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# **Trade Agreements in the Last 20 Years: Retrospect and Prospect for Agriculture**

## **Les accords commerciaux au cours des 20 dernières années : rétrospective et perspectives pour l'agriculture**

## **Handelsabkommen in den letzten 20 Jahren: Rückblick und Ausblick für die Landwirtschaft**

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We provide an overview of major developments in multi- and plurilateral trade agreements over the 20 years since the publication of the first issue of *EuroChoices*, focusing on implications for agricultural and food markets. We take stock of accomplishments in market integration, remaining obstacles to trade, events that have changed

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the trade landscape, and emerging issues. A working paper provides sources for facts, figures and references (Beghin and O'Donnell, 2021).

### **Recent evolution of the World Trade Organization**

The 23 countries that signed the General Agreement on Tariffs and Trade (GATT) in 1947 accounted for roughly 60 per cent of global trade and were evenly balanced between developed and developing countries. By 2020, membership in the GATT's successor, the World Trade Organization (WTO), had expanded to 164 countries, with 24 new members since 2001 (including China and the Russian Federation) accounting for roughly 98 per cent of world trade. Two-thirds of the members claim developing country status. The size and diversity of the WTO –covering virtually the entire globe –coupled with shifts in economic clout among the larger players, have resulted in major pressures on the Organization.

The WTO operates through consensus, which has become increasingly difficult to achieve, especially as issues on the negotiating table have become more complex. These include intellectual property, services trade and a raft of nontariff measures (NTMs) –many related to food and agriculture. Some agreements in the Tokyo Round (1973–1979) were negotiated by subsets of members on narrower topics, informally called 'codes' since not all GATT members subscribed to them. A similar approach is currently underway on e-commerce, services, domestic regulation and investment facilitation. Some WTO members object to this approach.

The WTO's capacity to manage increasingly complex policy agendas and structural issues has become stressed as we explain later (e.g. the collapse of the WTO's process for addressing trade disputes). However, despite challenges, WTO membership remains attractive to outsiders. Currently, 23 countries are in the accession process, with many having applied over 15 years ago.

### **The failure of the Doha Round**

In November 2001, the Doha Round of trade negotiations was launched covering 20 trade topics, including remaining distortions in agricultural markets, which had been reduced under commitments

included in the Uruguay Round Agreement on Agriculture (URAA) in 1994. The URAA was the first WTO agreement specific to agricultural markets, a difficult area. The Round stalled for various reasons, including divergent interests related to agriculture among negotiating members, e.g. opposition to market access for agricultural products in many developing countries and reticence to make further reductions in farm subsidies in OECD countries.

Despite this, there were some positive achievements for agriculture, such as agreements on disciplines for export subsidies and related measures, and trade facilitation procedures that govern the movement of goods across borders. Several pivotal matters remain under discussion, such as the treatment of public stockholding, or are in limbo, especially regarding agricultural support. Some countries have been notoriously late in providing notifications of support required by the URAA. Some developing economies are unwilling to dismantle their complex agricultural price-support schemes. In addition, the proliferation of policies to address sustainability complicates the landscape of agricultural support.

The lack of progress in the WTO is also caused by the growing importance of 'beyond the border' issues driven by the development of global value chains. These issues include intellectual property rights, investment codes and dispute settlement, which are often better addressed through Regional Trade Agreements (RTAs). An expansion of South–South trade through RTAs has decreased the South's reliance on North–South trade, reducing the importance of achieving progress on trade issues through the WTO. The WTO is currently not well configured to tackle beyond the border issues.

