | |
| Milk, Condensed and Evaporated | | | | | | | | | | |
| Milk, Liquid | | | | | | | | | | |
| Whey | | | | | | | | | | |
| Yogurt | | | | | | | | | | |
| ... | Dextrins and Other Modified Starches | | | | | | | | | |
| ... | Eggs, Fresh | | | | | | | | | |
| Ethyl Alcohol | Ethyl Alcohol (Central America Orig.) Ethyl Alcohol (non-Central America Orig.) | | | | | | | | | |
| Food Residues and Wastes; Animal Fodder | Animal Feeds | | | | | | | | | |
| | Flours, Meals, and Pellets of Meat | | | | | | | | | |
| | Pet Food | | | | | | | | | |
| | Soybean Oil-Cake | | | | | | | | | |
| Fruit | Apples, Fresh | | | | | | | | | |
| | Bananas, Fresh | | | | | | | | | |
| | Fresh Plums | | | | | | | | | |
| | Grapes | | | | | | | | | |
| | Peaches, Fresh | | | | | | | | | |
| | Pears, Fresh | | | | | | | | | |
| | Raisins | | | | | | | | | |
| | Strawberries, for Processing | | | | | | | | | |
| | Strawberries, Other | | | | | | | | | |
| | Watermelons, Fresh | | | | | | | | | |
| Fruit and Vegetable Preparations | Cherries, in Sweetened Syrup | | | | | | | | | |
| | Mushroom Preparations | | | | | | | | | |
| | Peaches, in Sweetened Syrup | | | | | | | | | |
| | Tomato Juice, not Containing Added Sugar | | | | | | | | | |
| | Tomato Puree & Paste, for Ketchup Mfg, etc. | | | | | | | | | |
| | Tomato Sauces: Ketchup | | | | | | | | | |
| | Tomato Sauces: Other | | | | | | | | | |
| Tomatoes, Other Preparations | | | | | | | | | | |
| Tomatoes, Preserved or Prepared | | | | | | | | | | |
| ... | Hides and Skins | | | | | | | | | |
| ... | Honey | | | | | | | | | |
| Meats, Other | Bacon | | | | | | | | | |
| | Meat of Sheep and Goats | | | | | | | | | |
| | Pork | | | | | | | | | |
| | Pork Cuts | | | | | | | | | |
| | Pork and Sausage | | | | | | | | | |
| | Sausages | | | | | | | | | |
| Variety Meats | | | | | | | | | | |
| ... | Meat Preparations | | | | | | | | | |
| ... | Preparations for Bakeries | | | | | | | | | |
| ... | Peanut Butter | | | | | | | | | |
| ... | Peanuts | | | | | | | | | |

