

CHAPTER THREE

AGRICULTURE

ARTICLE 3.1 : MULTILATERAL COOPERATION

1. The Parties shall work together to reach an agreement on agriculture in the WTO that substantially improves market access for agricultural goods, reduces, with a view to phasing out, all forms of agricultural export subsidies, develops disciplines that eliminate restrictions on a person's right to export, and substantially reduces trade-distorting domestic support.
2. The Parties shall consult on agricultural issues arising in the WTO and in other multilateral fora in which they both participate.

ARTICLE 3.2 : COMMITTEE ON AGRICULTURE

1. The Parties hereby establish a Committee on Agriculture, comprising representatives of each Party.
2. The Committee shall provide a forum for:
 - (a) promoting trade in agricultural goods between the Parties;
 - (b) addressing barriers to trade in agricultural goods;
 - (c) conducting consultations between the Parties on agricultural export competition issues; and
 - (d) considering any matters arising under this Chapter.
3. The Committee shall meet at least once a year unless the Parties otherwise agree.
4. The Committee shall report the results of each meeting to the Joint Committee.

ARTICLE 3.3 : EXPORT SUBSIDIES

1. Except as provided in paragraph 2, neither Party may introduce or maintain any export subsidy on any agricultural good destined for the territory of the other Party.
2. Where an exporting Party considers that a non-Party is exporting an agricultural good to the territory of the other Party with the benefit of export subsidies, the importing Party shall, on written request of the exporting Party, consult with the exporting Party with a view to agreeing on specific measures that the importing Party may adopt to counter the effect of such subsidized imports. If the importing Party adopts the agreed-upon measures, the exporting Party shall refrain from applying any export subsidy to exports of such good to the territory of the importing Party.

ARTICLE 3.4 : AGRICULTURAL SAFEGUARD MEASURES

1. Notwithstanding Article 2.3 (Elimination of Duties), a Party may apply a measure in the form of an additional customs duty on an originating agricultural good listed in that Party's Schedule to Annex 3-A (Agricultural Safeguard Measures), provided that the conditions in paragraphs 2 through 5 are met. The sum of any such additional customs duty and any other customs duty on such good shall not exceed the lesser of:
 - (a) the prevailing most-favoured-nation ("MFN") applied rate of duty; or
 - (b) the MFN applied rate of duty in effect on the day immediately preceding the date of entry into force of this Agreement.
2. The additional customs duty under paragraph 1 shall be set according to each Party's Schedule to Annex 3-A.
3. Neither Party may apply or maintain an agricultural safeguard measure and at the same time apply or maintain, with respect to the same good:
 - (a) a safeguard measure under Chapter Nine (Safeguards); or
 - (b) a measure under Article XIX of GATT 1994 and the Safeguards Agreement.
4. Neither Party may apply or maintain an agricultural safeguard measure on an originating agricultural good:
 - (a) on or after the date that a good is subject to duty-free treatment under the Party's Schedule to Annex 2-B, except as provided in Section C of Annex 3-A; or
 - (b) that increases the in-quota duty on a good subject to a tariff-rate quota.
5. A Party shall implement an agricultural safeguard measure in a transparent manner. Within 60 days after applying a measure, the Party applying the measure shall notify the Party whose good is subject to the measure, in writing, and shall provide it relevant data concerning the measure. On request, the Party applying the measure shall consult with the Party whose good is subject to the measure regarding the application of the measure.
6. The operation of this Article may be the subject of discussion and review in the Committee on Agriculture. On request of either Party, the Committee on Agriculture shall review a trigger price set out in Annex 3-A.

ARTICLE 3.5 : ADMINISTRATION OF TARIFF-RATE QUOTAS

Where an importing Party considers that an exporting Party has increased its imports of an agricultural good of a non-Party and thereby increased its exports of a domestically-produced good subject to a tariff-rate quota administered by the

importing Party, the exporting Party shall, on the written request of the importing Party, immediately consult with the importing Party to develop appropriate actions to remedy the situation.

ARTICLE 3.6 : REVIEW OF DAIRY MARKET ACCESS COMMITMENTS

On request of either Party after year 20 of the Agreement, the Parties shall consult on and consider the possibility of modifying market access commitments for the dairy goods listed in each Party's Schedule to Annex 2-B. An agreement by the Parties to modify the market access commitment on a dairy good listed in Annex 2-B, when approved by both Parties in accordance with their applicable legal procedures, shall supersede the terms established for the good in each Party's Schedule to Annex 2-B.

ARTICLE 3.7 : DEFINITIONS

For the purposes of this Chapter:

1. **agricultural goods** means those agricultural products referred to in Article 2 of the WTO *Agreement on Agriculture*, contained in Annex 1A to the WTO Agreement;
2. **agricultural safeguard measure** means a measure described in Article 3.4.1; and
3. **export subsidy** shall have the meaning assigned to that term in Article 1(e) of the WTO *Agreement on Agriculture*, contained in Annex 1A to the WTO Agreement, including any amendment of that article.

