

ISSUES REGARDING MARKET ACCESS NOTIFICATIONS

Discussion Paper by Canada

1. The purpose of this paper is to examine possible ways to improve the process for reviewing market access notifications, complementing the similar papers prepared by New Zealand on domestic support notification issues (G/AG/W/34), and by Australia on export subsidy notification issues (G/AG/W/37). In light of comments and questions that have been raised to date, it would seem that there are simple improvements that would avoid many of the questions that repeatedly arise in the review of market access notifications. This would make the notification and review processes less burdensome for Members.

2. The current paper examines possible ways that the information included in the notifications for tariff rate quotas (Tables MA:1 and MA:2) and for the use of the special safeguard (MA:3, MA:4 and MA:5), as set out in G/AG/2, could be improved. The reason is that the availability of transparent and readily comparable data is useful to verify that Members are adhering to their commitments. Frequently asked questions can be anticipated and avoided by providing more comprehensive information in the notification itself, without unduly increasing the burden on notifying Members, thereby making the Committee's review process more efficient and effective. The additional information suggested in this paper is generally available to the notifying Member at the time that it prepares its notification, so that it could be considerably more efficient to include it in the notification itself, rather than providing it separately when questions are asked. The suggestions in this paper for the Committee's consideration and discussion are not intended to involve any issues of interpretation of the WTO Agreement on Agriculture or Members' schedules of commitments.

B. TARIFF RATE QUOTA NOTIFICATION ISSUES

(i) Comprehensive reporting of scheduled tariff rate quotas

3. For a large number of tariff rate quotas, Members have indicated in their MA:1 notifications that some or all of their TRQs have not been implemented since the applied tariffs are at or below the bound in-quota duty. In these cases, other Members frequently ask for specific information on the applied terms of access in order to confirm that applied tariffs are in fact at or below the bound in-quota rate for all products covered by the scheduled TRQ commitment. In order to avoid these repetitive questions, Members may wish to consider automatically providing detailed information by tariff line on the applied terms of access with their MA:1 notification, when it has not been necessary to implement actual TRQ measures.

4. A similar question of comprehensive reporting applies when imports within quota are reported using Table MA:2. Whether the TRQ has been implemented, or applied tariffs without a quantitative limit are used, other Members are interested in the level of imports that have occurred for the basket of products covered by each TRQ commitment. The data on imports provide useful

information for understanding how open a market is in the absence of the TRQ being imposed. Moreover, in the annual reporting of imports for all products for which a Member has scheduled TRQ commitments in Table MA:2, it would be useful if Members confirmed which TRQs are actually in effect, and which have only applied tariffs in place

(ii) *Product coverage of scheduled and implemented TRQ commitments*

5. Members frequently ask questions to confirm the product coverage of a single TRQ commitment, when there are apparent differences between the commitment in the schedule and the coverage of a TRQ notified in either Table MA:1 or MA:2. Such differences arise when the product coverage indicated by the Harmonized System (HS) codes differs between the schedule and notifications to the Committee. Several reasons can account for these differences. At the technical level, schedules were generally prepared using the HS92 nomenclature, while tariffs and tariff rate quotas are frequently being administered using the HS96 nomenclature. If this is the case, a footnote identifying tariff lines affected by changes of this kind (or making a reference to the WTO document in which HS96 changes were notified) would avoid unnecessary questions in the Committee.

6. Other questions can arise when the product coverage of a TRQ reported through an MA:1 or MA:2 notification is different from the product coverage of the TRQ in the schedule. A number of different cases have been seen in the review of notifications. In some cases, Members sometimes aggregate several different TRQ commitments into a single applied TRQ, summing the total volume required for individual TRQ commitments into a single aggregate, covering the range of products. In other cases, the notification of TRQ administration or fill may suggest that the TRQ is applied on fewer products, or a more narrowly defined basket of products, than was indicated in that Member's schedule. When this happens, other Members can be expected to ask questions to confirm what the terms of access are for the products that are covered by the scheduled TRQ, but do not appear to be covered by the TRQ as implemented. Where the applied terms of access for the "omitted" products are at or below the bound in-quota rates for each tariff line, there may be little concern. However, when the applied terms of access for the "omitted" products are less favourable than the bound in-quota tariff for that year, there may be grounds for concern. Where TRQs are implemented for a different set of products than those covered by a single TRQ commitment, an explanation should be provided.