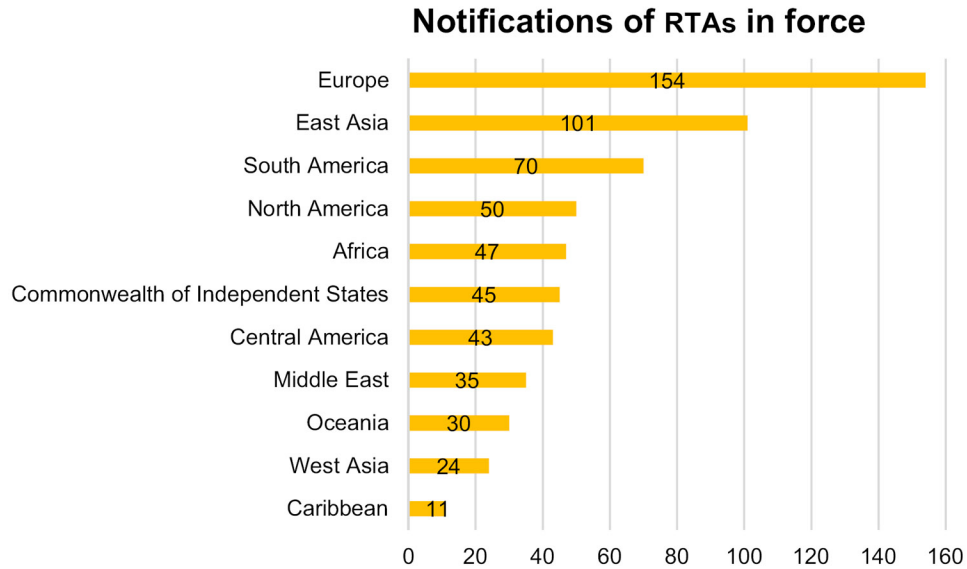
### **A spaghetti bowl of regional and preferential trade agreements**

Regional and preferential trade agreements have proliferated over the past 20 years with 350 RTAs of various types in force in 2021. This has been referred to as a 'spaghetti bowl of RTAs' given the potential for the emergence of heterogeneous and potentially discriminatory regulations. The expansionary trend started in the 1990s and has consolidated over the last two decades, especially for Europe. Europe integrated by enlarging the European Union from the EU-15 to the current EU-27 (despite Brexit in 2021). Outward, the European Union

has expanded RTAs with countries at its periphery (Albania and Serbia), and beyond (Canada, Chile, Japan, Mexico and South Korea). Figure 1 summarizes the prevalence of regional agreements by region, in which Europe is clearly an outlier.

A total of 261 RTAs were concluded over the last two decades, 90 per cent of which were free trade agreements (FTAs) through which trade barriers, including agricultural ones, have been eliminated (or substantially reduced) among members. Eight were customs union agreements with common external tariffs and harmonization in such areas as sanitary and phytosanitary (SPS) regulations. A notable tendency in recent RTAs is the inclusion of a larger number of countries. This mitigates spaghetti bowl concerns by rationalizing regulations and taxes at the border for the larger number of countries entering RTAs. One recent example is the 2018 Comprehensive and Progressive Agreement for Trans-Pacific Partnership involving 11 countries. Preferential trade agreements (PTAs) introduced by the European Union and the United States have removed duties on most imports, including agricultural and food imports from Least Developed Countries (LDCs), many of them on the African continent. However, other policies, such as quality standards, are hard for many LDCs to meet, and impede trade.

The spread of RTAs and PTAs has led to significant decreases in agricultural and food tariffs. To illustrate, in 2017 (the latest year of comprehensive coverage) agricultural preferential tariffs were 4.8 per cent among RTA members (simple average) with nearly three quarters of listed tariffs set to zero –this in the context of an average applied Most Favored Nation (MFN) agricultural tariff of 15.8 per cent. Coalitions of willing parties in RTAs based on existing trading relationships have avoided the strait jacket of requiring consensus on multiple issues through the WTO. Many RTAs have dispute resolution mechanisms, which may substitute for the contested and now impaired mechanism of the WTO (discussed below); though so far, these have not been used. RTAs have been able to overcome some of the stumbling blocks in the Doha Round negotiations, often motivated by organic trade activity and integration induced by geographical or cultural proximity (e.g. Commonwealth of Independent States) or former colonial links (e.g. Ghana and the United Kingdom). In conclusion, RTAs have largely offset the lack of progress in the Doha Round negotiations.



