

Draft as of March 22, 2007
Subject to legal review for accuracy, clarity, and consistency.

Section F: Agriculture

Article 3.13: Scope and Coverage

This Section applies to measures adopted or maintained by a Party relating to trade in agricultural goods.

Article 3.14: Administration and Implementation of Tariff-Rate Quotas

1. Each Party shall implement and administer the tariff-rate quotas for agricultural goods set out in Appendix I to its Schedule to Annex 3.3 (Tariff Elimination) (hereafter, “TRQs”) in accordance with Article XIII of the GATT 1994, including its interpretive notes, and the Import Licensing Agreement.

2. Each Party shall ensure that:

- (a) its procedures for administering its TRQs are transparent, made available to the public, timely, nondiscriminatory, responsive to market conditions, and minimally burdensome to trade;
- (b) subject to subparagraph (c), any person of a Party that fulfills the Party’s legal and administrative requirements shall be eligible to apply and to be considered for an in-quota quantity allocation under the Party’s TRQs;
- (c) it does not, under its TRQs:
 - (i) allocate any portion of an in-quota quantity to a producer group;
 - (ii) condition access to an in-quota quantity on purchase of domestic production; or
 - (iii) limit access to an in-quota quantity only to processors.
- (d) solely government authorities administer its TRQs and government authorities do not delegate administration of its TRQs to producer groups or other non-governmental organizations, except as provided in Appendix I of the General Notes of Panama to Annex 3.3 (Tariff Elimination); and
- (e) it allocates in-quota quantities under its TRQs in commercially viable shipping quantities and, to the maximum extent possible, in the amounts that importers request.

3. Each Party shall make every effort to administer its TRQs in a manner that allows importers to fully utilize them.

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4. Neither Party may condition application for, or use of, an in-quota quantity allocation under a TRQ on the re-export of an agricultural good.
5. Neither Party may count food aid or other non-commercial shipments in determining whether an in-quota quantity under a TRQ has been filled.
6. On request of either Party, the Parties shall consult regarding the administration of the importing Party's TRQs.

Article 3.15: Agricultural Export Subsidies

1. The Parties share the objective of the multilateral elimination of export subsidies for agricultural goods and shall work together toward an agreement in the WTO to eliminate those subsidies and prevent their reintroduction in any form.
2. Except as provided in paragraph 3, neither Party may introduce or maintain any export subsidy on any agricultural good destined for the territory of the other Party.
3. Where the 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-on measures, the exporting Party shall refrain from applying any export subsidy to its exports of the good to the territory of the importing Party. If the importing Party does not adopt the agreed-on measures, the exporting Party may apply an export subsidy on its exports of the good to the territory of the importing Party only to the extent necessary to counter the trade-distorting effect of subsidized exports of the good from the non-Party to the importing Party's territory.

Article 3.16: Export State Trading Enterprises

The Parties shall work together toward an agreement on export state trading enterprises in the WTO that:

- (a) eliminates restrictions on the right to export;
- (b) eliminates any special financing granted directly or indirectly to state trading enterprises that export for sale a significant share of their country's total exports of an agricultural good; and
- (c) ensures greater transparency regarding the operation and maintenance of export state trading enterprises.

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Article 3.17: Agricultural Safeguard Measures

1. Notwithstanding Article 3.3 (Tariff Elimination), a Party may apply a measure in the form of an additional import duty on an originating agricultural good listed in that Party's Schedule to Annex 3.17 (Agricultural Safeguard Measures), provided that the conditions in paragraphs 2 through 8 are met. The sum of any such additional import duty and any other customs duty on such good shall not exceed the lowest of:

- (a) the base rate of duty provided in the Party's Schedule to Annex 3.3;
- (b) the prevailing most-favored-nation (MFN) applied rate of duty; or
- (c) the MFN applied rate of duty in effect on the day immediately preceding the date of entry into force of this Agreement.

