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Regional Trade Agreements - Treatment of Agriculture

Linda Fulponi, Matthew Shearer,
Juliana Almeida

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Abstract
**REGIONAL TRADE AGREEMENTS -
TREATMENT OF AGRICULTURE**

by

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South-South and Latin American regional trade agreements (RTAs) have made the most progress in eliminating agricultural trade tariffs, according to this study of over 50 such agreements. Agricultural export subsidies are banned in over half the agreements under study, signalling greater trade liberalisation in conformity with Article XXIV of the General Agreement on Tariffs and Trade (GATT). However, traditionally sensitive sectors such as dairy, meat, sugar and cereals are still covered by numerous exemptions and tariff rate quotas (TRQs). This study develops earlier work on the treatment of agriculture in regional trade agreements for Latin America by extending the geographic coverage to Asia-Pacific and selected agreements in Africa. It analyses these agreements with respect to market access, subsidies, trade remedies, and requirements relating to sanitary and phytosanitary measures (SPS) and technical barriers to trade (TBT).

Keywords: Regional trade agreements, tariff elimination, Article XXIV GATT, free trade agreements, SPS.

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LIST OF ACRONYMS

ACP	African Caribbean and Pacific states
ASEAN	Association of Southeast Asian Nations
AoA	Agreement on Agriculture
CA	Conformity Assessment
COMESA	Common Market for Eastern and Southern Africa
CU	Customs Union
CUSTA	Canada-United States Trade Agreement
EAC	East African Cooperation
ECOWAS	Economic Community of Western African States
EFTA	European Free Trade Association
EPA	Economic Partnership Agreement
EPC	Export Promotion Council of Kenya
EU	European Union
FTA	Free Trade Agreement
GATT	General Agreement and Tariffs and Trade
GAP	Good Agriculture Practices
GI	Geographical Indication
GMP	Good Manufacturing Practices
HACCP	Hazard Analysis of Critical Control Points
IPPC	International Plant Protection Convention
MFN	Most Favoured Nation
MRA	Mutual Recognition Agreement
NTB /	Non-Tariff Trade Barrier
NTM	Non-Tariff Measure
OECD	Organisation for Economic Co-operation and Development
OIE	World Organisation for Animal Health
ROOs	Rules of Origin
RTAs	Regional Trade Agreements
SACU	Southern African Customs Union
SADC	Southern African Development Cooperation
SSG	Special Agricultural Safeguard
SPS	Sanitary and Phytosanitary Measures
TBT	Technical Barriers to Trade
TRQ	Tariff Rate Quota
URA	Uruguay Round Agreement
URAA	Uruguay Round Agreement on Agriculture
WTO	World Trade Organization

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Executive Summary

There are 297 regional trade agreements in force according to the WTO. These agreements require the elimination of tariffs and other barriers for substantially all trade in a reasonable period of time, interpreted to be ten years for most countries. Such requirements go well beyond the current set of multilateral agreements in terms of tariffs and non-tariff measures. Agriculture is an integral part of these agreements as no important sector is to be omitted. This should mean that even agricultural trade is being liberalised. However, as trade agreements are negotiated instruments these can vary substantially in scope and depth. It is thus useful to examine the content of these agreements in terms of commitments with respect to both tariff elimination and other non-tariff measures as well as in comparison to the current multilateral framework. These can be deemed WTO-plus if they go beyond the requirements of the multilateral agreement in terms of tariff elimination and commitments to reduce non-tariff barriers. The term WTO-plus can also be used when an RTA establishes any kind of procedure/regulation that is not available in the WTO framework. This can include, for example, how the parties will apply a specific commitment (timeframe and/or procedure) or an additional commitment not agreed upon at the multilateral level. We examine over 50 agreements and their 158 tariff concessions. For a more limited set of agreements we examine in some detail the chapters on SPS, TBT, subsidies, trade remedies and geographical indications

Overall, the share of duty-free tariff lines, averaged over products and concessions, provides evidence of significant tariff elimination, as on average over 90% of tariff lines are duty-free at the end of the implementation period. This makes them ‘WTO-plus’ with respect to the WTO-AoA tariff schedules. Even where tariffs are not completely eliminated, tariff reductions are made to applied and not bound rates, thus a significant movement towards trade liberalisation is undeniable. The overall average of course masks differences across countries and products. Sugar and dairy remain sensitive sectors in most agreements with tariffs being completely eliminated in only a few countries for these products.

Using aggregates based on income per capita (South-developing countries and North-developed countries), the South-South agreements make the greatest strides in eliminating tariffs with their share of duty free tariff lines increasing from 28% to approximately 92% when fully implemented, while North-South agreements increase their share of duty free lines from over 68% to only 87%.

Using geographic based aggregates, the Asia-Pacific and Latin American agreements complete their implementation with shares of duty free tariff lines of 97% and 94%, respectively. The effort made by Latin American agreement participants is substantial as their initial share of duty free lines is only 30%. In contrast the participants of the Asia Pacific agreements begin with a share of duty free tariff lines of over 70%, thus their efforts may be less arduous. But these averages mask

substantial differences between countries. Agreements concluded between countries from different regions, referred to in this paper as inter-regional agreements, begin with over 68% of duty free tariff lines which increase to 86% at the end of the implementation period.

Many tariff schedules remain characterised by exemptions with some countries exempting a very large share of tariff lines from complete elimination, such as the EFTA-Chile or Turkey-Egypt agreements. Tariff Rate Quotas (TRQs) are also abundantly used in a number of agreements often to protect sensitive sectors given their incidence in sectors such as sugar, dairy and meats.

Rules of Origin (ROOs) used to ensure against trade deflection are applied to non-originating goods or inputs to goods that are further processed. Most of the ROOs for agricultural products require a change of chapter (HS2) or require that they be wholly originating. This rule can be quite restrictive, for trade where transformation of an imported good needs to undergo a change of chapter. For processed goods a 10% de minimis rule allows goods with 10% or less of non originating materials to be classified as originating. However this leniency clause is at times not applicable to agricultural goods. Where most agricultural goods exported are raw commodities these automatically fulfil the ROOs requirements; however, where processed goods are also part of the export portfolio there may be a constraining effect. The impact of ROOs for agricultural trade are, however, not well known.

Few of the SPS chapters contain specific commitments going beyond the core principles of the WTO-SPS agreement. Overall, the language in these chapters remains within the realm of guidelines rather than concrete action. Several agreements, however, do include specific commitments with respect to compliance with transparency and equivalence. These commitments would make the agreements WTO-plus with respect to the WTO-SPS requirements. Most of the agreements with specific commitments are among those of Latin America and those concluded with New Zealand and Singapore. Further efforts in advancing the key trade-promoting rules of mutual recognition and harmonization appear needed. Differences in national regulatory regimes and capacities make it difficult for countries to move beyond the WTO-SPS frameworks in the short-run.

Almost no agreements propose to reduce support to the agricultural sector and thus do not go beyond the WTO-AoA as would be expected given the nature of domestic support, which cannot be determined in terms of possible export destinations. However, in a number of Latin American agreements there are specific commitments with respect to methods and instruments of support.

Agricultural export subsidies are prohibited in about 60% of the agreements examined. This indicates a definite move towards greater trade liberalisation and is a WTO-plus measure with respect to the provisions for export subsidies in the WTO-AoA.

Overall the study finds that with respect to tariff elimination the Asia-Pacific, Latin American and South-South agreements, have successfully eliminated most tariffs. The SPS provisions of the agreements give mixed results with progress in some agreements for transparency, but little in the key areas of regionalisation, equivalence, mutual recognition and harmonisation.

Provisions prohibiting the use of agricultural export subsidies are found in a large number of agreements, thus providing evidence of moving beyond the WTO-AoA.

However, few of the countries in these RTAs made use of export subsidies, diluting to some extent the trade liberalisation effort.

This analysis provides initial background information on a varied set of RTAs but has not dealt with key issue of their impacts on trade and incomes. What effect have these agreements had on trade? Have they stimulated trade, what have been the avenues of this increase and how has it affected others? What might need to be done in future agreements to ensure that they are instruments for trade and growth as well as fostering multilateral trade liberalisation? The question is whether these agreements have or have not increased trade compared to what it would have been without the agreements.

Part I.

Introduction

According to the WTO, 297 regional trade agreements (RTAs) are currently in force with additional ones under negotiation. Most of these are bilateral free trade agreements (FTAs) with over 50% having come into force since 2000. Almost all WTO members participate in one or more of these agreements, with some participating in a dozen or more, making for webs of overlapping trade agreements each with its own set of market access rules and regulatory frameworks.

Although agricultural trade liberalisation remains contentious in multilateral trade negotiations, in the more limited negotiating environment of RTAs satisfactory solutions are found for the agreements to be concluded.¹ The increase in RTAs, criss-crossing across countries and continents, indicates that countries do derive benefits from them either in economic and/or non-economic terms.² Indeed, the benefits may go beyond market access and include political influence, reputation building or support to other geo-political objectives. This proliferation of RTAs has generated much discussion in trade policy circles not only because of their impacts on trade and welfare but also because of their uncertain effects on multilateral trade liberalisation efforts.³

The present study simply asks how much additional market access is actually on offer to the agricultural sector in RTAs. Have the RTAs eliminated tariffs and removed non-tariff barriers? Has progress been made on sensitive sectors? Have the agreements gone beyond basic requirements of the SPS and TBT agreements? How have they dealt with agricultural support, export subsidies and trade remedies that often exempt agriculture from the general WTO rules? What are the main differences between agreements? Are these differences related to income levels and/or are they simply due to different geographical/ cultural origins? To what extent can they be considered “WTO-plus”, that is going beyond WTO-AoA requirements in terms of liberalisation?

-
1. When RTAs were concluded mainly among neighbouring countries, it was argued that cultural and historic ties facilitated negotiations. This is certainly true, but recent cross continent agreements weakens the argument. This tends to emphasize the economic objectives of the agreement, both in the short and long term. This suggests that in certain cases the agreements function as options on future trade opportunities.
 2. Ethier suggests that countries may wish to enter into a RTA because of the reputational building effects they can engender. Participation signals to markets (domestic and foreign) their commitment to reform and thus can also be important instruments for promoting investment (FDI), (Ethier, 1992).
 3. Many are in fact asking if these free trade agreements (FTA) complement or substitute for multilateral efforts.

Although initial findings indicate a significant overall increase in duty free lines, this outcome is not uniform across countries or sectors. Indeed the traditionally sensitive products continue to retain their protected status and in countries where agriculture is considered a sensitive sector a large share of tariff lines are exempted from duty elimination. Tariff rate quotas (TRQs) were also found to be applied to sensitive products quite frequently. Agreement provisions that eliminate agricultural export subsidies and limit the use of special safeguards do provide evidence of a move towards greater agricultural trade liberalisation. However, such provisions tend to characterise those countries that have generally not employed these measures extensively. The provisions governing sanitary and phyto-sanitary (SPS) provisions as well as technical barriers to trade (TBT) do not go much beyond the general requirements of the WTO agreements except in a few cases, in particular where specific side agreements or MOUs are concluded.

This paper is organised as follows: Part II provides a basic information on RTAs, including their WTO framework; Part III describes the data and method of analysis and presents the findings on tariffs, TRQs and ROOs; Part IV discusses key elements of SPS and TBT provisions and assesses their implications for trade liberalisation; Part V summarizes the findings for their provisions regarding subsidies, trade remedies, and geographic indications; and Part VI provides preliminary conclusions.

Part II.

The World of Regional Trade Agreements

Regional trade agreements (RTAs) include three types of preferential trade agreements; free trade and regional integration agreements and customs unions.⁴ There are 297 agreements in force according to the WTO (2011). Only four WTO members are reported not to have an RTA - Mongolia, Djibouti, Democratic Republic of the Congo and Madagascar, (WTO, 2009). The increase in RTAs over the period 1970-2010 is shown in Figure 1. Their number has accelerated since the mid-1990s, with most being Free Trade Agreements (FTAs). While there are no recent estimates of trade under RTAs, in 2003 they were estimated to account for over 50% of world trade and the share was expected to increase (OECD, 2003).

The provisions included in RTAs have evolved over time; prior to 2 000 agreements focused mainly on market access but more recent agreements cover a wider range of topics such as, competition, environment, and intellectual property. Agreements between developed and developing countries also include substantial technical assistance programmes for assisting countries to meet specific requirements, such as SPS regulations. RTAs appear to extend their reach across economic and institutional set ups and are often now seen as instruments of economic integration between the developed and developing countries (Burzt *et al.*, 2009).

Most countries have signed two or more agreements and a number participate in ten or more. The term “spaghetti bowl”, coined by Bhagwati to describe the web of trade relations these create, is evidenced both by the number of agreements between countries and by their intricate overlapping relations. For instance, the European Union has some 26, Chile 19, EFTA 19, Ukraine and Mexico 14 and the United States 11. The hub-spoke image clearly characterises those agreements between the large economies and a number of smaller ones. The latter may not only seek to ensure market access to major markets but also to build reputation in the international political economy arena, which in turn helps to ensure domestic reforms and trade stance credibility. While the United States and the European Union have been long identified as hubs, Mexico and Chile with a web of over a dozen agreements each are clearly also hubs. What is driving this increase in multiple RTAs? Are they multiplying because of the expected benefits - economic and non-economic? Or have the RTAs simply become a necessary tool to integrate into the world trading system without which a country risks remaining outside the system?

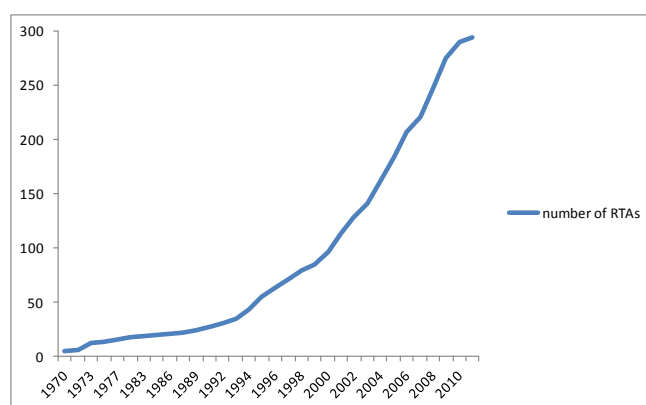
Only about 20% of RTAs were concluded prior to 1995. Three quarters of current agreements have come into force after the conclusion of the Uruguay round agreement in 1994 and over two-thirds of the agreements have come into force since 2000.

4. Substantial work has been already been carried out by the OECD on non-reciprocal preferential tariffs (OECD, 2006).

Figure 2 describes the growth of RTAs over time. Why has there been a surge in agreements since 2000? It is suggested that the increase in regional trade agreements after 2000, particularly by the Latin American countries, is linked with the failure to achieve a multilateral agreement.

Agreements concluded since 2000 do not limit themselves to their natural trading partners, that is their geographical neighbours or historically and culturally linked countries, but often cross continents, for example, China-New Zealand, Chile-Japan, Chile-European Union, Thailand-Australia and Thailand-European Union.⁵ Given the distances involved and dissimilarities in their economies, economic incentives or other political economy motivations are likely to be at play.

Figure 1. RTAs in force 1970-2010



Source: OECD Secretariat calculation from WTO database.

Conforming to Article XXIV

While the principle of non-discrimination in trade is central to the GATT/WTO system (GATT, Article XXIV), the GATT framework permits members to enter into free trade agreements or set up customs unions to promote free trade among members as long as these do not raise barriers to non-members. These agreements, however, must ensure that *duties and other restrictive regulations of commerce (except, where necessary, those permitted under Articles xi, xii, xiii, xiv, xv, and xx) are eliminated with respect to substantially all the trade between the constituent territories or at least with respect to substantially all trade in products originating in such territories* (Article xxiv-Para. 8.). *Furthermore these are to implemented within a reasonable length of time, interpreted as ten years in general (Art. XXIV, 5.c).*⁶

5. Observers note that there are a number of agreements between smaller economies and larger, developed countries and suggest that the smaller countries find that RTAs are now necessary to gain market access. But many are also being concluded between emerging/developing countries themselves, particularly in Latin America and Asia. Other agreements may simply reflect past political geographical ties, such as between the CIS countries. To add to the mix, a number of bilateral FTAs are now between a multi-country FTA and a single country, for instance, China-ASEAN, EFTA-Chile, and Chile-Mercosur (Crawford and Fiorentino, 2006).
6. The language used of the ‘Understanding on the interpretation of Article XXIV of the GATT 1994, states that the “reasonable length of time” referred in paragraph 5© if

The legal language of the article is ambiguous, with no definition of what constitutes “substantially all trade” (SAT) or a “restrictive regulation of commerce”–trade barrier. The time horizon has been officially interpreted by the WTO as being ten years for most countries.⁷ Developing countries that undertake RTAs, however, may extend the period of implementation to facilitate economic adjustment. This extension is however limited to a subset of all products under the agreement. While SAT is not well-defined, the interpretation is that no major sector is to be excluded. The applied *Most Favoured Nation* (MFN) rates are used to set maximum rates applicable to third countries. These guidelines govern the overall framework for an RTA, defining the liberalisation trajectory, coverage and special provisions.

Article XXIV should exceed ten years only in exceptional cases. www.worldtradelaw.net/uragreements/articlexxivunderstanding.pdf.

7. The “reasonable length of time” referred to in paragraph 5(c) of Article XXIV should exceed ten years only in exceptional cases. In cases where Members parties to an interim agreement believe that ten years would be insufficient, they shall provide a full explanation to the Council for Trade in Goods of the need for a longer period. Understanding on the Interpretation of Article XXIV of the General Agreement on Tariffs and Trade 1994 (www.wto.org/english/docs_e/legal_e/10-24_e.htm)

Part III.

Market Access: Tariffs, TRQs and Rules of Origin

Database and method

The information used in this analysis is taken from the agreements themselves, available on the WTO and IDB websites. Supplementary information where required is from national governments. The RTAs examined cover a mix of multi-lateral and bilateral free trade and customs union agreements and include countries at different levels of economic development from the Americas, Africa, Europe and the Asia Pacific region. Certain agreements examined such as Mercosur, Comesa, Ecowas, EAC and SADC are customs unions rather than free trade agreements. The sample is not representative of all agreements signed and in force and therefore caution must be exercised in drawing conclusions from the analysis with respect to RTAs in general.

Both geographic and economic based aggregates are used to analyse the 158 tariff concessions of the 55 agreements examined, listed in Table 1 by their initial year in force. The tariff concessions are a country's tariff reduction/elimination schedule *vis-à-vis* its partner(s). Tariff concessions between Latin American countries form the aggregate "Latin America" and those of the Asia Pacific the "Asia-Pacific" aggregate. For those agreements with members from different regions, such as United States-Morocco, Thailand-Peru or Japan-Mexico, an inter-regional aggregate was constructed. There is no African regional aggregate because of the limited access to data on African tariff concessions. Only the East African Community (EAC) provided detailed tariff reduction schedules, while SADC provided very aggregate product classifications not comparable with the rest of the tariff schedules. However, the EAC is a customs union thus tariffs among members are zero. A transition period with non-zero tariffs by Tanzania and Uganda *vis-à-vis* Kenya was allowed in the first five years of the agreement to facilitate adjustment.⁸

As income levels are determinant factors in trade, the tariff concessions were also aggregated into standard North and South categories based on income per capita.⁹ The South category is further subdivided into high income developing and middle income developing country categories.¹⁰ Countries included in these North and South aggregates are shown in Table A1.