(iii) *Measurement of imports under TRQs*

7. A commonly asked question in the review of TRQ fill notifications relates to how imports within TRQs are being counted. This may relate to whether the "count" reflects actual imports under the TRQ, the quantity of import licenses issued, or all imports benefiting from the low in-quota rate of duty through a combination of imports under the TRQ and additional autonomous imports. Members should clearly indicate how their count of TRQ fill is measured.

(iv) *Consistency of reporting periods with scheduled commitments*

8. Members indicated their implementation periods for market access commitments, including TRQs, in their schedules of commitments, or through the Secretariat background note on implementation dates (G/AG/W/2/Rev.4 of 28 March 1996). These may be by calendar year or by marketing year, and a number of Members have both calendar year and one or more marketing years used to implement various TRQ commitments. In making their notifications of TRQ administration and TRQ fill, some Members have used different reporting periods than were indicated in their schedule for a particular TRQ commitment. Where TRQs are being increased over the implementation period, it becomes particularly difficult to track and verify the phased increases when reporting is on a marketing year basis, while scheduled commitments are indicated as applying to calendar years, or vice versa. While it is recognised that Members had the right, when preparing their

schedules, to specify either marketing years or calendar years for the implementation of specific TRQs included in their schedule, once selected, these must not be changed.

(v) *Timeliness of reporting imports under TRQs with implementation periods*

9. As noted above, some Members have used different implementation and reporting periods for various TRQ commitments, with a mix of calendar year and marketing year commitments. Since imports under TRQs are to be notified within 60 days of the end of the relevant period, in accordance with the requirements of G/AG/2, this means that Members having several different implementation periods for TRQs should report TRQ fill promptly after the end of each reporting year applying to their tariff quota commitments. This may require two or more notifications of TRQ fill during a calendar year if several different implementation periods are included in a Member's commitments. Therefore, to avoid unnecessary delays in reviewing the implementation of commitments, Members with different reporting periods for different TRQs should submit separate notifications.

(vi) *Consistency of reporting measurement units with scheduled commitments*

10. A number of notifications have employed different units of measurement in reporting the volume of imports within TRQs relative to the measurement units indicated in the schedule. Examples include differences between product weight and carcass weight; or product weight and eviscerated equivalents; or eggs equivalent and product weight; or hectolitres of product and litres of pure alcohol. The same measurement units as were specified in the schedule of commitments must be used.

C. SPECIAL SAFEGUARD NOTIFICATION ISSUES

11. Special safeguard notifications have attracted particularly detailed questions from Members, with questions on most ad hoc notifications. The question of transparency and information provided in special safeguard notifications has also been highlighted in the AIE paper by New Zealand, *Article 5: Special Safeguard Provisions* (AIE/20). In the case of the volume-triggered safeguard, the questions most commonly posed concern (1) the level of imports prior to the application of the special safeguard and the distribution of these imports between in-quota and out-of-quota imports, (2) the applied duty before and after the application of the special safeguard, and (3) the volume of trade affected by the application of the special safeguard. As a practical matter, it would appear to be possible for the first and second of these pieces of information to be readily included with the MA:3 notification, which is required whenever the volume-triggered safeguard is applied. The third piece of information, on the volume of trade affected by the application of the special safeguard, would only be known after the end of the period in which the special safeguard was applied. Therefore, this information could be provided in the context of the MA:5 notification, which provides the annual summary of the use that has been made of special safeguard provisions.

12. In the case of the price-triggered safeguard, similar kinds of questions have been posed when the safeguard has been used, including (1) the volume of imports affected by the special safeguard, (2) the extent to which the actual import price was below the price trigger, and (3) the applicable duty before and after the imposition of the price trigger. Similarly to the situation for the volume-triggered safeguard discussed in paragraph 11, information on the volume of trade affected by the special safeguard is only known at the end of the period, so that this information could be included as part of the annual MA:5 notification. Since the price-triggered special safeguard is triggered on a shipment-by-shipment basis, the information on the extent to which the actual import price was below the price trigger and the level of the applicable additional duty would also vary on a shipment-by-shipment basis. It would be useful if Members were to provide the range of actual import prices that triggered the safeguard, and the corresponding additional duties imposed, when they submit their annual MA:5 notification.

13. For the price-triggered safeguard, a particular issue arises in the case of the few Members who have notified "up front" price triggers for the tariff lines covered by the special safeguard, so that individual ad hoc notifications are not required when the price-triggered special safeguard is actually used during the year. In these cases, it becomes particularly important that the Member promptly provide the annual notification summarizing the actual use that has been made of the special safeguard at the end of the year in question. However, a number of annual MA:5 notifications are missing, particularly from Members who have previously made an "up-front" notification of price triggers.