ANNEX 3-A

AGRICULTURAL SAFEGUARD MEASURES

Schedule of the United States

Section A : Price-Based Safeguard for Horticulture

1. The United States may apply an agricultural safeguard measure, pursuant to Article 3.4, on an originating agricultural good listed in this Section if the good enters the customs territory of the United States at a unit import price below the trigger price for that good set out in this Section.
 - (a) The unit import price shall be determined on the basis of the F.O.B. import price of the good in U.S. dollars.
 - (b) The trigger prices shall reflect historic unit import values for the products concerned.

2. For the purposes of Article 3.4.2, any additional customs duty shall conform to the following schedule:
 - (a) if the difference between the unit import price of the good expressed in terms of domestic currency (“import price”) and the trigger price listed in this Section for the good is less than or equal to 10 percent of the trigger price, no additional duty shall be imposed;
 - (b) if the difference between the import price and the trigger price is greater than 10 percent but less than or equal to 40 percent of the trigger price, the additional duty shall equal 30 percent of the difference between the MFN rate of duty as described in Article 3.4.1 and the tariff rate applied to the good in the U.S. Schedule to Annex 2-B;
 - (c) if the difference between the import price and the trigger price is greater than 40 percent but less than or equal to 60 percent of the trigger price, the additional duty shall equal 50 percent of the difference between the MFN rate of duty as described in Article 3.4.1 and the tariff rate applied to the good in the U.S. Schedule to Annex 2-B;
 - (d) if the difference between the import price and the trigger price is greater than 60 percent but less than or equal to 75 percent of the trigger price, the additional duty shall equal 70 percent of the difference between the MFN rate of duty as described in Article 3.4.1 and the tariff rate applied to the good in the U.S. Schedule to Annex 2-B; and
 - (e) if the difference between the import price and the trigger price is greater than 75 percent of the trigger price, the additional duty shall equal 100 percent of the

difference between the MFN rate of duty as described in Article 3.4.1 and the tariff rate applied to the good in the U.S. Schedule to Annex 2-B.

United States Horticulture Safeguard List (US\$/Kg or US\$/Liter where noted)		
HS	Description	Trigger Price
0712202000	ONION POWDER OR FLOUR	0.77
0712204000	ONIONS, DRIED, EXCEPT POWDER OR FLOUR	1.26
0712904020	GARLIC POWDER OR FLOUR	0.53
0712904040	GARLIC, DRIED, EXCEPT POWDER OR FLOUR	0.48
2002100020	TOMATOES, PREPARED/PRESERVED, WHOLE OR IN PIECES, IN CONTAINERS HOLDING LESS THAN 1.4 KG	0.41
2002100080	TOMATOES PREPARED/PRESERVED IN CONTAINERS 1.4KG OR MORE, NESOI	0.43
2002908010	TOMATO PASTE IN CONTAINERS HOLDING LESS THAN 1.4 KG	0.64
2002908020	TOMATO PASTE, IN CONTAINERS HOLDING 1.4 KG OR MORE	0.56
2002908030	TOMATO PUREE IN CONTAINERS HOLDING LESS THAN 1.4 KG	0.46
2002908040	TOMATO PUREE, IN CONTAINERS HOLDING 1.4 KG OR MORE	0.31
2002908050	TOMATOES PREPARED/PRESERVED NESOI	0.69
2005600000	ASPARAGUS, PREPARED OR PRESERVED NESOI, NOT FROZEN	1.59
2008400020	PEARS, PREPARED/PRESERVED NESOI, IN CONTAINERS LESS THAN 1.4 KG	0.65
2008400040	PEARS, PREPARED/PRESERVED NESOI, IN CONTAINERS OF 1.4 KG OR MORE	0.58
2008504000	APRICOTS, PREPARED OR PRESERVED NESOI	0.90
2008702020	PEACHES, PREPARED/PRESERVED NESOI, IN CONTAINERS LESS THAN 1.4 KG EACH	0.32
2008702040	PEACHES, PREPARED/PRESERVED NESOI, IN CONTAINERS 1.4 KG OR MORE EACH	0.54
2008929030	FRUIT MIXTURES WITH PEACHES OR PEARS PACKED IN LIQUID MEDIUM IN AIRTIGHT CONTAINERS HOLDING LESS THAN 1.4 KG EACH	0.83
2008929035	FRUIT MIXTURES WITH PEACHES OR PEARS PACKED IN LIQUID MEDIUM IN AIR TIGHT CONTAINERS HOLDING GREATER THAN 1.4 KG	0.75
2008929040	FRUIT MIXTURES CONTAINING ORANGES OR GRAPEFRUIT PACKED IN LIQUID MEDIUM IN AIRTIGHT CONTAINERS	1.21
2008929050	FRUIT MIXTURES NESOI PACKED IN	0.80