8. Kenya immediately reduced its tariffs to zero for Uganda and Tanzania, but their tariffs remained non-zero for years. Uganda and Tanzania provided for immediate zero tariffs.

9. Aggregation into North and South country categories as well as South high income and South middle income developing country categories is based on World Bank GNI per capita (Atlas method).

10. *Ibid.*

Table 1. List of Regional Trade Agreements Analysed

IADB study	Date	IADB-OECD Study	DATE
NAFTA	1992	Australia-Chile	2009
US-Columbia	2006	Australia-US	2007
US-Peru	2006	Australia-Singapore	2003
US-Chile	2003	Australia-Thailand	2004
CAFTA-DR	2004	China-New Zealand	2009
Chile-Canada	1996	China-Hong Kong	2003
Chile-Japan	2007	New Zealand-Thailand	2005
Chile-China	2005	New Zealand-Singapore	2001
Chile-Korea	2003	Japan-Thailand	2007
Chile-Mexico	1998	Korea-Singapore	2006
Chile-Peru	1998	Canada-Peru	2009
Chile-EU	2002	Chile-EFTA	2002
Chile-New Zealand-Singapore-Brunei(P4)	2005	Chile-EFTA	2002
Mexico-EU	2000	Turkey-EFTA	1992
Mexico-Bolivia	1994	Turkey-Egypt	2007
Mexico-Costa Rica	1994	EU-Egypt	2004
Mexico-Nicaragua	1997	EU-South Africa	2000
Mexico-Northern Triangle	2001	US-Morocco	2005
Mexico-Uruguay	2003	EAC	2002
Mexico-Peru	1995	SADC	2004
Mexico-EFTA	2000	ECOWAS	2005
Mexico-Japan	2004	COMESA	1995
Mexico-Israel	2000		
Mexico-Columbia	1994		
Mercosur-Peru(ACE59)	2005		
Mercosur-Can(ACE59)	2004		
Mercosur-Chile	1996		
Mercosur-Bolivia	1998		
Cent. America-Chile	1999		
Panama –Singapore	2006		
Peru-Thailand	2005		

Caution must be exercised in making comparisons across aggregates as the sample sizes differ considerably.¹¹ Of the 158 tariff concessions analysed overall, 70 are Latin American, 66 are Inter-regional, 16 are Asian-Pacific and 6 African.¹²

The tariff concessions are analysed by calculating the share of tariff lines that are duty free for each chapter in each year over the implementation period.¹³ Data are expressed as average share of tariff lines that are zero beginning at the date at which the agreement comes into force through the implementation period. These calculations are shown for a 25-year period; although most liberalisation programs are implemented before year 18, there are exceptions, such as United States-Australia, where the tariff quota for beef expires in year 19. The trajectories of the share of zero tariff lines, by country and chapter, provide an overall view of the tariff commitments in the agreements and permit the identification of outliers. The percentage of duty-free tariff lines for any given year are calculated for the set of products defined by the WTO as agricultural, that is HS chapters 01-24 excluding chapter 03, and various products in chapters HS 28-53.¹⁴

Data constraints

Lack of data limited the analysis with respect to trade flows and preference margins. Trade flow data under preferential and MFN tariffs is still sorely lacking though some countries have been recently making it available to the WTO. Such trade data is available for the United States and the European Union on the internet, while duties collected by tariff item are also available for the United States. Data from Australia and Canada were made available by the respective governments via WTO. Box 1 provides a summary of information needs necessary to undertake analyses of the impacts of RTAs on trade. A graphic summary of selected trade flows under the preferential tariffs for European Union European Union, United States, Australia and Canada are presented in Tables A1-A7.

To analyse the impact of the RTAs on trade, information on both the trade flows and preferential margins is needed. The preference margins provide information on the benefit of the reduced tariff given the applied MFN rate. Where MFN tariffs are zero or very small the benefit of reducing tariffs is either null or very small, and there may be administrative costs tied to showing that the product should be considered as originating in the exporting country. Unless preference margins can also cover

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11. The initial study by the Inter-American Development bank focussed on the treatment of agriculture in the Latin American RTAs and included both intra Latin American agreements as well as those concluded with countries outside the region. This along with the fact that the region has a large number of agreements in force accounts for the large number of a Latin American Agreements.
 12. More detailed information for agreements involving Latin American countries can be found in Shearer *et al.* (2009), available at www.iadb.org/document.cfm?id=35030397.
 13. There is a tariff concession for each country *vis-a-vis* its partner in an agreement, thus the number of concessions is a multiple of the number of the agreements. For example, the EAC with three members has six concessions.
 14. For consistency, only agreements which provided schedules by product are included. This means that ECOWAS, SADC and COMESA whose tariff schedules were unavailable in this are excluded.

administrative costs the tariff reduction may provide little incentive to switching product sourcing.

Box 1. Trade flows and tariffs: information needs

Import data distinguished by tariff type, that is MFN or by preferential tariff under is available for only a few countries and information on duties collected by type of tariff preference along with import flows are thus far quite rare. Only the United States provides this data in readily accessible form.

Where preferential tariffs plus a cost of compliance margin are less than the MFN tariff, trade would occur entirely under preferential tariffs unless other requirements impede it, such as stringent rules of origin, non-tariff measures or costly administrative procedures. The share of imports under preferential tariffs for Canada, United States, and Australia is shown in Figures A1-A7 for selected agreements.

The RTAs of the United States with Chile, Israel, Morocco, Mexico and Australia were examined to understand the importance of preferential tariffs in total imports. What did the data show? For the United States-Israel and United States-Chile RTAs, 100% of imports enter the United States under the preferential tariff, imports from Australia, Morocco and Mexico enter only partially under preferential tariffs and in a number of sectors this share is less than 50%. This could be due to a variety of reasons: the marginal preference is not sufficiently high to make compliance with ROO worthwhile, or the MFN is simply zero thus there is no need for a preferential tariff. For instance, approximately 80% of the preference margins for the United States-Morocco were between 0 and 5%, 15% between 5 and 10% and only 5% greater than 10%. Where MFN tariffs are zero the preferential tariff and ROOs are irrelevant. Similar calculations were made for imports by Australia from Thailand and the United States. Given the Australian MFN tariff structure, imports under preferential tariffs do not offer large benefits and thus are not used as frequently as might be expected.

Understanding trade flows thus requires not only data on imports but also reliable data on preference margins if empirical analysis is to aid in understanding the impacts of RTAs and specific trade measures on trade and welfare.

Market access analysis

Tariff concessions

Tariffs and TRQs have been central to agricultural trade negotiations at the multilateral as well as in regional trade agreements. Though MFN tariffs have fallen significantly and TRQs relaxed to some extent since the implementation of the Uruguay Round Agreement on Agriculture (AoA) they remain important determinants of trade flows. In the literature on trade liberalisation, much attention has now shifted to non-tariff measures and to regulatory mechanisms often linked through the SPS and TBT frameworks. Nonetheless quantitative studies continue to evaluate benefits of trade liberalisation by focusing on tariffs as trade barriers, perhaps simply because these are more pervasive, or more transparent and thus easier to evaluate. Except for a few countries, tariffs vary substantially across goods and this hints at least indirectly at the use of tariffs to alter the terms of trade between home and foreign goods. In short these continue to be important because of their trade-distorting consequences, but are not the only measures that do so.

The WTO has made tariff elimination one of its requisites for an RTA under the assumption that their reduction increases trade and incomes, thus promoting development. Empirical studies yield varying results depending on approaches employed. Model-based analyses of NAFTA, at a detailed tariff line level, generally find that the agreement has indeed provided welfare gains as well as increased trade for its partners. Empirical studies based on trade data at the HS2 and HS4 digit level however do not unanimously find that trade increases under the agreements (Krueger, 2000, Chang and Winters, 2002, Head and Ries, 1999). This may be due to the use of aggregated tariff data which eliminates important tariff variations. Recent analysis by Romalis (2007) using detailed tariff data in analyzing NAFTA and CUSTA (Canada-US Trade Agreement) finds that tariff reductions have had significant impacts on trade flows, though less on prices and welfare. The analysis on the impact of RTAs on agricultural trade remains limited. Some authors find that RTAs significantly increase agricultural trade in comparison to non-agricultural trade, though such results may be due to other factors influencing trade but not specified in the analysis (Grant and Lambert, 2008). Using data on trade flows of six agricultural product aggregates, the NAFTA agreement was found to increase inter-regional trade but also to displace trade with the rest of the world (Jayasinghe and Sarker, 2008). Further research is needed to understand sector impacts of RTAs.

Geographic aggregates

Tariff concession schedules are important in understanding the extent of trade liberalization in the sector, thus different perspectives on tariff concessions schedules are discussed. An overview of tariff reductions in total and according to regions as defined above is shown in Figure 2. The share of duty free lines for all agreements when implemented is over 90%, averaging across concessions and products. This figure however masks substantial variations across concessions and products. For instance, for sugar and dairy only 72% of tariff lines are duty free when fully implemented. Caution is necessary in interpreting average calculations as countries can set high tariffs for selected products that might have significant actual or potential trade flows while 95% of tariff lines in the chapter are duty free.

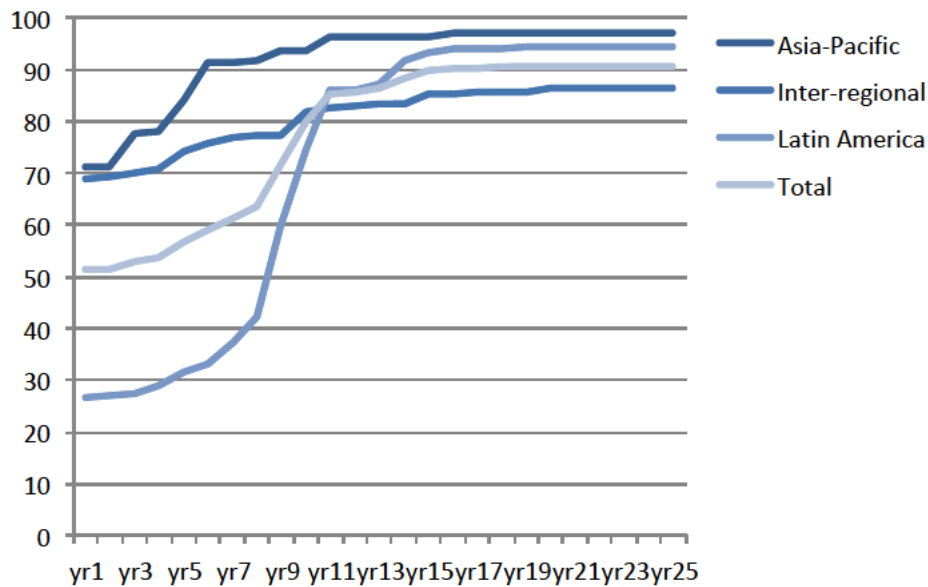
It is evident from the graphs that the Asia-Pacific agreements liberalise most or all tariff lines quickly, with approximately 97% being duty free when fully implemented. This result is mainly due to the concessions of Singapore, Australia and Hong Kong which immediately grant tariff-free status to most all products.¹⁵

The Latin American agreements achieve significant tariff liberalisation. Despite an initial share of duty free tariff lines of only about 27% these countries rapidly liberalise so that after year 10 approximately 85% of lines are duty free. When implementation is completed over 95% of tariff lines are duty free. There is a significant movement around the ten year mark, as this is the time frame for tariff elimination stipulated by Article XXIV of the GATT. The Inter-regional group in contrast, though beginning with over 68% of duty free tariff lines, remains significantly below the Latin America and Asia Pacific aggregates both at the ten-year mark and at end of the implementation period with only about 86% of tariff lines free of duty. This is due in large measure to the persistence of numerous exemptions to complete liberalization, of which many are

15. The Singapore and Hong Kong position reflects their being essentially city states, with little or no agricultural production

TRQs as seen in Tables A2 and A3. This result may be partially due to the fact that the agreements are negotiated between countries from very different regions with fewer cultural and political ties. In addition, many of the Inter-regional agreements are between countries at different income levels and where agricultural trade interests or sensitivities differ substantially.

Figure 2. Share of duty free tariff lines: total and regional aggregates



Using these same aggregates, the share of duty free lines is examined at the sector level for each region as shown in Figures 3 to 5. The analysis indicates that two sectors stand out for being “laggards” in the Latin American and inter-regional aggregates; these are sugar (HS 17) and dairy (HS 04), although this not the case in the Asia-Pacific agreements where all chapters achieve over 90% of duty free lines. These products are also subject to a number of exemptions and TRQs as shown in Tables A2 and A3. The sectors that achieve close to 100% of duty free lines in each region are vegetable plaiting materials (HS 14), oilseeds (HS12) and vegetable gums, and resins (HS 13).

Figure 3. Share of duty free tariff lines by HS chapters (1-24): Inter-regional

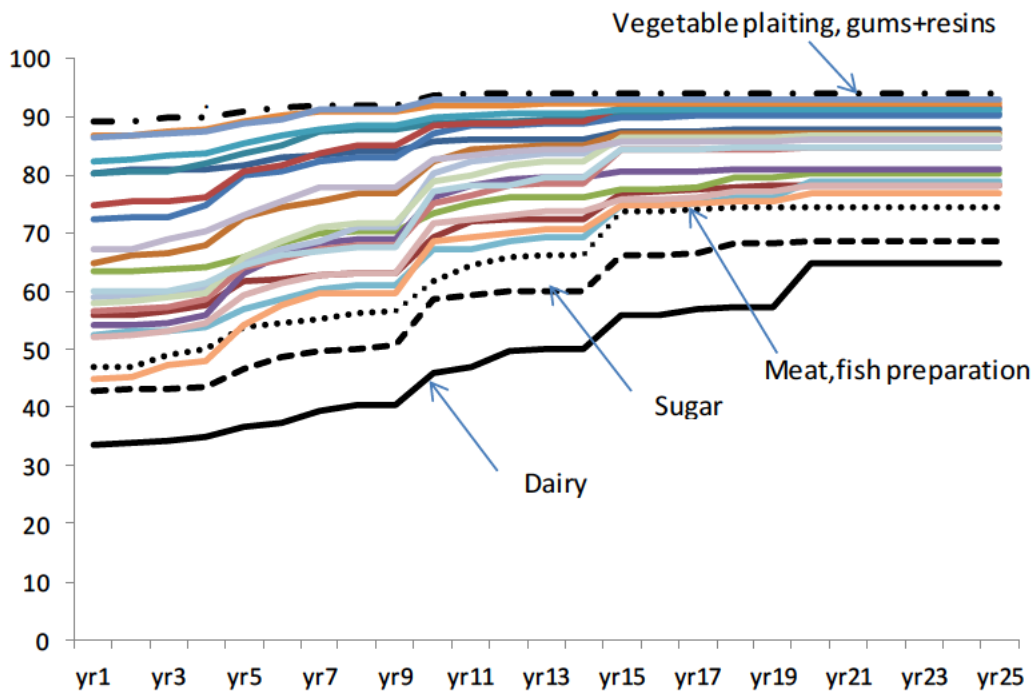


Figure 4. Share of duty free tariff lines by HS chapters (1-24): Latin America

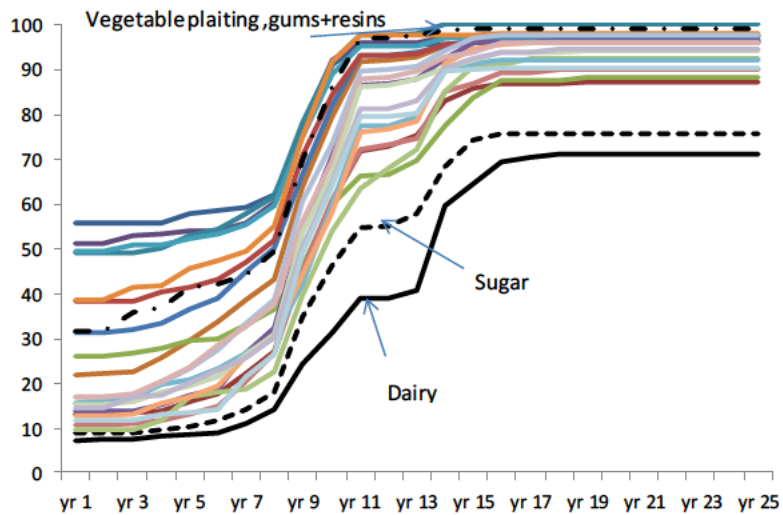
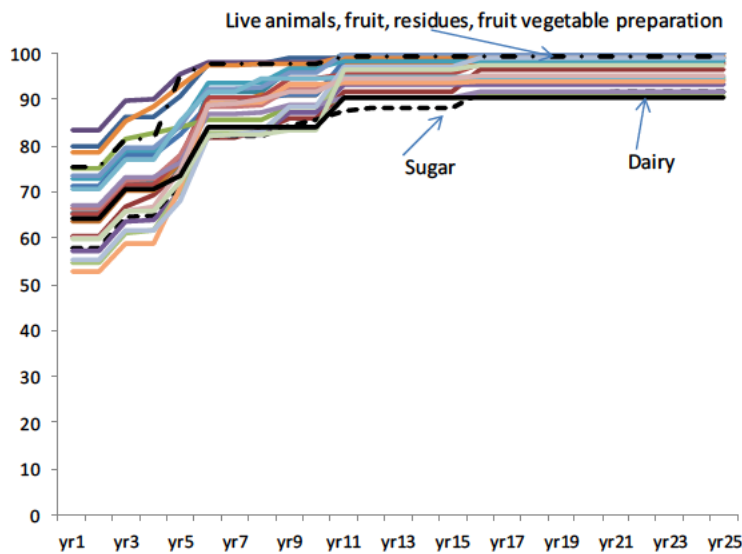


Figure 5. Share of duty free tariff lines HS chapters (1-24): Asia-Pacific

In the Latin American aggregate, in addition to dairy and sugar, meat (HS-02) and cereals (HS-10) liberalise somewhat less than other sectors. Nonetheless, their share of duty free lines remains high with approximately 88% of tariff free lines both in absolute terms and in contrast to sugar and dairy, with 66% and 76% tariff free lines respectively. In the Asia Pacific aggregate, tobacco (HS24) and cereals (HS 10) have the smallest share of duty free tariff lines at slightly over 90%, closely followed by dairy and sugar at about 92% compared to an overall average of 97% when they are fully implemented. In the case of the inter-regional aggregate, the sectors with the smallest share of tariff free lines are dairy and sugar with 64% and 62% of tariff lines duty free respectively, followed by meat and fish preparations (HS16) with 71%.

The only African agreement for which tariff reduction schedules by sector were available by tariff line is the East African community (EAC), for which Kenya liberalises the totality of its agricultural products with Uganda and Tanzania as do Uganda and Tanzania, while Uganda and Tanzania *vis-à-vis* Kenya 80% reaches 100% by year 10.¹⁶

An analysis of selected countries with multiple agreements indicates that countries do not necessarily apply a uniform tariff reduction strategy across all agreements but tailor them with respect to the partners permitting them to target specific sectors as a function of their partner.¹⁷

The frequency distributions for agricultural products according to the number of year at which duty-free treatment is completed provide further information on tariff

16. Though not included in the quantitative representation of tariff reductions many of the SADC concessions have liberalised large shares of their tariff lines by year 5. Furthermore, although the COMESA and ECOWAS agreements are not included in the chart, free trade in all products is envisioned within a finite time span, so it can be posited that in general the trade agreements concluded among African partners are more liberalising than those among African and non-African parties.