**Figure 1** RTAs in force by region. *Source:* WTO Regional Trade Agreement database.

Agricultural trade remains distorted but applied tariffs have been falling, and the number of tariff lines (i.e. listed tariffs) that are duty free (i.e. have a zero tariff) has been increasing. To illustrate, the average applied MFN tariffs prevailing in key agri-food sectors of the European Union and the United States –two major trade partners – have fallen, although pockets of high tariffs remain in most sectors (e.g. dairy) with some tariffs exceeding 100 per cent. Tariffs the European Union and the United States face as exporters have also fallen. For example, using the three top partners, EU agricultural exports currently face simple average tariffs of 7.3 per cent in the United States, 12.5 per cent in China, and 25.7 per cent in Japan. US exports face average tariffs of 21 per cent (Canada), 16.5 per cent (Mexico), and 24.7 per cent (Japan). In agriculture, 24 per cent of US tariff lines are duty-free for EU exports and nearly 14 per cent of EU tariff lines are duty-free for US exports. In contrast, more than 90 per cent of tariff lines are duty-free in agricultural trade under the United States-Canada-Mexico Agreement (USMCA); and EU exports now benefit from nearly half of tariff-lines being set to zero in Japan under the EU-Japan Economic Partnership Agreement.

In addition to tariffs, many WTO members apply tariff-rate-quotas (TRQs) to agricultural and food imports. TRQs are two-tier tariffs around a fixed quota (import volume). Imports within the quota face a small tariff; imports beyond the quota face a much higher (and often prohibitive) tariff. The European Union and the United States are the largest users of TRQs – a legacy of former quota protection in food markets. The European Union has 124 TRQs and the United States 54, principally on meats, dairy products, grains and sugar. Complex allocation mechanisms create under-fill of the quotas in many TRQs.

Many RTAs go beyond simple market access measures and provide increased transparency for Non-Tariff Measures (NTMs) (e.g. for biotechnology approvals), provide reciprocity in SPS and Technical Barriers to Trade (TBT) measures; and sometimes harmonization of SPS regulations (e.g. Australia-New Zealand food safety regulations). These NTM changes are harder to quantify. The evidence shows that costs associated with agri-food NTMs are large but fall significantly with RTAs. Addressing NTMs is important for participants in global supply chains, who are often more concerned by beyond-the-border regulations, e.g. investment regimes and intellectual property rights, than by tariffs.

A bilateral agreement between the European Union and the United States, as under the proposed Transatlantic Trade and Investment Partnership (TTIP) in 2013, could reduce remaining duties and expand or eliminate bilateral TRQs. TTIP negotiations were abandoned by the Trump administration in 2016, partly because of difficulties in resolving EU-US differences in biotechnology approval processes, science-based versus precautionary SPS regulations such as hormone-treated beef and chlorinated chicken, and geographic indications, which provide exclusive naming rights to producers in specific locations or for specific production methods, such as for champagne or Parma ham. Deep EU-US frictions on agricultural matters have persisted despite intense negotiations during the Obama administration. Other issues, such as the WTO dispute resolution mechanism, were also contentious but not centered on agriculture.

Despite the lack of multilateral progress in liberalizing agricultural trade, the WTO was successful in strengthening disciplines on agricultural export subsidies through a December 2015 Ministerial Decision. Developed members committed to eliminating all export subsidies



The effectiveness of the WTO rests on the political will of its members to uphold the system they created. © USDA

immediately, except for a few cases; developing members will phase out their export subsidies by 2023. Progress on transparency and notifications has been tangible, although many countries are only partially fulfilling their obligations, such as providing ready access to information on NTMs, which disproportionately affect agricultural and food trade.

### **Dark clouds over the WTO**

Currently, each of the WTO's three main pillars –dispute settlement, negotiation and monitoring –face major pressures. The Dispute Settlement Understanding (DSU) that resulted from the Uruguay Round negotiations suffered a serious blow when its appeals function collapsed in late 2019 as a result of US objections to how it was operating. Beginning in 2016, the United States blocked the appointment of judges to fill vacancies on the body that handled appeals until it could no longer operate. The binding nature of the DSU and severe penalties for non-compliance –unprecedented in the multilateral trading system –earned it the label of the 'crown jewel' of the WTO. The Dispute Settlement process appears to be in limbo for the foreseeable future.