| | Canada - Chile CHL-CAN | Canada - Costa Rica CAN-CRI | Chile - Mexico CHL-MEX | Costa Rica - Mexico CRI-MEX | Mexico - Nicaragua MEX-NIC | Nicaragua - Mexico NIC-MEX | Mexico - Northern Triangle MEX-GTM | Mexico - Northern Triangle MEX-HND | Mexico - Northern Triangle MEX-SLV | CAFTA-DR USA-CRI | CAFTA-DR USA-DOM | CAFTA-DR USA-GTM | CAFTA-DR USA-HND | CAFTA-DR USA-SLV | NAFTA CAN-MEX | NAFTA MEX-USA | US - Chile USA-CHL | US - Chile CHL-USA |
|------------------------------------|--|--------------------------------|---------------------------|--------------------------------|-------------------------------|-------------------------------|---------------------------------------|---------------------------------------|---------------------------------------|---------------------|---------------------|---------------------|---------------------|---------------------|------------------|------------------|-----------------------|-----------------------|
| Poultry | Chicken | | | | | | | | | | | | | | | | | |
| | Chicken and Turkey | | | | | | | | | | | | | | | | | |
| | Chicken and Turkey Cuts, Mech. De-Boned | | | | | | | | | | | | | | | | | |
| | Chicken Leg Quarters | | | | | | | | | | | | | | | | | |
| | Chicken Meat, Mech. De-Boned | | | | | | | | | | | | | | | | | |
| | Chicken: Frozen Cuts; Preparations | | | | | | | | | | | | | | | | | |
| | Chicken; Poultry Preparations | | | | | | | | | | | | | | | | | |
| | Poultry | | | | | | | | | | | | | | | | | |
| | Poultry Cuts, Other | | | | | | | | | | | | | | | | | |
| | Poultry, Other, Whole | | | | | | | | | | | | | | | | | |
| Spent Fowl (Chickens) | | | | | | | | | | | | | | | | | | |
| Turkey Cuts, Other | | | | | | | | | | | | | | | | | | |
| Turkey Meat | | | | | | | | | | | | | | | | | | |
| Turkey, Whole | | | | | | | | | | | | | | | | | | |
| Turkey; Cuts; Preparations | | | | | | | | | | | | | | | | | | |
| Rice | Rice | | | | | | | | | | | | | | | | | |
| | Rice, Brown | | | | | | | | | | | | | | | | | |
| | Rice, Milled | | | | | | | | | | | | | | | | | |
| ... | Rice, Rough | | | | | | | | | | | | | | | | | |
| | Sorbitol | | | | | | | | | | | | | | | | | |
| Sugar | Sorghum | | | | | | | | | | | | | | | | | |
| | Stearic Acid | | | | | | | | | | | | | | | | | |
| | Glucose | | | | | | | | | | | | | | | | | |
| | Sugar | | | | | | | | | | | | | | | | | |
| | Sugar (Organic) | | | | | | | | | | | | | | | | | |
| | Sugar, Mixed | | | | | | | | | | | | | | | | | |
| | Sugar, Other | | | | | | | | | | | | | | | | | |
| | Sugar, Refined | | | | | | | | | | | | | | | | | |
| | Sugar, Syrups | | | | | | | | | | | | | | | | | |
| | Sugar Confectionery not Containing Cocoa | | | | | | | | | | | | | | | | | |
| Sweet Biscuits; Waffles and Wafers | | | | | | | | | | | | | | | | | | |
| ... | Tobacco | | | | | | | | | | | | | | | | | |
| | Variety Meats | | | | | | | | | | | | | | | | | |
| Vegetable Oil | Canola Oil | | | | | | | | | | | | | | | | | |
| | Olive Oil | | | | | | | | | | | | | | | | | |
| | Soybean Oil, Crude | | | | | | | | | | | | | | | | | |
| | Soybean Oil, Refined | | | | | | | | | | | | | | | | | |
| Vegetables | Artichokes, Processed | | | | | | | | | | | | | | | | | |
| | Beans | | | | | | | | | | | | | | | | | |
| | Beans, Dried | | | | | | | | | | | | | | | | | |
| | Broccoli and Cauliflower | | | | | | | | | | | | | | | | | |
| | Chilli Peppers | | | | | | | | | | | | | | | | | |
| | Cucumbers | | | | | | | | | | | | | | | | | |
| | Eggplants | | | | | | | | | | | | | | | | | |
| | French Fries, Frozen | | | | | | | | | | | | | | | | | |
| | Garlic | | | | | | | | | | | | | | | | | |
| | Olives | | | | | | | | | | | | | | | | | |
| | Onions and Shallots | | | | | | | | | | | | | | | | | |
| | Onions, Fresh | | | | | | | | | | | | | | | | | |
| | Onions, Green | | | | | | | | | | | | | | | | | |
| | Potatoes, Fresh | | | | | | | | | | | | | | | | | |
| | Squash | | | | | | | | | | | | | | | | | |
| Tomatoes | | | | | | | | | | | | | | | | | | |
| Tomatoes, Fresh or Chilled | | | | | | | | | | | | | | | | | | |
| Vegetables: Dried, Unspecified | | | | | | | | | | | | | | | | | | |
| Wine | Grape Wines, Sparkling | | | | | | | | | | | | | | | | | |
| | Wines, Premium Table | | | | | | | | | | | | | | | | | |