17. This was found to be the case for Chile, Mexico and European Union.

liberalisation patterns by country and agreement. These are shown in Figures A8-A10. Here the bilateral concessions are shown in descending order of immediate liberalisation, then liberalisation within between two and five years, etc. This provides additional information on the implementation of the agreements; in particular, they permit identifying not only which agreements rapidly and completely eliminate tariffs, but also behavioural differences between countries in any given agreement.

*Economic aggregates*¹⁸

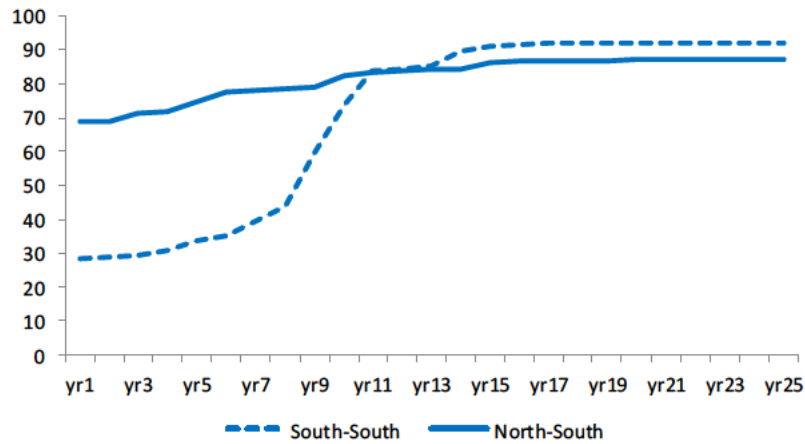
Countries were also aggregated into North and South aggregates according to per capita income in order to examine if differences affect tariff elimination patterns. High income developed economies constitute the North aggregate and the high and medium income developing countries the South aggregate. Using these aggregates, the average share of duty free tariff lines increased from 28% to almost 92% in the South-South aggregates, while for the North-South aggregates this share increases from approximately 68% to 87%. These results closely resemble those based on Latin American and the inter-regional aggregates respectively as would be expected given their composition. Agreements between South-South agreements appear to liberalise slightly more than do those between North-South countries.

This simple North-South breakdown may not capture differences in tariff liberalisation between developed and developing countries in negotiating concessions, and even among developing countries themselves. Thus the tariff concessions of the South countries are further disaggregated into two groups, South-high income developing and South-middle income developing. Tariff concessions between the North and South middle income as well as between the South high and the South middle income countries are then examined. These results do not differ substantially from those obtained under the South-South and North-South aggregates as can be seen in Figures 6 and 7. The product chapters that have the smallest share of duty free tariff lines are the usual ones, dairy and sugar, followed by cereals and meat and fish preparations in the South-South agreements. In the North-South agreements, in addition to dairy and sugar, one also finds cereal preparations. Again, the vegetable plaiting materials and saps, gums, and resins begin with few dutiable tariff lines and are duty free at implementation

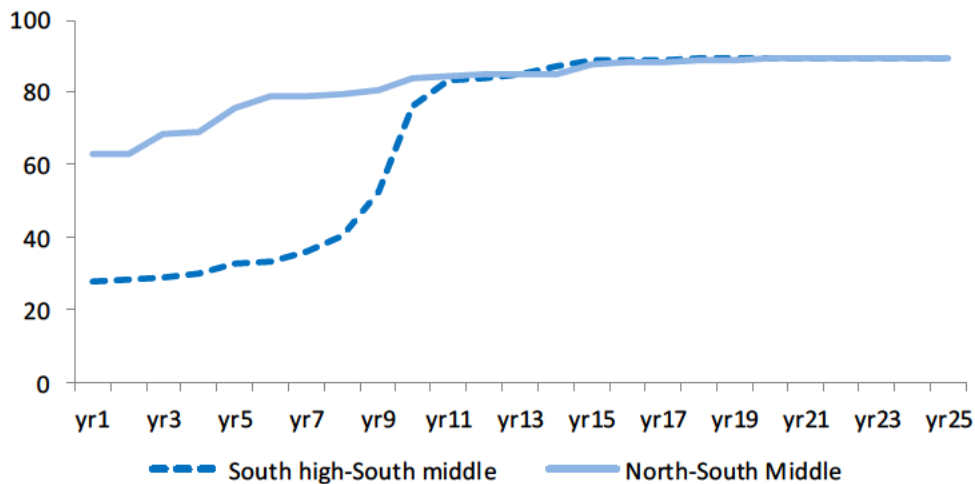
The share of tariff free lines combining both economic and geographic criteria for the initial and final year concessions are shown in Figures A11 through A14. These provide a summary of North-South concessions for Africa, Asia-Pacific and the Americas and South-South concessions for the Americas. The South-South agreements of the Americas indicate that except for sugar and dairy, the agreements achieve over 90% tariff elimination for almost all product chapters, while in the North-South agreements tariff results are more dispersed across products and achieve a smaller percentage of tariff elimination. North-South agreements of the Asia Pacific region also achieve substantial tariff reductions similar to those of the North-South agreements of the Americas. Are these differences due to differing economic bargaining abilities or simply different approaches to RTAs?

18. World Bank in its development indicators defines the following per capita income classes (Atlas method): middle income developing USD 9960 and USD 3 945 (2009); high income developing-USD 3 946-USD 12 195 and developed USD 12 195 and above.

**Figure 6. Share of duty free tariff lines by economic aggregates:
North-South and South-South**



**Figure 7. Share of duty free tariff lines by economic aggregates:
North-South middle and South high-South middle**



An additional breakdown of the tariff concessions is made by aggregating all concessions for chapters 1-15 and chapters 16-24 to examine if there is a difference in tariff elimination trajectories between processed and unprocessed products. The analysis finds that processed agricultural products have a slightly smaller share of tariff free lines at the end of the implementation period compared to unprocessed goods, with 90% and 87% of tariff free lines respectively. For the Asia Pacific and Latin American aggregates, the share of tariff free lines for processed and unprocessed products is similar with over 94% tariff free lines for unprocessed products and between 92% and 95% for processed ones. The inter-regional aggregate displays a slightly greater difference at 83% and 77% for unprocessed and processed respectively. This might suggest greater competition between countries of different regions in these sectors thus less willingness to eliminate tariffs between them. The breakdown for unprocessed and processed goods for the geographic regions is shown in Figure A15.

How should these overall results be interpreted? Is it due to the greater sensitivity of commercial interests between the North-South countries than between South-South countries? It is difficult to answer this question without more detailed information on trade flows among countries. However, some South countries do have a substantial share of trade with other South countries, particularly in Latin America, yet they are able to eliminate their tariffs. The political and cultural importance of agriculture may be a factor in tariff concession behaviours. In countries where agriculture remains a sensitive sector for many cultural and historic reasons, tariff elimination in sectors may be quite difficult, such as the European Union and EFTA. In the Asia Pacific agreements Singapore, Australia, and New Zealand liberalise almost completely, but others such as Japan, Korea and Thailand do not. Singapore is a state with limited agricultural interests and thus concessions are viewed as benefitting consumers, but Australia and New Zealand are large agricultural exporters and also liberalisers. In a political economy perspective one might suspect that in trade negotiations covering all products some trade-offs are being made between sectors, which are not captured here. A focus on agriculture alone provides only a partial view of trade liberalisation behaviours.

Exemptions

A number of countries selectively exempt specific products from tariff reductions in spite of the general move to tariff elimination evidenced in the aggregate. The tariff concession by country and product are found in Table A2. However, in the Australia, New Zealand and Singapore agreements as well as that between China and Hong Kong tariffs are eliminated for all products.

The most sensitive product groups are sugar, cocoa, dairy, meat, and fats and oils. Cereals are again prevalent among the exceptions to eventual free trade, but this time wheat is sensitive in addition to corn and rice, and in fact wheat does not become fully duty-free in the United States-Morocco agreement whereas the other two grains do. Non-alcoholic beverages and in particular raw textile materials tend to be more sensitive in the agreements covering Asia-Pacific than in those of Latin America.

As tariff schedules are negotiated these can target specific products and tailor them to their partner. This is the case with the Chile-EFTA and Egypt-Turkey agreements where only a limited number of tariffs are eliminated by either partner. This is also the case for the Japan-Thailand agreement, but to a much lesser extent. The United States-Australia agreement has exceptions in dairy, flour products sugar, cocoa and other processed products and likewise for Canada-Peru agreement. In the study on Latin America, Shearer et al. find that it is chapters 19 and 20, specifically items 190120 and 190190, that have the most tariff line exceptions, perhaps because these cover rather broad range of products. Dairy, beef, animal fats as well as sugar and confectionary items are often not subject to tariff elimination in these agreements.¹⁹

The examination of the tariff concessions indicates that RTAs are WTO-plus compared to the WTO-AoA tariff schedules but this is so by definition. Conforming to Article XXIV requires ‘complete tariff elimination for substantially all trade in a reasonable length of time’, implying that these go beyond the URAA agreed tariff

19. For details regarding tariff line exemptions on the complete list of Latin American agreements see the original IADB study.

reductions. The tariff elimination concessions are significant as evidenced by the increased share of duty-free tariff lines in all agreements in spite of the product exemptions and TRQs. Even where tariff lines do not become duty-free the tariff reductions are applicable to the applied MFN rates and *not* bound tariffs. Have these agreements stimulated agricultural trade or not? Have they increased economic welfare or not? It is not possible to discuss these issues without a formal analysis of trade flows and relevant policy variables, including tariffs. Observing increased trade flows after the signing of an agreement does not provide evidence unless all else remains fixed including trade policy over the period. Few studies have been able to assess empirically their impacts due to the number of variables influencing trade that need to be controlled for a rigorous analysis.

Tariff rate quotas

There is a wide variability in the frequency of Tariff Rate Quotas (TRQs) in the agreements. Not all partners in an agreement adopt TRQs for the same sectors and in some agreements these terminate with the full implementation of the agreement. Certain agreements stand out as having a large number of TRQs. Among the agreements examined the EU-South Africa, EU-Egypt, and Egypt-Turkey have the greatest number of TRQs, followed by those agreements concluded by the United States (Table A3). Thailand and Korea make a moderate use of TRQs, while such measures have more limited presence in the remaining Asian-Pacific agreements. The Asia-Pacific FTAs with TRQs are the same as those with exceptions, providing some additional quantitative preferential access to sensitive products. A notable contrast between this sample set and the earlier study that focused on agreements in the Americas are the sectors subject to tariff quotas (Shearer *et al.*, 2009). The inclusion of a TRQ on wool in China-New Zealand sets this agreement apart from others. Meanwhile, dairy, and sugar to a lesser extent, are subject to TRQs in several agreements, as in the previous sample.

In the study on Latin America, TRQs were found to differ substantially in how they are implemented. For instance the TRQs applied by Costa Rica on products from Canada under the FTA for pork imports are subject to phased reductions on quantities falling within the quota, while quantities above the quota continue to receive MFN treatment. For honey however imports are duty free within the quota and subject to phased tariff elimination above the quota. This means it is not appropriate to simply count TRQs as a measure of restrictiveness in the context of RTAs. Should they be viewed as trade-restricting or providing for some liberalisation? They may provide for limited liberalization as well as protection for sensitive sectors and only detailed case-by-case analysis can provide an assessment. This is an often discussed issue. The WTO negotiations on the Doha round, especially the draft modalities for sensitive products, show that trade-offs between the magnitude of the tariff cuts and TRQ requirements are possible.

Rules of Origin (ROOs)

Distinguishing products by origin is important both for determining preferential tariff eligibility and for applying trade regulations such as countervailing duties, safeguard procedures, etc. Thus ROOs play an important role in determining product origin in the trading system. Box 2 provides a brief overview of their general definition and application in RTAs.²⁰

To benefit from preferential tariffs goods must be either wholly originating or if containing non-originating materials must undergo a substantial transformation in the exporting country. This entails a change in tariff classification (CTC) or minimum regional value added. Not all ROOs are of equal stringency. A change in chapter (HS 2 digit), is considered more stringent than a change in heading classification (HS 4 digit) and change in heading more stringent than a change in subheading (HS 6 digit). The value added or regional value content criteria are generally considered less constraining than a CTC requirement, however the value added requirement is often additional to any CTC. Furthermore a CTC may include exceptions, for example certain foreign inputs cannot become originating even if satisfying the substantial transformation criteria. ROOs also contain a number of technical requirements or exceptions in product composition, defined at the product level. The impacts of ROOs can be attenuated by the inclusion of leniency clauses of *de minimis* or cumulation rules as defined in Box 2.

Box 2. How do ROOs determine origin

Most ROOs are elaborated in the spirit of the Kyoto convention (1974) using one of the following criteria:

- wholly originating in the exporting country are those entirely grown, harvested or extracted from the soil or animals born and raised in the territory or products processed/manufactured from these and containing no foreign materials.
- non-originating materials undergo a substantial transformation in the exporting country either through a change of tariff classification, value added or through the application of a specific process.

The definition of ‘Substantial transformation’ is product and agreement specific and is determined either through the value added to the non-originating good, application of a specific process or a change in its tariff classification (CTC). The CTC is the most common tool used in determining origin. For goods that are not wholly originating, the regional trade agreements provide for some leniency through the application of *de minimis* and cumulation rules

- *De minimis* criteria allow a specified percentage of non-originating materials without requiring a change of tariff classification.
- Cumulation rules allow a producer in one RTA to use materials from another RTA member without losing preferential status of the final product. The most flexible rule is diagonal cumulation allowing countries tied by same set of origin rules to use products as if originating in the exporting country

20. Since the concept of origin is not well defined particularly for products where inputs and processes are often sourced from a several countries, their definition and application can be manipulated for different objectives (Falvey and Reed, 1998; Garay and Estevadeordal, 1996; Estevadeordal, 2000).

Why do ROOs matter? Economists are concerned about ROOs because of their possible impact on distorting trade in intermediate goods by altering the incentives for sourcing of inputs from third countries to own or agreement partner markets (Falvey and Reed, 1998). This impact is greater the larger the preference margins associated with the tariff. Compliance costs associated with ROOs may however dilute the impacts of tariff preferences. For countries with multiple agreements, each with differing rules of origin schedules, administrative and compliance costs can be significant, thus diluting the tariff reduction benefits. Some exporters may simply prefer to not use the preferential tariff, if it does not provide a minimal preference of margin beyond the costs of compliance. Estimates of the minimum preference margin for providing trade incentives range from 2.5 to 10% (Cadot et al., 2002, Carrere et al., 2006). Manchin and Pelksman (2007), on the other hand, find that unless the preference margin exceeds 25% there is not a significant impact on trade.

How important are ROOs for agriculture in the RTAs? If measured by the detailed, lengthy schedules of product specific provisions, at the 4, 6 or an occasional 8 digit product, one suspects these are considered important at least in certain sectors. The use of ROOs in agriculture was found to vary significantly across countries. For a number of agreements a large percentage of agricultural products are required to be wholly originating or entirely produced/raised in the exporting country. These are usually HS chapters 01 through 08, and 10 and 12 for which raw materials and minimal processing predominate. The EFTA agreements as well as those of the EC and Canada tend to follow this pattern but so do others. In the Asian- Pacific agreements of Australia, New Zealand and Japan a change in tariff classification dominates, with a change of chapter (HS 2 digit) being the most frequent requirement. Though this is the most constraining of the CTCs, it does afford some leeway in meeting the origin requirement as opposed to wholly originating. Singapore is an exception as its ROOs are based on the minimum value-added rule.

For the other HS chapters, that is HS 09, 11, and 13-24, a change of chapter predominates, though is frequently combined with a value added requirement. In addition, specific tariff line products in a given chapter may simply be required to be wholly originating. This applies to specific processed goods (HS 16, 19-21) and often those containing inputs of HS 17 (sugar). The trio, CTC, value added minima and technical product exceptions are found in many ROOs for specific processed agricultural products. A large and growing share of the value of agricultural goods is now in processed products for which inputs may be sourced from third countries, thus making ROOs potentially important to accessing preferential tariffs. A recent OECD study on changing patterns of agricultural trade has underlined the shift towards trade in processed agricultural products (OECD, 2010). A brief summary of ROOs applied to agriculture are found in Table A4.

Their complexity hints at the selective use of ROOs for doing more than simply preventing trade deflection as each schedule could in principle be adapted to each partner's export portfolio. Box 3 provides a series of examples taken from the ROOs schedules to better understand the complexity which firms face if they wish to use the tariff preferences are provided in Box 3. Certain countries such as the United States and the European Union employ a standard ROOs schedule, perhaps because of the economic size of their markets. For instance Australia uses a single ROOs schedule in its Chile and Thailand agreements, but adopts the United States ROOs schedule in the United States-Australia FTA and Singapore's in SAFTA.

Over 70% of the agreements examined contain a *de minimis* rule, most of which specify 10% as the maximum percentage of foreign input allowed without a CTC requirement. In certain cases a combined minimum originating content and minimum value added through processing is specified as is the case in the US-Morocco agreement that specifies a minimum of 35% in originating materials and direct processing costs. The *de minimis* rule is however suspended for agricultural goods in a number of agreements, that is the leniency accorded non-originating inputs/materials is selectively withdrawn for certain agricultural products. This is the case in Korea-Singapore, Thailand-Japan, Australia-United States, United States-Singapore, and Canada-Peru.

Bilateral cumulation is allowed in almost all agreements. In a number of agreements diagonal cumulation is allowed such as in those of the EU- Egypt and EU-South Africa. In these agreements a very wide definition of cumulation is applied permitting producers to use inputs originating in any participating country of the Pan-European system for Egypt or South African Community Union (SACU) states for South Africa. The only requirement is that these countries have RTAs with the country from which the non-originating materials are sourced.

While this paper has not undertaken a detailed analysis of these schedules for all agreements, research by Estevadeordal and Suominen (2005) analysed in detail ROOs by sector for some 60 RTAs and found that these are most restrictive for the agricultural and textile sectors. In the case of agriculture this is likely due to the predominance of the wholly originating requirement. Furthermore, it is important to bear in mind that even when tariffs and other barriers are eliminated the ROOs remain in effect for access to the preferential tariffs. Thus in an effort to liberalize trade a new pseudo trade barrier may have been unintentionally introduced, and with it possible unintended consequences.

Box 3. Examples of ROOs requirements for agricultural products

What do the ROOs schedules look like for agriculture? A few examples of actual requirements can perhaps aid in understanding their complexity and implications for firms' decisions in sourcing and in their choice of destination markets.

SADC: HS chapters 1-8, 10-19, 22, 23 are considered as originating only if the goods they are wholly produced in SADC countries. A *de minimis* value-added of 40% is set for the remainder of chapters that is HS 09- coffee, tea, spices, HS 20 – and 21, processed fruits and vegetables and other edible processed products.

Japan-Thailand: 0710.22-0710.29 A change to subheading 0710.33 through 0710.29 from any other heading provided that, where non-originating materials of heading .07.09 are used each of the non-originating materials is harvested, picked or gathered in a non-Party which is a member of ASEAN.

EFTA-Turkey, Norway – wholly obtained, including processed goods except for 15 products classifications of which a number still apply wholly obtained to material content, i.e. 22.09 (fruit juice), the manufacture in which all fruits or material derived from fruits wholly obtained; 20.02, (non-vinegar preparations of tomatoes), all tomatoes for chapters 20 and 07 must be wholly obtained .