	LIQUID MEDIUM IN AIRTIGHT CONTAINERS	
2009110020	ORANGE JUICE UNFERMENTED FROZEN IN CONTAINERS UNDER .946 LITER (IN LITERS)	0.23
2009110040	ORANGE JUICE UNFERMENTED FROZEN IN CONTAINERS OF .946-3.785 LITER (IN LITERS)	0.23
2009110060	ORANGE JUICE UNFERMENTED FROZEN IN CONTAINERS OVER 3.785 LITER (IN LITERS)	0.20
2009124500	ORANGEJUICE, UNFERMENTED, NOT FROZEN, NESOI, <20 BRX IN LITERS	0.49
2009190000	ORANGE JUICE, UNFERMENTED, NESOI IN LITERS	0.49
2009610020	GRAPE JUICE & MUST, UNFERMENTED, NOT CONCENTRATED IN LITERS	0.56
2009610040	GRAPE JUICE & MUST, <20 BRX, CONCENTRATED FROZEN (IN LITERS)	0.34
2009610060	GRAPE JUICE & MUST, <20 BRX, CONCENTRATED NOT FROZEN (IN LITERS)	0.27
2009690040	GRAPE JUICE & MUST, NESOI, FROZEN (IN LITERS)	0.32
2009690060	GRAPE JUICE & MUST, NESOI, NOT FROZEN (IN LITERS)	0.25
2103204020	TOMATO SAUCES NESOI IN CONTAINERS LESS THAN 1.4 KG	0.84
2103204040	TOMATO SAUCES NESOI IN CONTAINERS HOLDING 1.4 KG OR MORE	0.94

Section B: Quantity-Based Safeguard for Beef

1. The United States shall apply an agricultural safeguard measure in years nine through 18 of the Agreement on originating agricultural goods listed in paragraph 3 of Annex I of the U.S. Schedule to Annex 2-B if, in any calendar year, the aggregate volume of imports of goods exceeds 110 percent of the volume set out for the goods in that year in paragraph 3 of Annex I of the U.S. Schedule to Annex 2-B.
2. For the purposes of Article 3.4.2, the additional customs duty shall equal 75 percent of the difference between the MFN rate of duty as described in Article 3.4.1 and the applicable tariff rate in the U.S. Schedule to Annex 2-B on the agricultural goods.
3. The United States shall maintain an agricultural safeguard measure under this Section only until the end of the calendar year in which it applies the measure.
4. The United States shall have the discretion not to apply an agricultural safeguard measure under this Section.

Section C: Price-Based Safeguard for Beef

1. The United States shall apply an agricultural safeguard measure, pursuant to Article 3.4, on a good entered under subheadings 02011050, 02012080, 02013080, 02021050, 02022080, or 02023080 of the Harmonized Tariff Schedule of the United States starting in year 19 of the Agreement.
2. For the purposes of Article 3.4.2, the additional customs duty shall equal 65 percent of the MFN rate of duty for the good as described in Article 3.4.1.
3. The United States shall apply the measure as follows:
 - (a) if the monthly average index price falls below the 24-month trigger price in any two months during the previous quarter of any calendar year, the United States shall apply the measure during the current quarter of the calendar year; or
 - (b) if the monthly average index price falls below the 24-month trigger price in any month of the fourth quarter of any calendar year, or in the month immediately preceding the fourth quarter, the United States shall apply the measure during the remainder of the fourth quarter of the calendar year.
4. The measure shall apply to goods that enter the United States in any calendar year in aggregate quantities greater than the sum of:
 - (a) the quantity of goods eligible to be entered under Additional Note 3 to Chapter 2 of the Harmonized Tariff Schedule of the United States, identified by certificates issued by the Government of Australia; and
 - (b) 70,000 metric tons, which quantity shall grow at a compound annual rate of 0.6 percent starting in year 19 of the Agreement, identified by certificates issued by the Government of Australia.
5. The United States shall have the discretion not to apply an agricultural safeguard measure under this Section.
6. The Parties shall review the operation of this Section every five years after the date of entry into force of this Agreement.
7. For the purposes of this Section:
 - (a) **monthly average index price** means the monthly average index price for Wholesale Boxed Beef Cut-Out Value Select 1-3 Central U.S. 600-750 lbs., or its equivalent, as reported by the United States Department of Agriculture's Agricultural Marketing Service; and
 - (b) **24-month trigger price** means the price that is 6.5 percent less than the average of the previous 24 monthly average index prices.