| | US-Peru USA-PER PER-USA | US-Colombia COL-USA USA-COL | Mercosur-Chile ARG-CHL BRA-CHL PRY-CHL URY-CHL CHL-ARG CHL-BRA CHL-PRY | ACE 59 ECU-ARG ECU-BRA ECU-PRY ECU-URY COL-URY COL-PRY COL-BRA COL-ARG ARG-COL | Chile-Cent. Am. CHL-CRI CRI-CHL | Mexico-Uruguay MEX-URY URY-MEX | Korea-Chile KOR-CHL CHL-KOR | Mexico-Japan MEX-JPN JPN-MEX | EU-Chile CHL-EU EU-CHL |
|---|-------------------------------|-----------------------------------|---|---|--|--------------------------------------|-----------------------------------|------------------------------------|------------------------------|
| Poultry Chicken Chicken and Turkey Chicken and Turkey Cuts, Mech. De-Boned Chicken Leg Quarters Chicken Meat, Mech. De-Boned Chicken: Frozen Cuts; Preparations Chicken; Poultry Preparations Poultry Poultry Cuts, Other Poultry, Other, Whole Spent Fowl (Chickens) Turkey Cuts, Other Turkey Meat Turkey, Whole Turkey: Cuts; Preparations | | • | | | | | • | • | • |
| Rice Rice Rice, Brown Rice, Milled Rice, Rough | • | • | • | • | | | • | | |
| ... | | | | | | | • | • | |
| ... | | • | | | | | | | |
| ... | | | | | | • | | | |
| Sugar Glucose Sugar Sugar (Organic) Sugar, Mixed Sugar, Other Sugar, Refined Sugar, Syrups | • | • | • | | | | | | |
| ... | | | | • | | | | | • |
| ... | | | | • | | | | | • |
| ... | | | | | | | | | |
| ... | | • | | | | | | | |
| ... | | | | | | | | | |
| Vegetable Oil Canola Oil Olive Oil Soybean Oil, Crude Soybean Oil, Refined | • | • | | | | | | | • |
| Vegetables Artichokes, Processed Beans Beans, Dried Broccoli and Cauliflower Chili Peppers Cucumbers Eggplants French Fries, Frozen Garlic Olives Onions and Shallots Onions, Fresh Onions, Green Potatoes, Fresh Squash Tomatoes Tomatoes, Fresh or Chilled Vegetables: Dried, Unspecified | | • | • | | | | • | | • |
| Wine Grape Wines, Sparkling Wines, Premium Table | | | • | | | | • | | |

Source: IDB calculations based on agreement documents and IDB Sistema de Negociadores.

Figure 1: Distribution of RTA Concessions by HS Chapter, Year 5

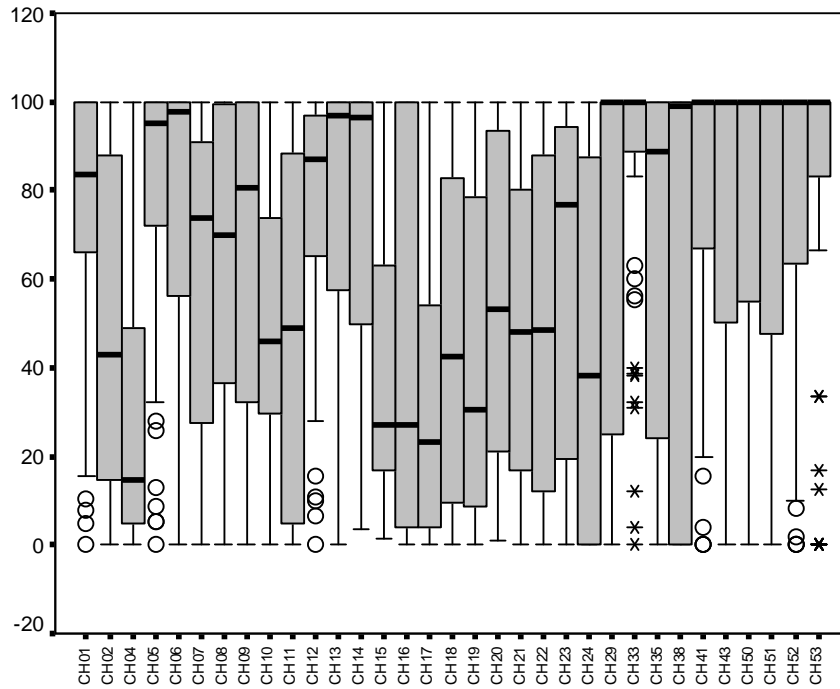
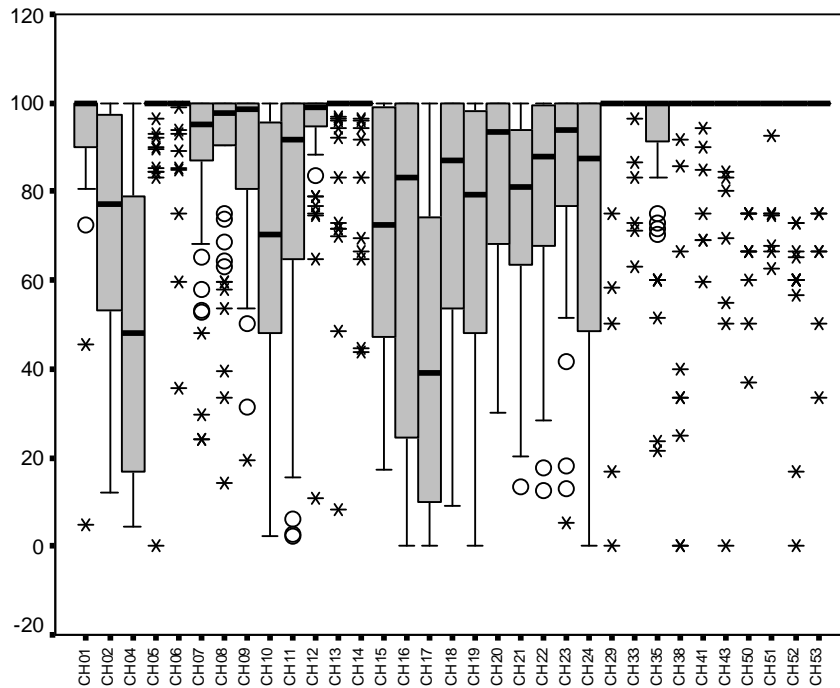