Korea-Singapore: 08.14; a change from any other chapter except 1106.30, 20.01, 20.06, 20.08.

EC-Egypt: HS 08: manufacture in which- all the fruit and nuts used must be wholly obtained, -the value of any materials of Ch. 17 used does not exceed 30% of the value of the ex-works.

Source: Regional Trade Agreements, www.wto.org.

Part IV.

SPS and TBT provisions

SPS and TBT provisions

Food and agricultural products, are now sourced from across world, many making several value added stops before arriving at their final destination. National regulatory frameworks can promote or stifle this flow of goods. Where trade agreements move these frameworks towards transparency, harmonization and equivalence in regulations, trade flows between countries are facilitated. Regardless of the specific trade regime in place, imports must meet a set of behind the border measures that constitute the importing country's product safety standards and technical regulations. For agricultural and food products the sanitary and phyto-sanitary standards are the sine qua non for market access.²¹

Overview of SPS chapters

A separate chapter regarding SPS measures is present in most agreements examined. Only five of the RTAs do not include separate chapters: Mexico-Peru, Chile-Canada, China-Hong Kong, Japan-Thailand,²² and US-Singapore. The widespread inclusion of SPS chapters in the agreements reconfirms the importance of such provisions for trade in food and agricultural products. A number of SPS provisions are also found in the agreement annexes, ad-hoc agreements and memorandums of understanding. An innovation in the agreements is the creation of joint SPS Committees tasked with concluding relevant bilateral arrangements and furthering the implementation of the generic SPS provisions. A common characteristic of all agreements reviewed is their emphasis on fostering the application of the WTO-SPS Agreement by reaffirming their commitment to respect the rights and obligations

21 Firms from countries at similar levels of institutional and economic development meeting sanitary and phyto-sanitary as well as technical regulations may increase transactions costs and generate inefficiencies in achieving a given goal, it is not a deterrent to market access. For developing countries with weak institutional and physical infrastructure and capacity, satisfying increasingly complex requirements however can constrain their market access.

Some authors suggest these measures can at times be used as non-tariff barriers. In general SPS-type measures have as their primary objective protection of human, plant and animal health; while these can in certain circumstances be manipulated to serve as protectionist measures, this is generally not the case. Nonetheless, such measures may have unintended consequences on trade as has been discussed in ongoing OECD work (Van Tongeren *et al.*, 2010)

22 Japan and Thailand subsequently signed an implementation Agreement that contains "light" provisions regarding the cooperation on SPS issues.

therein. While certain agreements include specific SPS-related commitments, few agreements really move beyond the general language for most WTO-SPS principles, which are summarised in Box 4. Deeper SPS commitments are generally found in annexes, *ad hoc* agreements, and memorandums of understanding of the RTAs as described in Box 5. This section examines the depth of the provisions related to the basic SPS principles *vis-à-vis* multilateral commitments under the WTO-SPS agreement as well as mutual recognition and the creation of an institutional framework to monitor the implementation of SPS commitments (joint SPS Committees).

Box 4. Core SPS principles

Harmonization: this principle encourages countries to harmonize or base their national measures on the international standards developed by the competent international organizations. These organizations include the [Codex Alimentarius](#) for food safety, the [Office International des Epizooties](#) (OIE) for animal health, and the [FAO International Plant Protection Convention](#) (IPPC) for plant health.

Equivalence: Countries shall accept the SPS measures of others as equivalent, even if these measures differ from their own if they all achieve appropriate levels of SPS protection;

Assessment of Risk: Countries shall ensure that their SPS measures are based on an assessment of the risks to human, animal or plant life or health, taking into account risk assessment techniques developed by the relevant international organizations. All SPS measures created should be based on available scientific evidence.

Regionalization: Countries should ensure that their SPS measures are adapted to the sanitary or phyto-sanitary characteristics of the area from which the product originated and to which the product is destined. Countries should also accept the imports from pest- or disease-free areas and areas of low pest or disease prevalence.

Transparency: To help ensure transparency, all WTO Members are required to establish *national enquiry points* and to notify the creation or change of any SPS regulation before they are adopted. It is also recommended to allow a reasonable interval between the publication of the regulation and its entry into force in order to allow time for other Members to adapt their products and methods of production to the new requirements.

Source: www.wto.org

Box 5. Annexes, *ad hoc* agreements and Memorandums of Understanding

Deeper SPS commitments between partners are generally found in the RTAs annexes, memorandums of understanding, and *ad hoc* agreements*. Indeed, the *ad hoc* agreements represent a good opportunity to deepen specific commitments between the parties. Examples include the Annex 9.2.2 of Chile-Peru**, that regulates cooperation on sanitary issues; and the *ad hoc* agreements signed between the United States and Peru and Colombia. In the P-4 agreement, the parties signed an *ad hoc* agreement to establish the process to determine equivalence, though it does not contain a timeframe for each of the steps in the process.***

These *ad hoc* agreements may establish specific obligations with regard to equivalence, recognition of sanitary certificates and regionalization. Examples of deep commitments through *ad hoc* agreements are those signed between the United States-Columbia and United States-Peru. The Colombian and Peruvian authorities committed to recognize the US inspection system for meat and poultry as equivalent, and to accept the USDA/FSIS Export Certificates.**** The agreement did not provide for the same beneficial treatment for Colombia or Peru, whose exports were jeopardised due to outbreaks of foot- and-mouth disease. In these cases, the agreements do not require the United States to recognise 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 food and mouth disease.

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

** 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".

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

**** Understanding signed between United States and Colombia in February 26, 2006. Available at www.sice.oas.org/TPD/AND_USA/COL_USA/Draft_text_0607_e/asset_upload_file544_10194.pdf.

What do the RTAs specify regarding SPS principles and measures? Table 2 summarises the results of mapping of core elements of the WTO-SPS agreement with those of the RTAs. It also indicates if the agreement includes commitment to mutual recognition and provides for a joint SPS committee to support the implementation of the SPS commitments. The majority of the agreements 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 Table 2 with the symbol “/a”). These indicate that the agreements go no further than required by the WTO-SPS agreement. Approximately 40% are ‘WTO plus’ as they include additional provisions, such as specific commitments and procedures to be applied in implementation of the agreement often within a well-defined timeframe.

Table 2. Coverage and Depth of WTO-SPS principles

Agreement	SPS principles						Other commitments
	Harmonisation	Equivalence	Regionalisation	Assessment of risk	Transparency	Joint Committee	Mutual Recognition
NAFTA	√	√ (+)	√	√	√ (+)	Inst.	*
United States-Colombia ^{/a}	√	√	√	√	√	Inst.	*
United States-Peru ^{/a}	√	√	√	√	√	Inst.	*
Canada-Costa Rica ^{/a}	√	√	√	√	√	Inst.	*
CAFTA /a	√	√	√	√	√	Inst.	*
Chile-United States ^{/a}	√	√	√	√	√	Inst.	*
Chile-Canada	*	*	*	*	*	*	*
Chile-Japan ^{/a}	√	√	√	√	√	Inst.	*
Chile-China	√	√	√	√	√ (+)	Inst.	*
Chile-Korea	√	√	√ (+)	√	√ (+)	Inst.	*
Chile-Mexico	√ (+)	√	√ (+)	√	√ (+)	Inst.	*
Chile-Peru	√ (+)	√	√ (+)	√	√ (+)	Inst.	*
Chile-EU	√ (+)	√ (+)	√ (+)	√	√ (+)	Inst.	√
Chile-New Zealand-Singapore-Brunei (P4) ^a	√	√ (+)	√	√	√ (+)	Inst.	*
Mercosur-Chile ^{/a}	√	√	√	√	√	*	√
Mercosur-Bolivia ^{/a}	√	√	√	√	√	*	√
Mexico-EU ^{/a}	√	√	√	√	√	Inst.	*
Mexico-Bolivia ^{/a}	√	√	√	√	√ (+)	Inst.	*
Mexico- Costa Rica	√	√	√	√	√ (+)	Inst.	*
Mexico-Nicaragua	√ (+)	√	√ (+)	√	√ (+)	Inst.	*
Mexico-Northern Triangle	√ (+)	√	√ (+)	√ (+)	√ (+)	Inst.	√
Mexico-Uruguay	√	√	√ (+)	√ (+)	√ (+)	Inst.	*

Table 2. Coverage and Depth of WTO-SPS principles (cont.)

Mexico-Peru	*	*	*	*	*	*	*
Mexico-EFTA ^{/a}	√	√	√	√	√	*	*
Mexico-Japan ^{/a}	√	√	√	√	√	Inst.	*
Mexico-Israel ^{/a}	√	√	√	√	√	√	*
Mexico-Colombia	√	√	√	√ (+)	√ (+)	Inst.	*
Mercosur-Peru (ACE 58)	√ (+)	√ (+)	√	√ (+)	√ (+)	√	*
Mercosur-Andean Community (ACE 59)	√ (+)	√ (+)	√ (+)	√ (+)	√ (+)	√	*
Panama-Singapore ^{/a}	√	√	√	√	√	√	*
Peru-Thailand	√	√	√	√	√ (+)	Inst.	*
Central America-DR	√	√	√	√	√	Inst.	√
Cent.Amer-Chile	√	√	√	√ (+)	√ (+)	Inst.	*
Canada-Peru	√	√	√	√	√	Inst.	*
EFTA - Chile ^{/a}	√	√	√	√	√	*	*
Australia – Thailand	√	√ (+)	√	√	√	Inst	*
New Zealand - Thailand	√	√	√	√	√ (+)	Inst	*
Australia - Singapore	√	√ (+)	√	√	√ (+)	√	√
Japan - Thailand	*	*	*	*	*	*	*
China- New Zealand	√	√ (+)	√ (+)	√ (+)	√ (+)	Inst	*
Australia - United States	√	√	√	√	√	Inst	*
Australia - Chile ^{/a}	√	√	√	√	√	*	*
United States - Singapore	*	*	*	*	*	*	*
New Zealand – Singapore	√	√	√	√	√	*	√ (+)
Korea -Singapore ^{/a}	√	√	√	√	√	*	*
China - Hong Kong	*	*	*	*	*	*	*
EFTA-Turkey	*	*	*	*	*	*	*
EU- South Africa	*	*	*	*	*	*	*
EU-Egypt	*	*	*	*	*	*	*
Turkey- Egypt ^{/a}	√	√	√	√	√	*	*
United States - Morocco ^{/a}	√	√	√	√	√	Inst	*

^{/a} : When there is basically a single provision stating that the Parties should respect the WTO SPS Agreement.

√: When there is a commitment on the subjected identified in the related column, although it does not go beyond the WTO-SPS Agreement.

√(+) When the commitment go beyond the WTO SPS Agreement by specifying the steps and/or timeframe to apply the related subject;+ No SPS chapter.

In the case of Mutual Recognition, the symbol “√^m” means that the parties establish a generic commitment to work toward the identification of areas for mutual recognition agreements; “√(+)” means that the parties already specify their scope (i.e. standards relating to packaging and labelling).

Transparency

The “WTO plus” agreements are, in a large measure, due to the establishment of specific commitments on “transparency”. Chile and Mexico account for about half of these. Both of these countries have a large number of agreements compared to others and thus a natural interest in being notified when the trade partners introduce a change on existing SPS regulation or create a new one.²³ Other agreements that include ‘WTO plus’ transparency requirements are New Zealand-Thailand, New Zealand-China, and Australia-Singapore. Transparency requirements including specific timeframes for notifications of regulatory changes are extremely important in maintaining market access of agricultural and food products. Consensus on these issues is often easy to achieve because both parties benefit, particularly in the case of transparency provisions referring to emergency situations, discoveries of epidemiological importance and significant changes related to disease and pest status.

Harmonization

Few agreements are ‘WTO plus’ with respect to harmonization requirements. These relate, in general to the inclusion of: i) commitment to implement harmonized systems to specific aspects (ex. sampling methods, diagnosis, inspection and certification of animals, plants, their products and by-products as well as food safety); ii) stipulation of the supplemental application of standards, guidelines and recommendations of regional organizations of which the signatory parties are members. However, the majority of the RTAs only indicate that efforts should be made towards harmonization of SPS requirements through adoption of International standards. Harmonization would make equivalence less problematic and could stimulate trade flows particularly if mutual recognition could also be achieved.

Assessment of Risk Determination

Seven of the 50 agreements, ACE 58, ACE 59, China-New Zealand, Mexico-Uruguay, Mexico-Colombia, Mexico-Northern Triangle and the Chile-Central America FTA, include specific provisions that are not present in the WTO-SPS agreement, such as: i) procedures to implement interim risk assessment measures and/or deadlines to use such measures ii) obligation to notify the scientific basis of decision in writing if the result of risk assessment involves the non-acceptance of imports; iii) mandatory commitment not to interrupt trade when a Signatory Party decides to conduct a risk assessment of a product for which there is a smooth and regular trade.

Regionalisation

The use of regionalisation allows flow of agricultural and livestock products even in case of pest or animal outbreaks by circumscribing disease-free areas. The use of regionalisation lends flexibility to the implementation of SPS measures while guaranteeing a given level of protection to importing nations. Thus it can be an

23. 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.

important tool to promote liberalization. Explicit commitments on regionalisation are included in Chile's FTAs with Peru, Mexico, EU and Korea and Mexico's agreements with Uruguay, Nicaragua, Northern Triangle, as well as Mercosur-Andean community and China-New Zealand. The commitments refer to: i) obligation to justify the technical basis of non-acceptance of the recognition of regionalization; ii) implementation of the recognition procedure recommended by the WTO or OIE, iii) recognition of the sanitary status granted by the OIE.

Technical Cooperation, Joint Committees

The technical cooperation provisions in the vast majority of RTAs include an institutional component mandating the creation of a special committee or working group to address SPS issues. Thirty of the 35 RTAs that address the technical cooperation issue establish an institutional framework to do so. The related provisions specify the committee composition, functions, and mode of operation. Developments of this kind can be helpful in fostering greater transparency and harmonisation among the partners. Technical cooperation characterizes North-South as well as South-South agreements.

Equivalence and Mutual Recognition

Despite the importance of these instruments to facilitate the flow of agricultural products between the parties, few agreements contain specific provisions on the implementation of equivalence. Commitments on mutual recognition of SPS certificates, inspection or control systems are found only very rarely. Those containing mutual recognition provisions include the Central America-Dominican Republic, Mexico-Northern Triangle, Mercosur-Bolivia, Mercosur-Chile and Chile-EU agreements as well as New Zealand-Singapore and Australia-Singapore. However, they do not make mutual recognition binding. The provision just encourages the parties to make efforts to identify areas that allow the mutual recognition of SPS inspection, control and certification procedures, which is far from a binding commitment. Since mutual recognition can be a key element in facilitating trade it is unfortunate that greater commitments have not been negotiated under this principle for all groups of countries, but in particular the South-South countries.

The depth of SPS provisions is frequently related to the sensitivity of the agricultural sector for the parties involved and the degree of integration sought by them. Among the agreements involving North-South countries, commitments are limited generally to a reference to SPS Agreement category. Those between two Latin American countries, by contrast, frequently go beyond the text of the WTO-SPS Agreement.²⁴ This suggests that SPS negotiations are less complicated among Latin American countries either due to mutual interests and mutual initial conditions or to more equivalent negotiating capacities. 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) are quite general. Indeed Chile has been the only Latin American country thus far able to negotiate deeper commitments on key SPS issues with a developed country.

²⁴ 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.

The African RTAs are all customs unions, with free internal circulation of goods and a common border measure. These do not contain a specific SPS chapter, but instead a general agricultural cooperation chapter with dispersed SPS related provisions.²⁵ For SADC, EAC and ECOWAS the main objectives of cooperation are the achievement of food security and rural development, not competitiveness or trade. Therefore, in these agreements SPS measures aim to ensure agriculture production and promote rural employment. The “trade approach” of the SPS-related provisions is somewhat visible in EAC and more evident in COMESA. The latter is the only agreement that focuses mainly on the use of SPS measures to foster export of commodities. Therefore in this last case the SPS provisions are more tailored to ensure access to import markets than to guarantee internal production. Despite the differences in the approaches given in the original agreements that create these regional blocs, all of them have moved toward the creation of specific SPS protocols.

Box 6. Agricultural/SPS-related efforts within the regional blocs

RTAs	SPS Chapter	Agriculture Chapter (main goals)	Main aspects	Key regulation further created	Key regulation under discussion (draft)
SADC	No	Yes (food security, rural development)	Co-operation Harmonisation	SPS Annex to the SADC Protocol (approved in 2008)	X
ECOWAS	No	Yes (food security, rural development)	Co-operation Harmonisation	Agricultural Policy (adopted in 2005)	Harmonised SPS Protocol*
EAC	No	Yes (food security, rural development + slight provisions to foster trade)	Co-operation Harmonisation	Agricultural and Rural Development Policy (2006, 2005 and 2004) Agriculture and Rural Development Strategy 2005-2030	EAC Protocol on SPS (draft)
COMESA	No	Yes (Rural development, export of commodities)	Co-operation Harmonisation	X	Agreement on the Application of SPS Measures (draft)

*Draft Regulation on the Harmonization of the Structural Framework and Operational rules pertaining to the Health Safety of Plants, Animals and Foods.

Though all intra-African agreements focus on harmonisation and cooperation, COMESA and EAC both take a wider, more trade-oriented view with respect to SPS protocols.

One of the most important initiatives developed by COMESA in the SPS area has been the elaboration of the COMESA Agreement on the Application of SPS Measures. Although it remains in draft form, this document establishes important steps in the implementation of the SPS-WTO agreement principles. It specifies forms of cooperation to achieve equivalence and specific efforts to implement risk analysis. With regards to the application of regionalisation the agreement list, mechanisms for monitoring and surveillance of human food-borne illness and zoonoses such as a

25. SADC contains one article on SPS but not a proper chapter.

monitoring and surveillance data-base; standardised data collection, analysis and interpretation systems, and the establishment of COMESA reference laboratories (Annex C details the commitments related to laboratory services). It also encourages the adoption of the zonation and compartmentalisation outlined in the OIE regulation. In this last case key commitments are listed such as the management of pesticides, application of quarantine, use of good agriculture practices (GAP) and good manufacture practices (GMP), phytosanitary inspections procedure, establishment of an early warning system, etc. With regards to food safety this annex encourages countries to follow the HACCP principles and pre-requisites and to apply traceability systems. It includes the responsibility of the COMESA SPS unit to produce and disseminate further guidance to member states and to promote compliance.

COMESA, which encompasses all countries of EAC except Tanzania, has developed an innovative proposition, the GREEN PASS, for ensuring implementation of SPS requirements for traded goods. This should stimulate agriculture trade flows once implemented. See Box 7 for a summary of COMESA's Green Pass Proposal.

Box 7. COMESA Green Pass proposal that can reduce transaction costs

The COMESA Agreement on the Application of SPS measures creates the COMESA Green Pass (CGP), which is a commodity-specific certification scheme for the movement of food and agricultural products within the region. A CGP issued by a duly accredited competent authority in one COMESA member country is sufficient authority from an SPS point of view, for a commodity's access to the market of any other Member. Additionally, it encourages the signature of Mutual Recognition Agreements between COMESA Member countries and among outside countries for the purpose of recognition of the CGP. The competent authority (CA) in charge of issuing a CGP should be the official Government Agency responsible for animal health, plant health or food safety matters in each Member States. They should certify, monitor and keep a database of certified companies. A SPS Certification Technical Panel (within the COMESA SPS Unit) should support and monitor the CAs accredited to issue CGPs. The successful implementation of the CGP will have the potential to impact significantly on agricultural trade among the signatories since it reduces the transactional costs of export procedures.