2. A Party may apply an agricultural safeguard measure during any calendar year on an originating agricultural good if the quantity of imports of the good during such year exceeds the trigger level for that good set out in its Schedule to Annex 3.17 (Agricultural Safeguard Measures).

3. The additional duty under paragraph 1 shall be set according to each Party's Schedule to Annex 3.17 (Agricultural Safeguard Measures).

4. Neither Party may apply an agricultural safeguard measure and at the same time apply or maintain:

- (a) a safeguard measure under Chapter Eight (Trade Remedies); or
- (b) a measure under Article XIX of GATT 1994 and the Safeguards Agreement;

with respect to the same good.

5. Neither Party may apply or maintain an agricultural safeguard measure on a good:

- (a) on or after the date that the good is subject to duty-free treatment under the Party's Schedule to Annex 3.3 (Tariff Elimination); or
- (b) that increases the in-quota duty on a good subject to a TRQ.

6. A Party shall implement an agricultural safeguard measure in a transparent manner. Within 60 days after applying such 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 application of the measure.

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7. A Party may maintain an agricultural safeguard measure only until the end of the calendar year in which the Party imposes the measure.
8. Originating goods from either Party shall not be subject to any duties applied pursuant to any agricultural safeguard measure taken under the WTO Agreement on Agriculture or any successor provisions thereof.
9. The Commission and the Committee on Agricultural Trade may review the implementation and operation of this Article.
10. For purposes of this Article and Annex 3.17 (Agricultural Safeguard Measures), **agricultural safeguard measure** means a measure described in paragraph 1.

Article 3.18: Sugar Compensation Mechanism

1. In any year, the United States may, at its option, apply a mechanism that results in compensation to Panama's exporters of sugar goods in lieu of according duty-free treatment to some or all of the duty-free quantities of sugar goods established for Panama in paragraph 6 of Appendix I to the General Notes of the Schedule of the United States to Annex 3.3. Such compensation shall be equivalent to the estimated economic rents that Panama's exporters would have obtained on exports to the United States of any such amounts of sugar goods and shall be provided within 30 days after the United States exercises this option. The United States shall notify Panama at least 90 days before it exercises this option and, on request, shall enter into consultations with Panama regarding application of the mechanism.
2. For purposes of this Article, **sugar good** means a good provided for in the tariff items listed in subparagraph 6(c), 6(g), or 6(j) of Appendix I to the General Notes of the Schedule of the United States to Annex 3.3.

Article 3.19: Agriculture Review Commission

The Parties shall establish an Agriculture Review Commission in the 14th year after the date of entry into force of this Agreement to review the implementation and operation of the Agreement as it relates to trade in agricultural goods. The Agriculture Review Commission shall evaluate the effects of trade liberalization under the Agreement, the operation of Article 3.17 (Agricultural Safeguard Measures) and possible extension of agricultural safeguard measures under that Article, progress toward global agricultural trade reform in the WTO, and developments in world agricultural markets. The Agriculture Review Commission shall report its findings and any recommendations to the Commission.

Article 3.20: Committee on Agricultural Trade

1. No later than 90 days after the entry into force of this Agreement, the Parties shall establish a Committee on Agricultural Trade, comprising representatives of each Party.

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2. The Committee shall provide a forum for:
 - (a) monitoring and promoting cooperation on the implementation and administration of this Section;
 - (b) facilitating trade in agricultural goods between the Parties;
 - (c) consultation between the Parties on matters related to this Section in coordination with other committees, subcommittees, working groups, or other bodies established under this Agreement;
 - (d) addressing barriers to trade in agricultural goods; and
 - (e) undertaking any additional work that the Commission may assign.
3. The Committee shall meet at least once a year unless it decides otherwise. Meetings of the Committee shall be chaired by the representatives of the Party hosting the meeting.
4. All decisions of the Committee shall be taken by consensus, unless the Committee otherwise decides.

Definition

For purposes of this Section, **agricultural goods** means those goods referred to in Article 2 of the WTO Agreement on Agriculture.