Figure 2: Distribution of RTA Concessions by HS Chapter, Year 10



Note: See Annex Table 2 for a list of agricultural chapters.

Source: IDB calculations based on agreement documents and IDB Sistema de Negociadores.

Table 5: Application of *de Minimis* Rule within Agreements Analyzed

| RTA | De Minimis |
|---|--|
| NAFTA | 7% (Except in agricultural and industrial products; 7% of weight in chapters 50-63) |
| United States-Colombia | 10% (by weight in textiles; except in agriculture and processed agriculture products) |
| United States - Peru | 10% (by weight in textiles; except in agriculture and processed agriculture products) |
| Canada - Costa Rica | 10% (except in chapters 10 - 24; 10% of weight in chapters 50-63) |
| CAFTA | 10% (Not chapters 4 and 15) |
| Chile - United States | 10% (by weight in textiles; except in agriculture and processed agriculture products) |
| Chile -Canada | 9% (except in agricultural and industrial products; 9% of weight in chapters 50 -63) |
| Chile-Japan | 7% in certain agricultural products; 10% in chapters 20-49, 7% of weight in chapters 50-63 |
| Chile- China | 8% |
| Chile - Korea | 8% (not chapters 1-24 unless CS; 8%of weight in chapters 50-63) |
| Chile - Mexico | 8% (except in agricultural and industrial products; 7% of weight in chapters 50-63) |
| Chile - Peru | None |
| Chile - EU | 10% (except in chapters 50-63) |
| Chile -New Zealand - Singapore -Brunei (P4) | 10% |
| Mercosur - Chile | None |
| Mexico- EU | 10% (except in chapters 50-63) |
| Mexico - Bolivia | 7% (not chapters 1-27 unless CS; not chapters 50-63) |
| Mercosur - Bolivia | None |
| Mexico -Costa Rica | 7% (except in agricultural and industrial products; 7% of weight in chapters 50-63) |
| Mexico - Nicaragua | 7% (Except in chapters 1-27 and 50-63) |
| Mexico - Northern Triangle | 7% (except in chapters 1-27 and 50-63) |
| Mexico - Uruguay | 8% (except chapters 1-27 and 50-63) |
| Mexico – Peru ACE | - |
| Mexico - EFTA | None |
| Mexico - Japan | 10% (except in chapters 1-27 unless CS, and chapters 50-63) |
| Mexico - Israel | 7% (except in chapters 1-27 and 50-63) |
| Mexico-Colombia | 7 (7% of weight in chapters 50 - 63) |
| ACE 58 (Mercosur-Peru) | None |
| Ace 59 (Mercosur + Can) | None |
| Panama - Singapore | 10% (except in certain agricultural products) |
| Peru - Thailand | 10% |
| Cent. Amer - DR | 7% (7% of weight in chapters 50-63) |
| Cent. Amer - Chile | 8% (not chapters 1-27 unless CS) |