Source: For more information see Annex D of the COMESA Agreement on the Application of SPS measures (draft).

Technical Barriers to Trade (TBT)

Technical regulations and mandated product standards are important for food and agriculture trade as these can set minimum quality characteristics of food products, such as the size, colour and weight or require specific label content and format. Examples of this include size of marketable tomatoes, beef grading rules, and product labelling or production processes requirements, such as milk from farms that use only mechanised milking equipment. These regulations do not however cover those issues dealing with human, animal or plant health and safety which are covered by the SPS agreement.

Like the SPS agreement, the TBT agreement commits governments to making their standards, technical regulations and conformity assessment procedures compatible to ensure that measures are the least trade disruptive to and distorting of trade. In practice this means that domestic regulations/standards should be based on international standards, countries should accept the other country's regulations as equivalent to their own in meeting the given objectives of their own regulation, and recognize the other's assessment procedures and thus validity of the counterpart's certification/testing procedures. To what extent have regional trade agreements put these recommendations into practice and gone beyond the requirements of the WTO-TBT? What evidence do the agreements provide?

Most of the agreements do not provide for a specific food-related chapter, but rather the agreement wide rules are applied to food and agriculture. An assessment of TBT provisions in the agreements in comparison to the WTO-TBT agreement is found in Table A5. A relatively limited number of agreements make specific reference to agricultural products underling their importance for trade: six from the Americas, Mexico-Costa Rica, Mexico-Bolivia, Mexico-Nicaragua, Chile-United States, Panama-United States (regulated in a side agreement), NAFTA and four from the Asia-Pacific region, New Zealand-Thailand, Australia-Thailand, Australia-Singapore and Australia-Chile.

The Americas

The Mexico-Costa Rica, Mexico-Bolivia, Mexico-Nicaragua, United States-Chile and NAFTA agreements reinforce the commitment to respect the principle of national treatment when applying marketing requirements to agricultural goods with respect to packaging, grading, and size. The parties also commit to establish a special committee on standardization of agricultural products with the task of reviewing the operation of classification and quality standards that may affect trade between them and to resolve issues that may arise in connection with the operation of these.²⁶ The United States-Chile agreement goes further than the others by specifying a grading/classification system for beef. The parties commit to recognize each other's beef grading programs immediately.²⁷ Indeed, it is the only agreement in which a Latin American country succeeds in securing a concrete commitment on the mutual recognition of a specific process or program that affects an agricultural product.²⁸ The US-Panama *ad hoc* agreement on SPS measures and technical standards affecting trade is non-reciprocal: Panama commits to recognize the United States beef grading system and thus applies United States beef grade and cuts nomenclature to United States beef imports. Therefore the Panamanian authorities should not require, as a condition for the import of any United States beef or beef product that such products be labelled with grade or cuts nomenclature other than those applied in the United States.²⁹

26. 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); Annex 703.2: Market Access, Article 23-25 (NAFTA).

27. Article 3.17.

28. Through this provision United States 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.

29. "United States-Panama Agreement regarding certain sanitary and phytosanitary measures and technical standards affecting agricultural trade," signed on 20 December 2006.

Asia-Pacific

The New Zealand-Thailand agreement recognizes both equivalence and mutual recognition of food regulations as per the Asian Pacific Economic Community agreement (APEC). Increased transparency is achieved through participation in each others' standards setting processes and the establishment of contact points and programme of work. The Chile-Australia agreement goes further in that representatives from both countries can deliberate on equal terms concerning their development of standards and regulations. This strong commitment is also evidenced via a memorandum of understanding that officially recognises both the Australian and the Chilean grading systems for beef imports/exports. The Australia-Singapore agreement includes a specific Annex on food products concerning technical regulations and sanitary and phyto-sanitary measures, which explicitly state the countries are to work towards equivalence, mutual recognition of conformity assessment procedures and provides for a committee for technical cooperation and information exchange. The Australia-Thailand agreement TBT chapter provides for contact points to meet at least once a year to develop a work programme for harmonizing agricultural and food standards, although the majority of RTAs analysed establish a joint TBT committee for generic purposes not necessarily for agricultural matters.

Part V.

Subsidies and Trade Remedies

Subsidies

Although subsidies to specific industries are considered to distort competition and trade, because of the particular and sensitive position of agriculture in many economies the sector retained the right to domestic support when it came under the umbrella of the GATT-WTO Agreement on Agriculture (AoA). The AoA provides the legal text governing the use of domestic support and export subsidies to agriculture.

Domestic support to agriculture

Though most agreements reviewed do not include provisions for limiting domestic support to agriculture, a few do restrict support measures. This is the case, for instance of Mexico's agreements with Bolivia, Costa Rica, Nicaragua, Northern Triangle, EFTA, Chile and Uruguay. The New Zealand-China agreement states that neither will maintain subsidies to any goods destined to the other country, however there is no explicit reference to the WTO or agriculture. The Canada-Peru and Canada-Costa Rica agreements state that they will cooperate in the WTO to reduce subsidies to the sector, but do not commit to eliminate their own subsidies. Similar statements can be found in the United States-Peru and United States-Columbia agreements. In the COMESA, SADC and EFTA-Turkey agreements subsidies are in general not considered to be compatible with the agreement, because of their trade distorting nature with no reference made to the WTO/GATT agreements. However, they are silent as to whether these are to be applied in the present agreements.

Decisions not to modify domestic agricultural subsidies via RTAs may be tied to countries' ongoing negotiations in the DOHA Round on this issue. But reducing domestic agricultural subsidies as a specific regional trade measure is not likely to be feasible administratively where countries export to numerous partners, each with specific programmes. While countries may find it beneficial to reduce or eliminate subsidies unilaterally, regardless of trading partners' behaviours, it is difficult to manage for exports to only a selected set of countries. This indicates that regional trade agreements cannot substitute for multilateral solutions.

Export Subsidies

Many of the agreements examined require that the parties “not introduce, maintain or re-introduce export subsidies for agricultural goods destined to the territory of the other.” These commitments may include a set date for their elimination or a phase-out period and may even define a grace period during which the use of agricultural export subsidies would be allowed to facilitate adjustment in the sector. To maintain a level

playing field certain agreements include a mechanism for counterbalancing subsidized exports to one of the parties of the agreement. Export subsidies are allowed under the WTO-AoA only for those products identified in AoA and have reduction commitments. The inclusion of export subsidy prohibitions would make an agreement “WTO-plus” since this is not required in most cases by the WTO-AoA. However allowing the use of a counterbalancing mechanisms as noted above weakens this general export subsidy prohibition and a ‘WTO-plus’ attribution. See Box 8 for definitions of export subsidies in the WTO.

Box 8. Export subsidies and the WTO

Export subsidies are dealt with both under the AoA and under the Agreement on Subsidies and Countervailing Measures (SCM), and their definitions in essence are the same. Under the SCM an export subsidy contains three elements: i) a financial contribution is made by a government; ii) a benefit is conferred on the recipient of the financial contribution; and iii) the financial contribution must be contingent upon export performance. WTO members can subsidize agricultural exports(Art 9, AoA), but only under the following conditions: (i) export subsidies subject to product-specific reduction commitments within the limits specified in their schedule; (ii) any excess of budgetary outlays for export subsidies or subsidized export volume over the limits specified is covered by the “downstream flexibility; (iii) export subsidies consistent with the special and differential treatment provision for developing country Members and (iv) export subsidies other than those subject to reduction commitments provided that they are in conformity with the anti-circumvention disciplines of the Agreement on Agriculture. In all other cases, the use of export subsidies for agricultural products is prohibited (Articles 3.3, 8 and 10 of the Agreement), www.wto.org/english/tratop_e/agric_e/negs_bkgrnd06_export_e.htm.

Approximately 60% of the RTAs examined contain provisions prohibiting the use of agricultural export subsidies, including 100% of the Asia-Pacific RTAs and 66% of those of the Americas. None were identified in the African agreements. Table A6 provides a summary of both export and domestic subsidy provisions for selected agreements.

Some RTAs involving Latin American countries are quite precise with respect to timing of export subsidy elimination. For instance three contain specific deadlines by which all subsidies are to be eliminated: Chile-Canada (5.5 years), Mexico-Northern Triangle (five years) and Chile-Mexico (3.5 years), while those of Mexico-Columbia, Mexico-Costa Rica and Mexico-Nicaragua commit to a complete elimination when the tariffs are eliminated.³⁰ Mexico-Uruguay, Mexico-Bolivia, Mercosur-Peru, P-4 (Chile, New Zealand, Singapore, Brunei), Costa Rica-Canada require the immediate elimination of agriculture export subsidies.³¹ On the other hand half of them (11 agreements) set no date for their elimination. None of the agreements where a Latin American country partnered with the U.S. or an Asian country as well as Mercosur-Peru and Mercosur-Andean specify the timing for eliminating agricultural 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 export subsidies, but such a provision is generally absent in those signed with

30. In the Mexico-Columbia 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.

31. More detail available at www.iadb.org/document.cfm?id=35030397.

developed countries outside the region.³² Most of Chile's agreements within the region contain commitments to eliminate agricultural export subsidies, as do those with the European Union and Korea.

The agreements frequently provide for countervailing measures, in the case of non-compliance, these may include the suspension of tariff elimination or additional tariffs, among other measures. In certain agreements, when one of the parties imports agricultural products subsidized by a 3rd party exporter, the exporting partner may request that the importer adopt specific measures to counter the impacts of the subsidised imports. In certain instances the remedy may allow the affected exporting party to apply an export subsidy for goods destined to its trading partner. This is the case in NAFTA, where the United States and Canada can use export subsidies for specific products destined to Mexico, if Mexico's imports are subsidized exports from 3rd parties. These are essentially countervailing remedies. A similar provision is found in the US agreements with Colombia, Peru, and Chile, and CAFTA-Dominican Republic. Mexico's agreements with Chile, Bolivia, Columbia as well as NAFTA, even provide for the re-introduction of export subsidies if partners agree.

Trade Remedies

Special agricultural safeguards

Under the WTO-AoA special agricultural safeguards are allowed as transition measures to permit countries to adapt to changes in the trade regimes. The use of special agricultural safeguards (SSG) under the AoA are permitted only for products that were newly tariffed and indicated as susceptible to special safeguards at the time of the signing of the AoA. The newly tariffed goods are those that were required to convert from a quota to tariff quota regime. Though special agricultural safeguards in the RTAs closely resemble those of the AoA they are not subject to the same set of rules in their modalities but rather are negotiated by the parties themselves. Thus they need not meet the same stringent criteria as SSG under the AoA. Their purpose however is the same: to prevent disruption of domestic markets due to import surges or abnormally low world prices. A summary of special agricultural safeguard provisions for selected agreements is presented in Table A7. For those applied in Latin America see Shearer *et al.* (2009).

Many of the agreements examined here include the special agricultural safeguards, but conditions under which they can be evoked, their duration and modalities for their implementation vary substantially. So there is no simple way to categorize these. For example, volume triggers, based on past shares of imports or price triggers can be applied. Notification periods vary between 10 and 60 days with certain ones allowing for provisional safeguards for a maximum of 120 days. And even trade remedies vary from a halt in tariff reductions to an increase in tariffs up to the MFN applied tariff rate. Nonetheless, almost all incorporate sunset clauses with expiration dates scheduled for when the agreement is fully implemented.

The products most frequently found under this provision are livestock, dairy, poultry, and fruits and vegetables, i.e. primary unprocessed products. Table 3 indicates which sectors and which agreements include special agricultural safeguards among those examined here. The trigger levels vary by product and country, making

32. Mexico-EFTA and NAFTA are however exceptions.

categorizing them difficult. 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 the domestic lobbying groups, etc.

Table 3. Products frequently appearing in safeguard lists

Product	Regional Trade Agreement
Beef	Mexico-Northern Triangle, CAFTA-DR, NAFTA, US-Colombia, US-Peru, US- Australia, US-Morocco
Pork	Mexico-Northern Triangle, CAFTA-DR, NAFTA, US-Colombia, US-Peru
Poultry	Mexico-Northern Triangle, CAFTA-DR, US- Morocco
Dairy	US-Colombia, US-Peru, P4 (for Chile), CAFTA-DR, New Zealand-China, Australia-Thailand
Vegetables	NAFTA, US-Colombia, US-Peru, US-Chile, CAFTA-DR, Mexico-Colombia, Mexico-Northern Triangle, US-Australia, US-Morocco
Fruits	NAFTA, US-Colombia, US-Peru, US-Chile, Mexico-Northern Triangle, Australia- Philippines, Australia- Thailand, US –Morocco

The remedies used when the trigger is reached are either an increase in the tariff up to the MFN applied rate the day preceding the entry into force of the agreement or a pre-defined base rate or suspension of decrease in tariffs.

For all the agreements their duration is for the year in which the safeguard is imposed however in the case of US-Australia’s safeguard for beef the time span can be limited to one calendar quarter. The average duration of an agricultural safeguard is shorter than those applied to other sectors, six months to one year compared to three years. Many RTAs also establish a sunset clause for the safeguards. The Mexico-Colombia agreement for instance calls for recourse to safeguards to end 15 years after the agreement’s date of entry into force, while those of US-Morocco terminate when implementation of the agreement is complete.

Certain agreements permit special safeguards for emergency situations. The Chile-Korea and Chile-EU agreements follow this model and authorize 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.³³ In this case, the consultation procedure that normally should take place before the committee is waived due to the emergency situation.

Some agreements such as NAFTA and the Chile-US agreement do not provide for limits, but the generic safeguard is regulated under the “Emergency Action” chapter, cannot exceed three years and is applicable to all products. In the P-4 agreement, Chile is the only country allowed to impose an agricultural safeguard, and it can do so in any semester until the 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 that vary according to nine product categories, which are mainly dairy goods.

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

Two countries stand out as having agricultural safeguards specified more frequently than others: the United States and Chile. All six RTAs examined that include the United States contain special agricultural safeguards. For instance, a quantitative trigger level was included in the US-Peru and US-Colombia agreements, but price trigger is applied in the US-Chile agreement. Examples of special safeguards in US-Morocco are provided in the Tables A8 and A9. Chile included agricultural safeguards in half of the agreements it signed with non-regional countries. However, agreements concluded exclusively between Latin American parties rarely contain agricultural safeguard provisions.

In the EU-South Africa agreement the SSG provision is more generic than those specified above.³⁴ It appears to be wider in product coverage and employs a general bilateral safeguard form (Article 24) for its application. It also extends the reach of the provision to countries belonging to the South African Customs Union (SACU) and to the European Union's outermost regions. The EU-SA safeguard may be considered complementary to the AoA provisions, but has never been applied by either party since the agreement was signed.

To the extent that the special safeguards are more restrictive than in the AoA, both in duration and applicable product set, these signal a move towards greater trade liberalisation for agriculture. The agreements of New Zealand-Singapore and Australia-Singapore, for instance, prohibit their use for all goods. However the use of safeguards for most agricultural products is governed by the AoA and most agreements do not in general give evidence of going beyond WTO requirements except for the reduction in their durations in certain cases and limits on product coverage.

Anti-dumping measures

Anti-dumping measures focus on unfair trade practices, in particular the selling of goods at prices below the costs of production. Its definition is a measurement issue and can be subject to manipulation.³⁵ A number of Asia-Pacific and Inter-regional agreements include clauses affirming their support for Articles VI/XVI, the anti-dumping articles of GATT 1994. Several agreements prohibit the use of anti-dumping mechanisms, for example EFTA-Chile and China-Hong Kong, while those of the Australia-Singapore and Singapore-Korea make the criteria for application of anti-dumping measures more restrictive; see Table A10 for anti-dumping provisions of selected RTAs. Measures are more restrictive if they limit the criteria for initiating antidumping procedures. This can be done by raising the percentage difference between costs of production and selling price trigger that defines when a product is being dumped.

34. It states that 'given the particular sensitivity of the agricultural markets, imports of products originating in one Party cause or threaten to cause a serious disturbance to the markets in the other Party' (Article 16). Furthermore before applying safeguards the cooperation council must be consulted, in exceptional circumstances that require immediate action the affected partner can take provisional measures to limit or redress the situation.

35. Anti-dumping measures are judged to be ambiguous measures by economists because by providing mechanisms for limiting unfair practices or predatory behaviours in markets these may also be deterrents to trade as studies have recently found (Bayliss *et al.*, 2009).

Though anti-dumping measures have been used less frequently in agriculture than in the non-agriculture sector economic analyses of antidumping initiations by the US and the European Union have found evidence that these initiations can decrease trade because of their unintended consequences on third parties (Baylis *et al.*, 2009). Use of anti-dumping measures discourages perspective exporters who may even have a comparative advantage in exports because they fear charges of anti-dumping.

The continued provision of trade remedies, countervailing duties, safeguards and anti-dumping measures in most all the agreements examined implies a certain reticence in effectively making operational the total trade liberalisation that most espouse in their preambles. Although in the Asian-Pacific agreements a wish to limit their use is apparent, this is not the case for most of the agreements examined. In principle their continued existence raises a number of questions of their coherence with trade liberalisation objectives. It seems natural that trade liberalisation will have negative impacts on inefficient domestic industries. The possible exit of certain producers or sectors from domestic economic activity is indeed a source of trade liberalisation efficiency gains. This issue has been subject to debate and is likely to remain so.

Geographical Indications

Geographical Indications (GIs) are place names used to identify products that come from specific locations and whose quality, reputation or other characteristics are tied to it, such as Champagne, Tequila, Parmigiano-Reggiano. The texts governing protection for Geographical Indications are found in principally in Articles 22 and 23 of the Agreement on Trade-related Intellectual Property Rights (TRIPS), with Article 23 providing added protection for wines and spirits. Under TRIPS countries are required to prevent use of a designation that suggests or indicates that the good originates from an area other than its true place of origin.

While almost all the agreements examined do contain a chapter on intellectual property rights, with specific reference to the TRIPS agreement, most do not explicitly refer to GIs nor do they provide details of specific coverage. Where specific reference is made to GIs these focus in particular on alcoholic beverages. For example, the NAFTA agreement partners are to recognize Bourbon Whiskey and Tennessee Whiskey as distinctive products of the United States; Canadian Whisky of Canada, and Tequila and Mezcal of Mexico. Products carrying these labels cannot be sold unless they are produced by the indicated country. Similar language is used for specific alcoholic beverages in the Dominican Republic-CAFTA, United States-Chile, Canada-Peru, Mexico-Japan, Chile-Japan, and Chile-EU agreements. The Chile-European Union agreement not only contains a broad range of protected designations for wine but also of specific processes of oenology. This can be contrasted with those of the European Union-South Africa (Art 46), United States-Morocco (Art. 15.2) and Singapore-United States (Art 16.2), where explicit reference is made to GIs as part of intellectual property protection, though details of the protection afforded to specific products are not provided. In the case of the Japan-Thailand agreement (ch. 134) protection of GIs is to be afforded to any good in accordance with each country's respective GI regulations.

Export Restrictions

Most agreements include chapters which prohibit the use of quantitative export restrictions except for reasons falling under Article XI of GATT. A few also specify which products are exempt from the export restriction, such as logs and endangered fish species in the case of Canada-Peru, or logs in the US-Morocco agreement. However, in the EFTA-Turkey, Egypt-Turkey, and EU-Turkey agreements, export restrictions are permitted if serious shortages of a product essential to the exporter arise, provided that procedures specified in the agreement regarding notification and duration are followed. In the COMESA export restrictions are permitted in order to maintain food security in the event of war or famine, provided notification is given to other members, while in SADC export restrictions are not permitted with regard to other members except to prevent critical shortages of foodstuffs in any member.

Part VI.

Main conclusions

Overall the RTAs examined in this paper provide for significant liberalisation if measured by the share of duty free lines when agreements are fully implemented. Approximately 90% of tariff lines of agricultural products are in fact duty free by the end of the implementation period when averaged across individual tariff concessions and sectors. This represents almost a doubling of the share of duty free lines compared to before the agreements. This overall average however masks significant differences between agreements and across sectors. The most sensitive sectors, dairy and sugar, are generally exempted from complete tariff elimination although there are a few exceptions, such as agreements entered into by Australia, New Zealand, Hong Kong, Singapore. The share of duty free tariff lines for these sensitive commodities nonetheless increases from 26% for dairy and from 30% for sugar to 73% for each category considering all countries. Not only do sensitive sectors vary across countries depending on specific conditions but also for a given country across agreements with countries often choosing their sensitive sector according to who their partner is. In the aggregate, the tariff reductions of the RTAs should be considered to be WTO plus not only because most duties are totally eliminated but also because incomplete tariff elimination is based on reductions of applied tariffs, a fact often forgotten.

The South-South agreements undertake a significant increase in duty free tariff lines from less than 30% initially to approximately 95% when the agreements are fully implemented. There are numerous exceptions, varying by country and agreement, but frequently covering dairy, sugar, cereals and processed meats. In contrast, for the North-South Agreements, though starting from a more substantial share of duty free lines, this share increases less, reaching 87% at full implementation. Again the usual products are exempt from complete tariff elimination, dairy, sugar, beef and a wide range of processed products, such as cereal preparations and miscellaneous products. Furthermore many RTAs make frequent use of TRQs, though these vary in terms of duration, quota volumes and the tariffs applied both within and over quota. From a regional perspective, the Asia Pacific group of agreements appears to be the most liberalising. But in this group it is the agreements signed by Singapore, Australia and New Zealand that contribute most to this result. Here tariffs are immediately eliminated, and there appears to be a limited use of TRQs and exemptions. The intra-Latin American agreements also provide evidence of a strong liberalizing effort both in their tariff reductions and the presence of relatively few TRQs and exemptions. Nonetheless, there are substantial differences according to country sensitivities, which are also conditioned by agreement partners. These exceptions tend to be in sugar, dairy, meat and fish preparations, and cereals.

All agreements include complex and detailed rules of origin schedules negotiated between partners. The extent to which they impede market access for agricultural goods is unknown. While trade in raw agricultural goods is likely to meet the ROOs growing trade in processed products and the sourcing of ingredients across the globe may be more subject to their restrictiveness inherent in ROOs. These instruments add a new hurdle to trade not present before and which endures after implementation, thus these are certainly not ‘WTO plus’. Of course, the question is what alternative ways exist to avoid trade deflection when MFN and preferential tariffs differ.

Qualitative regulatory measures are more difficult to evaluate in terms of going beyond WTO requirements. The analysis developed in this research finds that despite efforts to include concrete SPS-related commitments, the language used remains superficial, broad with no overall real engagement to make operational the basic set of SPS principles. The Latin American agreements have gone further in ensuring greater transparency, regionalisation, harmonisation and equivalence. Much of this progress in the present sample however is concentrated in agreements of Chile and Mexico, countries with a highly trade-oriented perspective and thus a real incentive to apply these principles concretely. In the set of Asia Pacific agreements, only the New Zealand-Singapore incorporates an operative mutual recognition statement in the agreement. For the African agreements, the progress on SPS-related issues has been modest to date. It is difficult to judge if the SPS commitments taken at the regional level will have a meaningful effect given their superficiality. A notable exception is the COMESA Agreement on SPS, particularly the Green Pass, which could reduce trade transaction costs.

TBT-related commitments in terms of language and specific engagements remain superficial. With respect to agriculture, most of the agreements do not provide for specific food standards/regulation chapters, but rather the agreement-wide rules are applied to food and agriculture. Only a few agreements provide for specific commitments with respect to standards; for instance Australia-Chile, and Chile-US, where both parties would recognize their grading systems for beef imports and exports). Specific commitments are also made in the Singapore-New Zealand and Singapore-Australia agreements. Indeed, the Asian-Pacific agreements appear to indicate a move towards the goals set out in the TBT agreements.

The analysis finds that almost 60% of the agreements prohibit agricultural export subsidies and this should be seen as going beyond the WTO-AoA commitments, thus making them “WTO-plus”. Interestingly countries which do not currently use export subsidies are a significant portion of those prohibiting them in their RTAs. The use of special agricultural safeguards is generally more restrictive as these become prohibited once the agreement is fully implemented for most agreements. Thus even here there is some progress toward liberalisation. However few commitments are made regarding domestic subsidies, although in Latin America there are some restrictions which are concentrated in agreements by Mexico and the four Mercosur agreements.

Overall, the agreements examined do provide for increased trade liberalisation compared to commitments under the AoA, as evidenced by tariff elimination, commitments on export subsidy elimination and sunset clauses on special agricultural safeguards. However, few concrete commitments are found with respect to non-tariff measures such as SPS and TBT measures. The most promising is the innovation in the institutional framework through joint SPS committees to implement the agreement.

Though the results of the study are conditioned by the sample of agreements, the key results from this examination of 55 regional trade agreements are:

- Tariff elimination commitments provide evidence of a significant move towards agricultural trade liberalisation in the RTAs examined as required by Article XXIV. South-South agreements make the greatest effort to eliminate tariffs, raising their share from 28% to 92%, while the North-South agreements have a share of only 87% at the end of implementation.
- Numerous exemptions and TRQs continue to characterise tariff schedules. These cover traditionally sensitive sectors such as dairy, meat, sugar and cereals.
- Little concrete progress have been made in the SPS and TBT areas as only vague commitments and a lack of specific actions dominate these chapters. Although a substantial number of RTAs establish specific commitments to apply the transparency principle this result is driven by the agreements of Mexico and Chile rather than being widely adopted.
- The new institutional framework of SPS joint committees provides for a foundation future work in this area. This highlights the need for greater efforts in the area of integrating in a concrete manner the core SPS principles in the RTA agreements and use of the joint committees to move towards innovative solutions to stimulate trade among countries. The same may be said to apply to TBT measures.
- Prohibition on agricultural export subsidies in over half of the agreements is a definite move towards less distorting trade.
- Rules of origin appear to be quite restrictive, mainly relying on wholly grown or raised criteria or change of chapter for imported ingredients. Given the nature of agricultural trade, however, it is unclear if this is a constraint to trade.
- Agricultural safeguards are almost all subject to sunset clauses with implementation, thus they are evidence of increased liberalisation.

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ANNEX TABLES AND FIGURES

Table A1. List of South and North countries in the analysis

South countries	North countries
Argentina	Canada
Bolivia*	United States
Brazil	European Union
Chile	Australia
Columbia	New Zealand
Costa Rica	Japan
Ecuador	Korea
El Salvador*	Brunei
Guatemala*	Singapore
Honduras*	Hong Kong
Mexico	Norway
Nicaragua*	Switzerland
Paraguay*	Iceland
Peru	
Uruguay	
Venezuela	
China*	
Thailand*	
Egypt*	
Turkey	
Morocco*	
Kenya**	
Uganda**	
Tanzania**	
South Africa	

** = Low income developing

* = Middle income developing

Otherwise high income developing

Table A2. Agreements with exceptions to full tariff elimination, by sector

Sector	Australia- United States	Canada - Peru	Chile- EFTA	China - New Zealand	Egypt - European Union	Egypt-Turkey	European Union- South Africa	Japan- Thailand	Morocco- United States	New Zealand- Thailand
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 Preparations, Sausage, Other		•	•		•	•	•	•	•	
Meat, Poultry		•	•		•	•	•	•	•	
Animal Fats		•	•		•	•	•	•		
Dairy, Milk & Cream, Not Concentrated or Sweetened	•	•	•		•	•		•		•
Dairy, Milk & Cream, Concentrated or Sweetened	•	•	•		•	•	•	•		•
Dairy, Other	•	•	•		•	•	•	•		
Dairy, Cheese	•	•	•		•	•	•	•		
Eggs		•	•		•	•		•		
Honey			•		•	•		•		
Edible products of animal origin nes			•		•	•				
Products of animal origin, nes			•		•	•				
Live Trees and Other Plants			•		•	•	•			
Vegetables, Potatoes			•		•	•	•	•		•
Vegetables, Tomatoes			•		•	•				
Vegetables Onions, Shallots, Garlic, Leeks, etc			•		•	•	•	•		•
Vegetables, Other			•		•	•	•	•		•
Vegetables, Beans and Peas			•		•	•	•	•		
Vegetables, Sweet Corn			•		•	•	•			
Nuts			•		•	•		•		
Fruit, Bananas			•		•	•	•	•		
Fruit , Other Prepared Nuts			•		•	•	•	•		
Fruit, Pineapples			•		•	•		•		
Fruit, Citrus			•		•	•				
Fruit, Grapes			•		•	•				
Fruit, Apples			•		•	•	•			

Table A2. Agreements with exceptions to full tariff elimination, by sector (*continued*)

Sector	Australia- United States	Canada - Peru	Chile- EFTA	China - New Zealand	Egypt - European Union	Egypt-Turkey	European Union- South Africa	Japan- Thailand	Morocco- United States	New Zealand- Thailand
Coffee and Coffee Substitutes			•		•	•		•		
Tea			•		•	•		•		
Mate			•			•				
Spices			•		•	•		•		
Cereals, Wheat and Meslin			•	•	•	•	•	•	•	
Cereals, Other			•		•	•	•	•		
Cereals, Maize (Corn)			•	•	•	•	•	•		
Cereals, Rice			•	•	•	•	•	•		
Cereals, Sorghum			•		•	•	•			
Flours and Other Milling Industry Products			•	•	•	•	•	•	•	
Oil Seed etc	•		•		•	•		•		•
Lac, Gums, Resins, Vegetable Saps, etc			•		•	•	•	•		
Vegetable plaiting materials, etc			•		•	•				
Vegetable Oils			•	•	•	•		•		
Other Animal Fats and Vegetable Oils, Margarine, Wa	•	•	•		•	•	•	•		
Sugars and Sugar Confectionery	•	•	•	•	•	•	•	•		
Cocoa and Cocoa Preparations	•	•	•		•	•	•	•		
Other Food Preparations	•	•	•		•	•	•	•	•	
Fruit and Vegetable Juices			•		•	•	•	•		
Beverages, Waters and Non-alcoholic	•	•	•		•	•	•	•		•
Beverages, Alcoholic			•		•	•	•	•		
Vinegar			•		•	•	•			
Food Residues and Wastes; Animal Fodder	•	•	•		•	•	•	•		
Tobacco	•		•		•	•		•		
Chemicals		•	•		•	•	•	•		
Raw Hides and Skins, Leather			•		•	•				
Raw Textile Materials	•		•	•	•	•	•	•		

Table A3. Use of Tariff Rate Quotas, by product sector

	Australia - Chile Aus-Chi	Australia - Singapore AusSgp	Australia - Thailand Aus-Tha	Australia - US Aus-US	Canada - Peru Can-Per	Chile - EFTA Chi-EFTA	China - Hong Kong, Macao Chi-HK	China - New Zealand Chi-NZ	East African Community EAC	Egypt - EU Eg-EU	Egypt - Turkey Eg-Tur	EU - South Africa EU-SA	Japan - Thailand Jpn-Tha	Korea - Singapore Kor-Sgp	Morocco - US Mor-US	New Zealand - Singapore NZ-Sgp	New Zealand - Thailand NZ-Tha	Singapore - US Sgp-US
Active Yeast																		
Avocados																		
Beef																		
Beef, Boneless Rib TRQ																		
Beef, Standard Quality																		
Breads																		
Cereal, Flour, and Bakery Preparations																		
Pasta																		
Pasta Confectionery																		
Products Related to Common Wheat																		
Products Related to Durum Wheat																		
Cereals & Milling Industry Products																		
Wheat, Common																		
Wheat Durum																		
Chocolate and Cocoa																		
Chocolate																		
Citrus																		
Orange Juice, Frozen																		
Oranges																		
Coffee and Tea																		
Coffee Extracts and Preparations																		
Tea																		
Corn																		
Cotton																		
Dairy																		
Butter																		
Cheese																		
Cheese and Curd																		
Cheese, American																		
Cheese, Cheddar																		
Cheese, European-type																		
Cheese, Goya																		
Cheese, Jarlsberg and Ridder																		
Cheese, Swiss-type																		
Cheeses, Other																		
Cream																		
Crems and Ice Cream																		
Dairy Products, Other																		
Dairy, Liquid																		
Milk																		
Milk Powder																		
Milk Powder, Non-fat																		
Milk Powder, Other than non-fat																		
Milk, Concentrated																		
Milk, Condensed																		
Milk, Powdered																		
Esterified Starches and Other Starch Derivatives																		
Bouquets																		
Cut Flowers																		
Flowers, Cut, Fresh																		
Flowers, Cut, Other than Fresh																		
Proteas																		
Food Residues and Wastes; Animal Fodder																		
Animal Feed																		
Fruit																		
Apples																		
Apricots, Dried																		
Banana																		
Cherries																		
Cherries, Fresh																		
Cherries, Preserved																		
Dates																		
Figs																		
Fruit and Nuts																		
Guavas, Mangos, and Mangosteens																		
Melons, Other																		
Peaches																		
Pears																		
Pineapples, Fresh																		
Plums																		
Prepared Fruit																		
Raisins																		
Strawberries																		

Table A3. Use of Tariff Rate Quotas, by product sector (continued)

		Australia - Chile	Australia - Singapore	Australia - Thailand	Australia - US	Canada - Peru	Chile - EFTA	China - Hong Kong, Macao	China - New Zealand	East African Community	Egypt - EU	Egypt - Turkey	EU - South Africa	Japan - Thailand	Korea - Singapore	Morocco - US	New Zealand - Singapore	New Zealand - Thailand	Singapore - US		
		Aus-Chl	Aus-Sgp	Aus-Tha	Aus-US	Can-Per	Chi-EFTA	Chi-HK	Chi-NZ	Ken-Tza	Egypt - EU	Egypt - Turkey	EU - South Africa	Japan - Thailand	Kor-Sgp	Mor-US	NZ-Sgp	NZ-Tha	Sgp-US		
Fruit, Vegetable, and Nut Preparations	Fruit and Nut Preparations																				
	Fruit and Vegetable Juice																				
	Fruit Juice																				
	Fruit, Mixed Processed																				
	Jams and Jellies																				
	Pickles																				
	Potato Meal																				
	Preserved Tomato Products & Tomato Paste/Puree																				
	Tomato Sauces																				
	Live Cattle																				
Meats, Other	Pork																				
	Pork, Prepared																				
Nuts	Almonds																				
	Ground-nuts																				
	Hazelnuts and Filberts																				
...	Nuts																				
...	Onion Seeds																				
...	Other Live Plants																				
...	Peanuts																				
Poultry	Chicken and Turkey Whole Birds																				
	Chicken Leg Quarters and Wings																				
	Chicken Thigh Meat, Frozen Boneless & Skinless																				
	Other Frozen Boneless & Skinless Poultry Meat																				
	Other Frozen Deboned Poultry Meat																				
Rice	Rice																				
	Rice, Husked																				
Spices	Rice, Milled																				
	Spices, Other																				
Sugar	Spices, Seed																				
	Molasses																				
	Molasses, Cane																				
...	Sugar																				
	Sugar and Sugar-containing Products																				
...	Sugar Confectionery																				
...	Tobacco																				
...	Variety Meats																				
Vegetable Oil	Corn Oil																				
	Margarine																				
	Other Vegetable O1																				
	Sesame Oil, Industrial																				
	Soybean Oil																				
	Sunflower Seed Oil																				
	Sunflower Seed Oil, Crude																				
	Sunflower Seed Oil, Semi-refined																				
	Vegetables	Cabbage																			
		Carrots and Turnips																			
Cucumber																					
Garlic																					
Garlic, Dried																					
Legumes																					
Lettuce, Head																					
Live Bulbs																					
Mushrooms																					
Onions																					
Onions and Shalots																					
Onions, Dried																					
Peas and Beans																					
Potatoes																					
Potatoes, New																					
Sweet Potatoes																					
Tomatoes																					
Vegetables, Dried, Unspecified																					
Vegetables, Frozen and Preserved																					
Vegetables, Other																					
Wine																					
...	Wine, Sparkling																				
...	Wool																				

Table A4. Rules of origin and *de minimis* requirements^a

Agreement	<i>de minimis</i>	Specific requirements for agricultural goods, HS 1-24 With foreign materials
Australia – Thailand		HS 01.01-24.01 hd chng chpt/ limited number of change in subheading from subheading for specific products in HS 15-24
Australia-United States	10%	CTCCH + product exceptions
Australia-Chile	10%	CTCCH except 0406/ 0905-0906/ SH to SH
Australia-Singapore	30-50% ^b	
New Zealand-China	10%	CTCCH ^c for most tariff lines except 09 which is SH to SH, HS01-10 and 2201 wholly originating
New Zealand-Thailand	10%	CTCCHt. HS02-HS24, except HS 04.06 /HS 1806/ 2009/ 1901/ CTCSH.
New Zealand-Singapore	<40% ^d	Material content originating > 40% then good is 100% originating if <40% material then good is originating in the same proportion
Korea-Singapore	10%/ or 50%VA	CTCCH for most products with RVA requirement for most in HS15, 20-22, CTCCH + exceptions for HS06,08, 11, CTCCH+ RVA + Exceptions in 15/18.06
United States-Singapore	10% ^e	HS 1-24 CTCCH , HS 18, 20-22 composition specific for materials.
Japan-Thailand		CTCCH in most cases+ RVA + some exceptions
China-Hong Kong	30% VA	
Egypt- Turkey		HS 01-05 , 07,09, 10-12 , 14, 16 wholly originating except 0403/0502/0907/0903 with change of hd or VA ; HS 17 -23 CTC or value of foreign material does not exceed 10-30%;
EFTA-Turkey	10%	
EC-Egypt		HS 01-05 , 07,09, 10-12 , 14, 16 wholly originating except 0403/0502/0907/0903 with change of hd or VA ; HS 17 -23 CTC or value of foreign material does not exceed 10-30% ;
EC-South Africa	15%	HS 01-05 , 07,09, 10-12 , 14, 16 wholly originating except 0403/0502/0907/0903 with change of hd or VA ; HS 17 -23 CTC or value of foreign material does not exceed 10-30%;
United States – Morocco	35% ^f	
SADC-	15%	HS1-8, 12, 16 wholly originating, HS 13, 14, 23 materials from any hd except the product itself, HS 17 wholly originating sugar cane/beet / HS 18 materials any hd except product and HS 17 wholly originating, HS 20-23 materials of any hd except product or max for. Originating < 60%.
EAC-	*	*
COMESA-		Value added >= 35% or value of foreign materials not > than 60% of total value of materials.

- CTCCH change of chapter, CTCH, change of heading and CTCCH change of subheading, * = not specified
- Value added according to specific products.
- Not applicable HS1-14, for 15-24 non originating must ctch.
- Material content originating > 40% then good is 100% originating if <40% material then good is originating in the same proportion.
- 10% or ctch according to specific product list.
- Combination originating materials and processing except for HS06.02-0603/07.10-07.13/ 0811-0814-ctch,/0910.20 ctch,/ 1212.10 ctch,/2001-2007ctch except from HS 7, /20.08 ctch except from HS 8,/ 22.0110-22.0130 ctch.,/200911-200939ctch except HS 08.05./ and 20.09.41-2009.8 ctch.

Table A5. TBT Provisions

Agreement	International standards	Equivalence	Mutual Recognition	Committee/ Contact Point	WTO TBT reference
Australia – Thailand	*	√+	√	√+	√
Australia- United States	√	√+	√	√	√
Australia-Chile	√	√+	√	√	√
Australia-Singapore	√	√	√	√	√
New Zealand- China	√	√+	√	√+	√
New Zealand-Thailand	√	√+	√	√+	√
New Zealand-Singapore	√	√+	√	√+	√
Korea- Singapore	*	*	√	*	√
United States-Singapore	*		√+	*	√
Japan-Thailand	√		√	*	√
China-Hong Kong	√	*	√	*	*
Egypt- Turkey	√		*	√+	√
EFTA-Turkey	√		*	*	*
EC-Egypt	√	*	*	√+	√
EU-South Africa	√	*	√	√	√
United States – Morocco	√	*	√	√	√
SADC-	√	√	*	*	√
EAC-	*	*	*	√	*
COMESA-	√	*	*	√	*
ECOWAS-	*	*	*	√	*
EFTA-Chile	√+?	√	√	√	√
Canada-Peru	√	√+	√+	√	√

Source: Agreement texts ns – not specified; √= indicates precise meanings in application of the requirement in a precise manner; √+ -indicates exceeds requirements, i.e. by establishing a committee/contact point with defined agenda or requiring reasons for non-acceptance.

Table A6. Subsidies

Agreement	Domestic support	Export subsidies	Agreement	Domestic support	Export subsidies
Australia – Thailand	*	√+	EFTA-Turkey	√	*
Australia-United States	*	√+	EU-Egypt	√	*
Australia-Chile	√	√+	EU-South Africa	√	*
Australia-Singapore	√+	√	United States – Morocco	*	*
New Zealand-China	√	√+	SADC-	*	*
New Zealand-Thailand	√	√+	EAC-	*	*
New Zealand-Singapore	√+	√+	COMESA-	√	*
Korea- Singapore	*	√+	ECOWAS-	*	*
United States-Singapore	*	*	EFTA-Chile	√+	*
Japan-Thailand	√	√+	Canada-Peru	√	√+
China-Hong Kong	√+	√+			
Egypt- Turkey	√	*			
EFTA-Turkey	√	*			

*= not specified; √=WTO SCM reference; √+= restrict uses of domestic subsidies or prohibits export subsidies.

Source : Trade agreement texts.

Table A7. Summary of special agricultural safeguards in selected RTAs

Agreement	Trigger	Remedy: duty increases	Notification	Period of applicability	HS chapter - No. of lines	HS chapter- No of lines
Australia- Thailand	Volume			Thailand HS 02,04,- 2020 HS 05,08- 2015 Australia 2008	Thailand HS 02 – 20 HS 04--13 HS 05--1 S 08--9	Australia HS 16 --1 HS 20 --4
New Zealand- Thailand	Volume	Lesser of : most recent MFN rate applied or base rate	As far in advance as poss ble, but within ten days of its application	HS 02,04,- 2020 HS 05,08- 2015	Thailand HS 02—20 HS 04—13 HS 05—1 HS 08—2	New Zealand- none
New Zealand- China	Volume	Lesser of: most recent MFN rate applied or base rate	As far in advance as poss ble, but within 10 days of its application	Basket I - 2021 Basket II- 2023 Basket III & IV- 2021	China I-HS: 04 – 2 lines II-HS 040—1 lines III-HS 04—2 lines IV-HS 04 – 3	New Zealand- none
United States – Morocco	Volume and price triggers	Lesser of: most recent MFN rate applied or base rate	Within 60 days of applying a measure		Morocco-volume HS 02—6 HS 07—4 HS 08--4	United States- price HS 07—4 HS 20—29 HS 21—2
Australia- United States	Volume and price triggers	Lesser tariff : MFN or most recent MFN rate at enforcement	Within 60 days of applying a measure		Australia : None	US Price trigger Horticultural products listed and beef Volume trigger for beef Volume trigger- Beef
EC –South Africa	Volume triggers	Cooperation council	Not specified	Not specified	Any sensitive product	Any sensitive product

Source: Texts of the Agreements, national sources and the WTO.

Table A8. Safeguard price trigger: United States

HS chapter	Tariff lines 10-digit	Difference between unit import price(domestic currency) and trigger price	Additional duty : difference between the MFN and agreement tariff rate
07-Dried onions and garlic	4	$\leq 10\%$	0
20-Preparations of tomatoes, asparagus, olives, pears, apricots, peaches, oranges and mixtures	29	$>10\%$ and $\leq 40\%$ $>40\%$ and $\leq 60\%$ $>60\%$ and $\leq 75\%$ $>75\%$	30% 50% 70% 100%
21-Tomato sauce	2		

Source: United States Morocco Free Trade Agreement.

Table A9. Safeguard volume trigger: Morocco

HS chapter	No of tariff lines- 10 digit	Trigger volumes (annual increments- 260 MT)	Additional duty: difference between the MFN and agreement tariff rate
02-Poultry quarters and wings	15	Years 1-10 – 5200 mt + increment Years 11-15—7800 mt Years 16-20—9100 mt Years 21-24—11180 mt Years s 25 and beyond— 5% increase over previous year exports of United States to Morocco	$\leq 100\%$ $\leq 75\%$ $\leq 50\%$ $\leq 30\%$

Source: United States – Morocco Free Trade Agreement.

Table A10. Anti dumping provisions

Agreement	Prohibited	Allowed	Agreement	Prohibited	Allowed
Australia – Thailand		√+	EFTA-Turkey		√
Australia- United States		*	EU-Egypt		√
Australia-Chile		√	EU-South Africa		√
Australia-Singapore		√	United States – Morocco		*
New Zealand- China		√	SADC-		√
New Zealand-Thailand		√+	EAC-		*
New Zealand-Singapore		√+	COMESA-		√
Korea- Singapore		√+	ECOWAS-		√
United States-Singapore	√		EFTA-Chile	√	
Japan-Thailand		*	Canada-Peru		√
China-Hong Kong	√				

*= not specified; √= allowed AD reference; √+= tighter criteria for anti-dumping procedures.

Source: Trade agreement texts.

Figure A1. Share of US imports from Australia under preferential tariffs

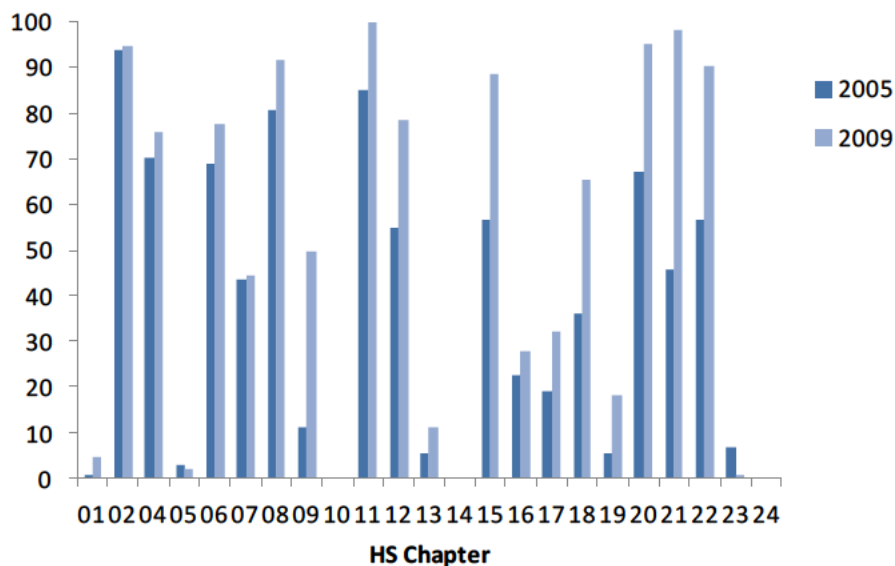


Figure A2. Share of US imports from Mexico under preferential tariffs

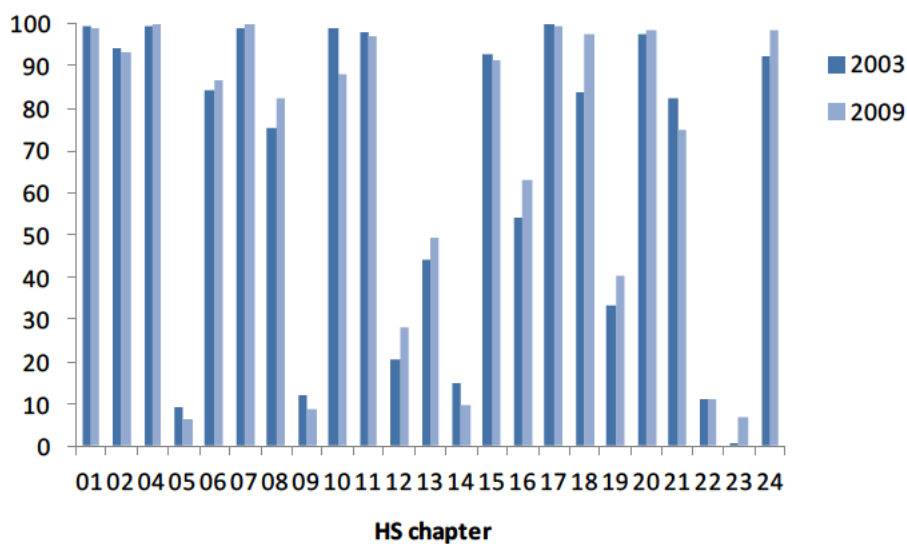


Figure A.3 Share of Australia's imports from US under preferential tariffs

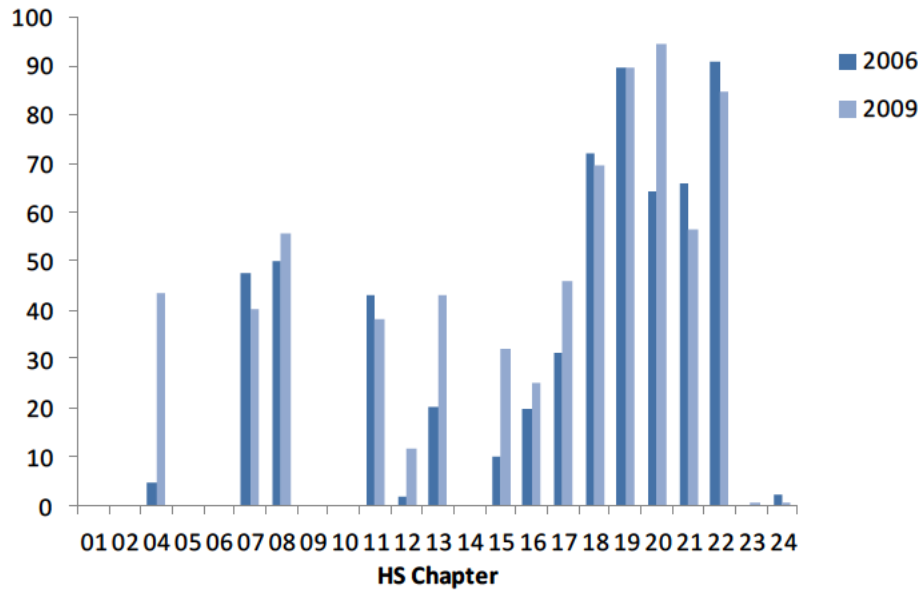


Figure A.4 Share of Australia's Imports from Thailand under preferential tariffs

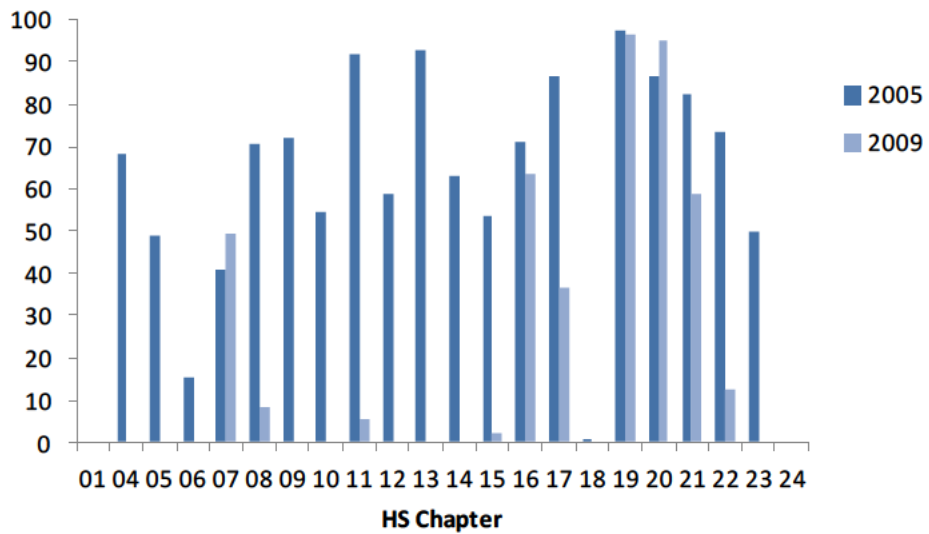


Figure A.5. Share of Australia's Imports from Chile under preferential tariffs

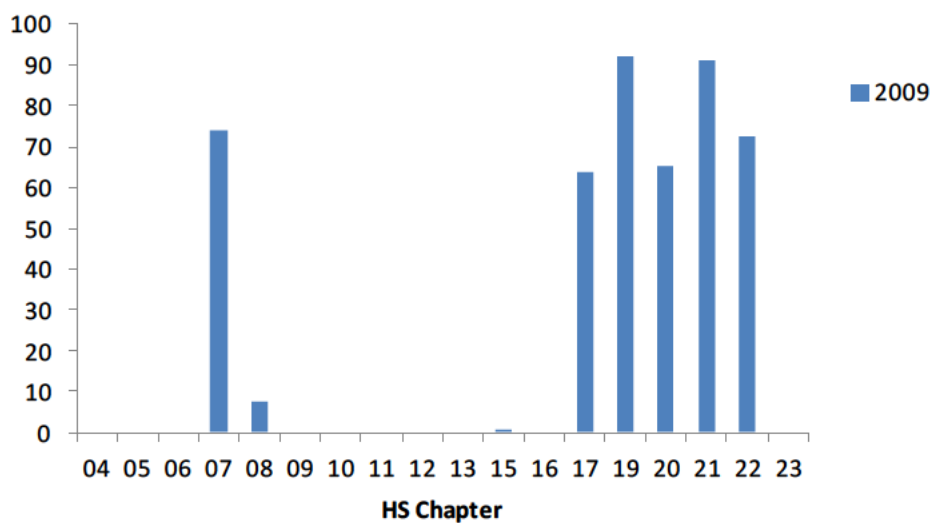


Figure A.6. Share of Canada's imports from Chile under preferential tariffs

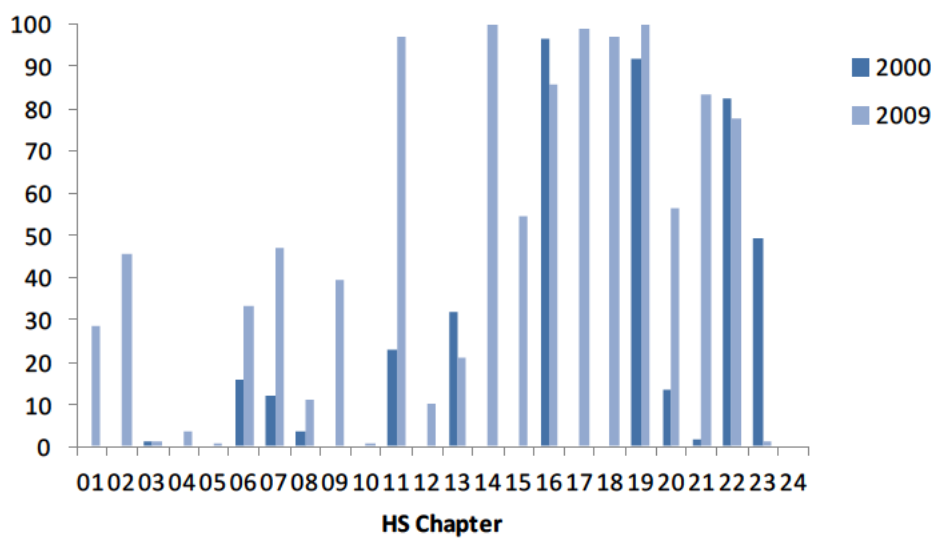


Figure A.7. Share of Canada's Imports from Mexico under preferential tariffs

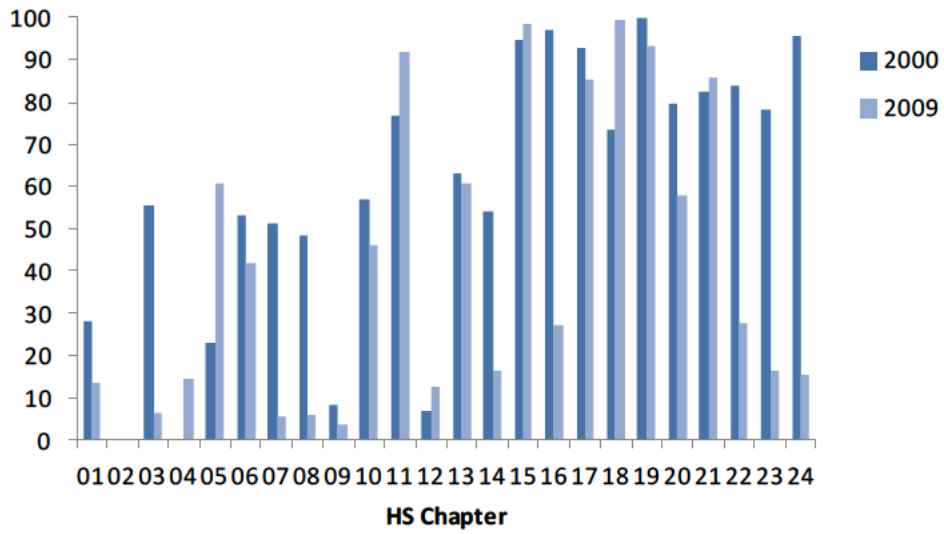


Figure A8. Time frames for duty-free treatment: Africa

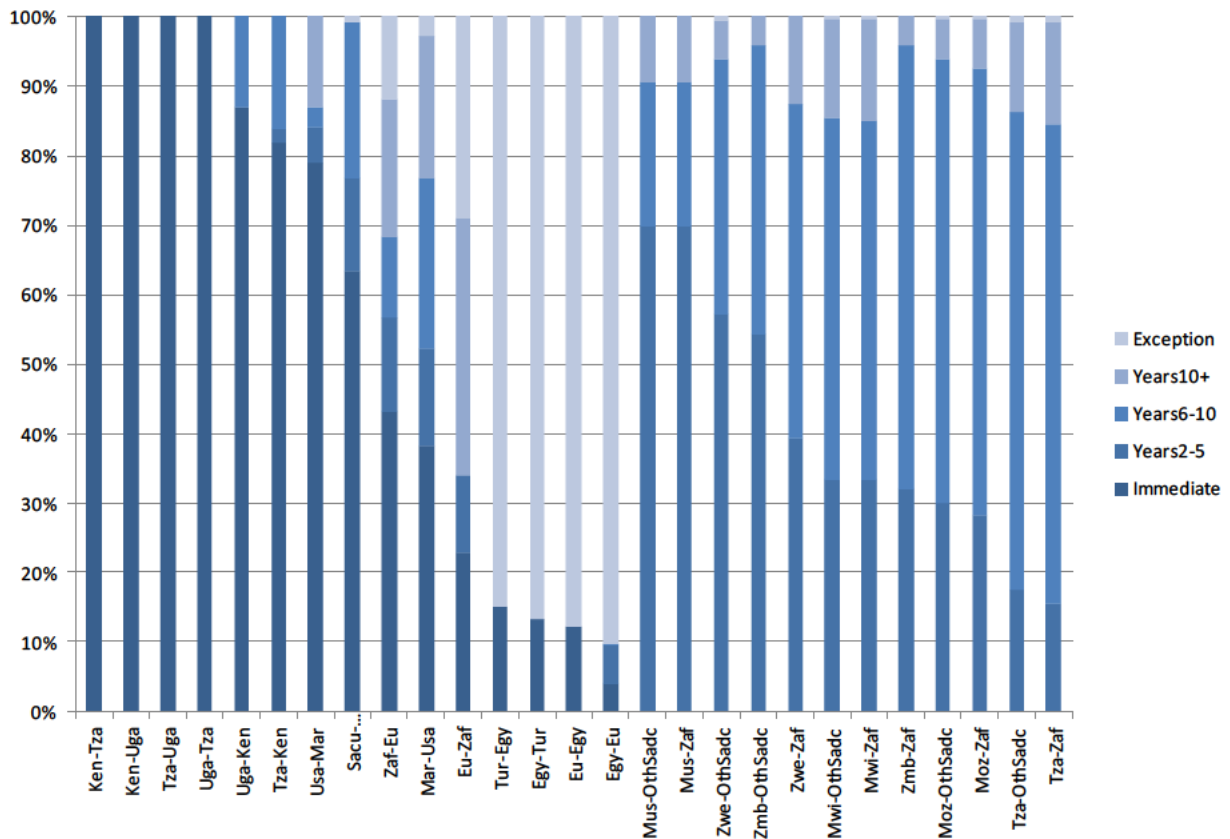


Figure A9. Asia-Pacific

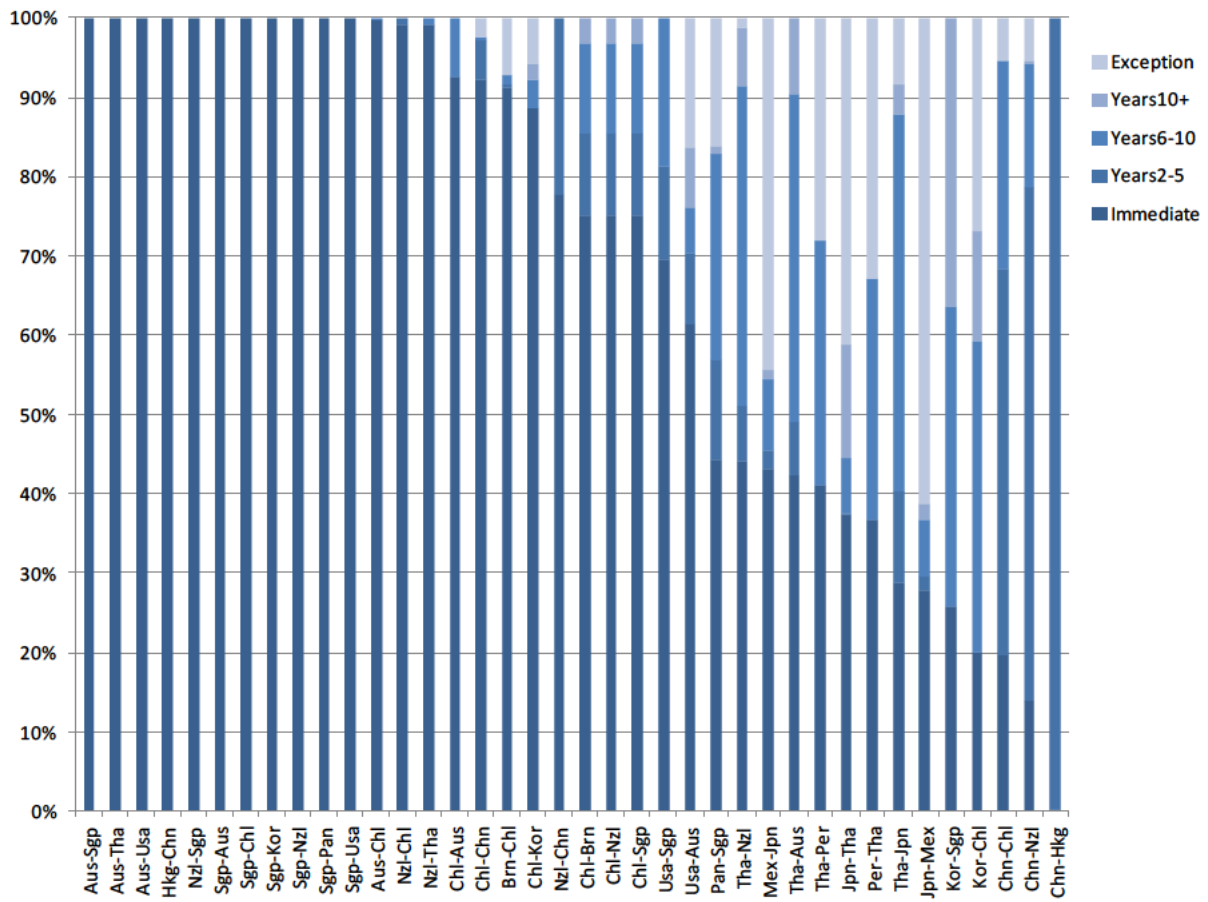


Figure A10. Americas

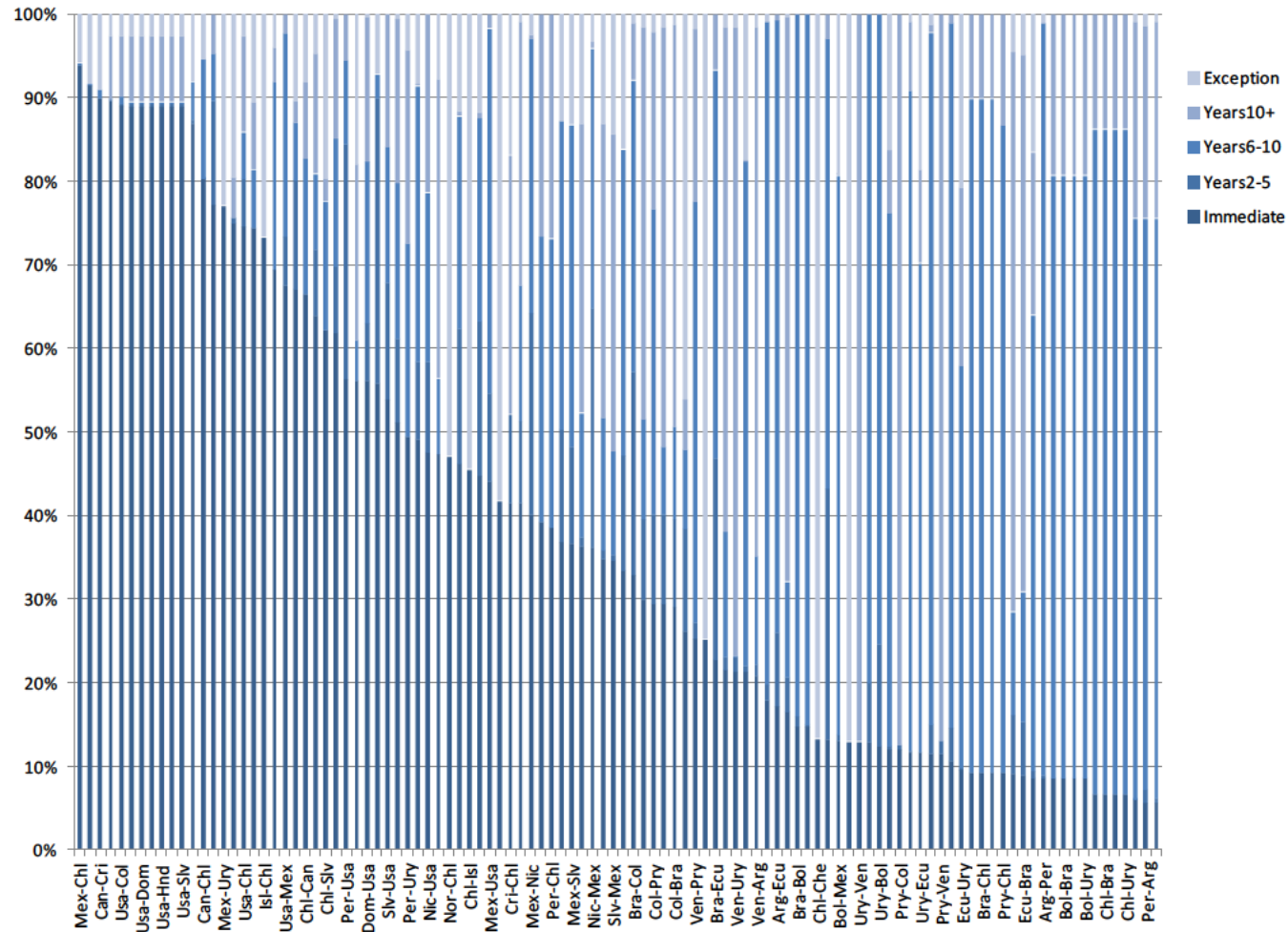


Figure A11. Share of duty-free tariff lines (HS1-24): North-South: Asia Pacific

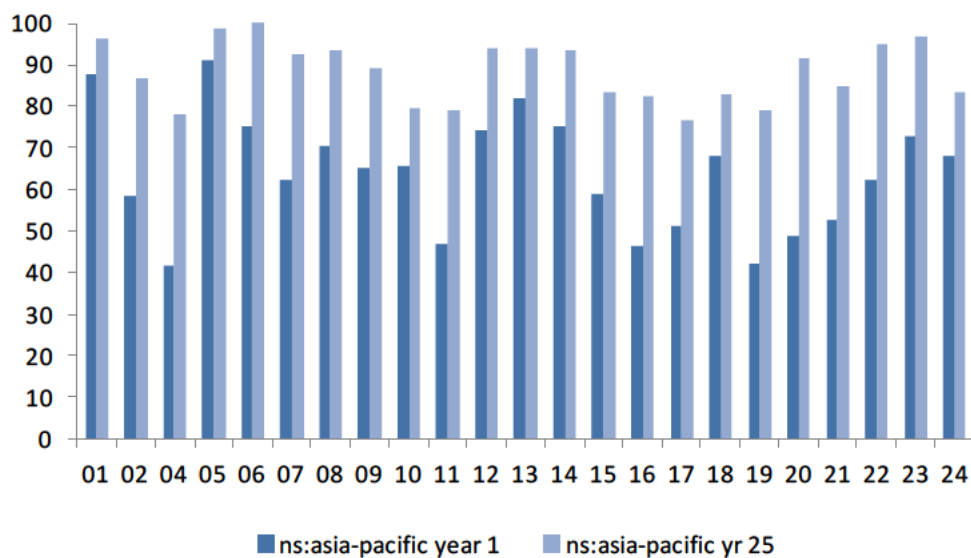


Figure A12. Share of duty-free tariff lines (HS1-24): South-South: Americas

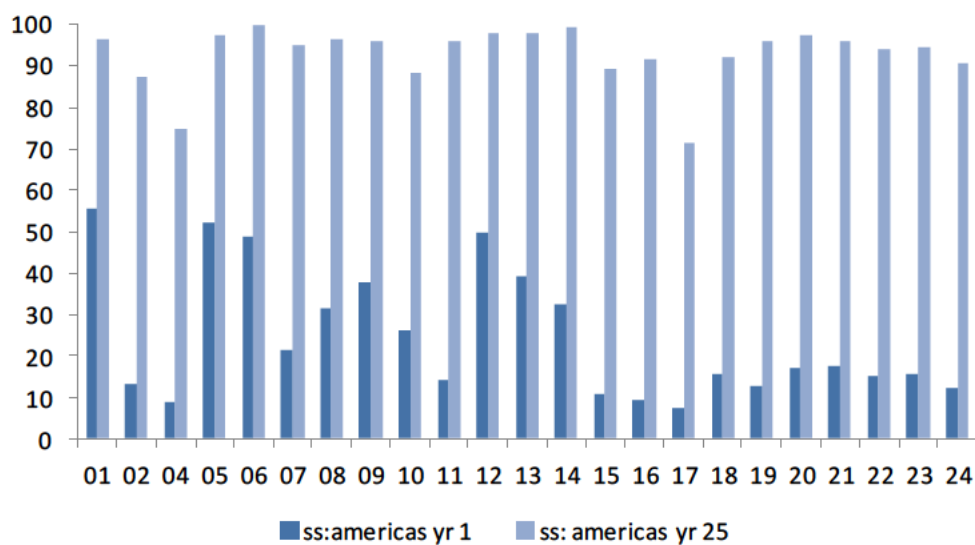


Figure A13. Share of duty-free tariff lines (HS1-24): North-South: Americas

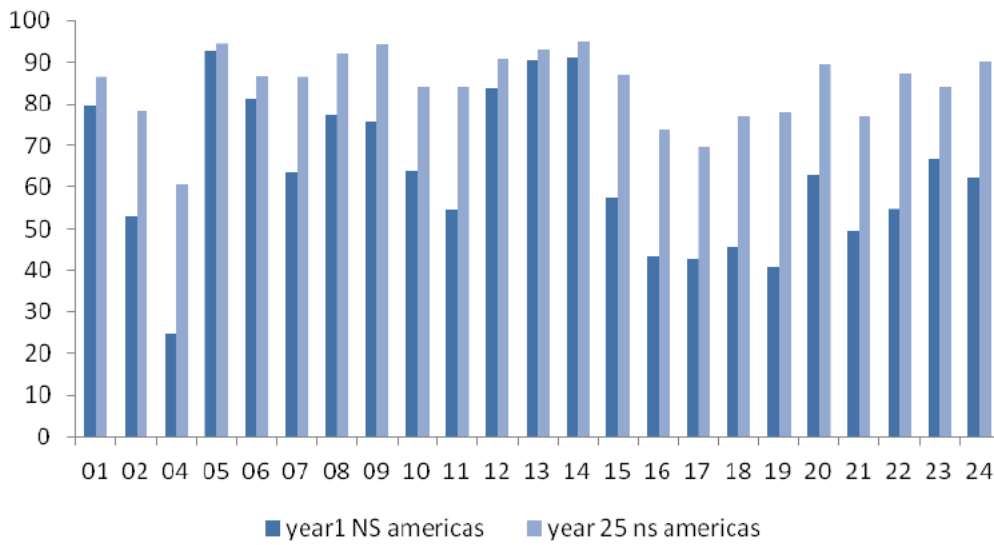


Figure A14. Share of duty-free tariff lines (HS1-24): North South: Africa

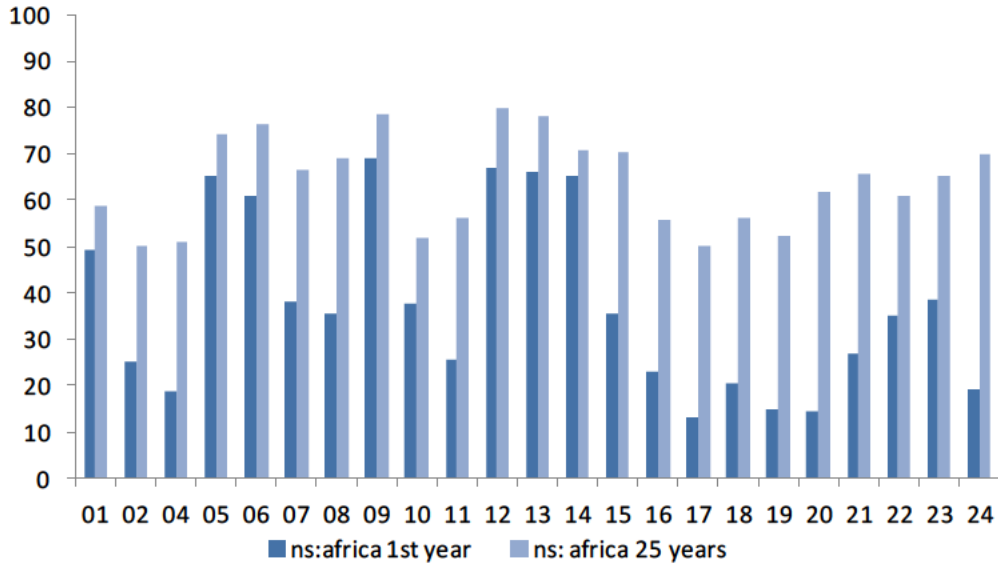
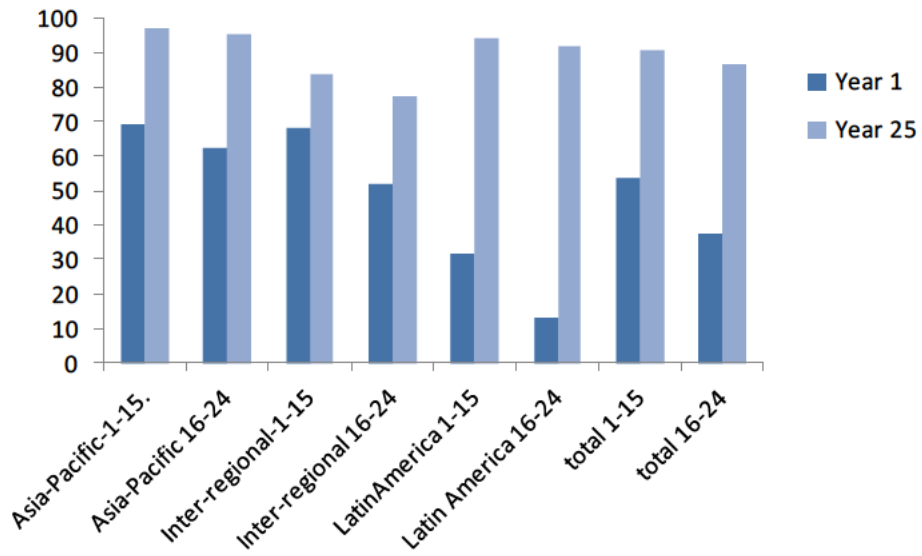


Figure A15. Share of duty free tariff lines – processed (HS1-15) and unprocessed products (HS16-24) by region



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