Members can still settle disputes through consultations or by adopting the report of a panel assembled to consider a dispute. They



can also use the trade-concern route within the SPS and TBT committees of the WTO before starting an official dispute consultation. Both committees meet twice annually to hear members' concerns. Out of roughly 58,000 SPS and TBT notifications (as of March 2019), 1,020 led to specific trade concerns, and out of these, 20 ended in full blown disputes with DSU reports. For example, in 2001, the United States raised a concern in the SPS Committee about the lack of a functioning approval process in the European Communities for agricultural biotechnology products. This concern eventually devolved into three separate disputes, all resolved through either the adoption of a DSU report or through mutual agreement.

Roughly, two dozen WTO members, including the European Union, have signed up to a workaround to the DSU failure called the Multi-Party Interim Appeals Arbitration Agreement, although it has yet to handle a case. There are other methods for dispute settlement, though none rest on the tradition, expertise and legitimacy of the WTO. Many RTAs contain their own dispute settlement procedures, but countries seldom use them. Activating those mechanisms entails additional costs, whereas the cost of using WTO process is already covered through members' annual contributions to the WTO budget.

Recent unilateral actions challenge the future of the DSU and the WTO more broadly. The Trump administration resorted to the unilateral imposition of tariffs on steel and aluminum and on approximately US\$ 370 billion worth of imports from China, effectively sidelining the WTO. The Biden administration has retained these tariffs but announced in October 2021 that some imports of steel and aluminum from the EU will be allowed to enter the United States. The WTO's rules were intended to forestall unilateral increases in tariffs, reserving trade retaliation only for when authorized through the DSU. These unilateral developments remind us that the effectiveness of the WTO rests on the political will of the members to uphold the system they created.

Regarding challenges to its negotiating role, smaller trade deals have proliferated outside the WTO, focusing on a narrow range of issues –sometimes called sectoral deals, mini-deals or phased deals. The Trump administration concluded two high-profile mini deals: the US-Japan Free Trade Agreement and the US-China Phase One deal. Both



The WTO operates through consensus, which has become increasingly difficult to achieve. © WTO

contained important agricultural provisions and both took effect without Congressional approval. Kathleen Claussen (2022) identifies more than 1,200 such agreements (which she has termed 'Trade Executive Agreements', or 'TEAs') in place between the United States and 130 countries, all concluded over the last 40 years. The Trump administration concluded 32 TEAs in 2020 alone. The scope of these deals varies widely, from a single product to an entire sector. Since the Biden administration has made clear that comprehensive FTA negotiations are not a priority, Claussen argues that this approach is likely to continue.

The GATT established requirements for notifications by members to promote transparency. The maintenance of the multilateral trading system relies on a regular supply of accurate information about domestic trade laws and policies. Transparency is important for assessing compliance with WTO agreements and for potentially avoiding disputes. As trade has grown more complex (e.g. the proliferation of NTMs), more topics fall within the WTO system, and there are more requirements for notifications. More than 200 provisions in WTO agreements currently require notifications, many of them for agricultural policies and trade.

Compliance with notification requirements has fallen short. For example, in 2017, only 52 per cent of WTO members notified subsidies in line with obligations under the Agreement on Subsidies and Countervailing Measures. For agriculture, about a third of regular notifications under the URAA are outstanding for the period 1995–2015. This has given rise to proposals to encourage countries to increase compliance and to provide technical assistance to less developed countries in meeting their commitments. This is an institutional issue weighing on the organization. Other substantive issues such as a controversial proposal to waive certain intellectual property commitments to facilitate access to COVID-19 vaccines and a deal to curb fisheries subsidies topped the agenda for the Ministerial Conference in November 2021. How far the WTO can go toward achieving substantive outcomes on trade policy concerns without shoring up the important elements of its dispute settlement and transparency infrastructure is a key question.

### **The future role of the WTO in the agricultural trading system**

We noted the evolution of agreements outside the WTO framework with the growth of 'mega-deal' RTAs. Nevertheless, we see the WTO as an essential component of the trading system, but not so much for reaching 'grand bargains' through rounds of negotiations, such as the Doha Round, which have been elusive. Rather, the WTO has an important function in the enforcement of current commitments. Its role could also evolve into mediating RTAs and their consistency with multilateral obligations and in promoting transparency in RTAs.

The WTO could let parties solve trade disputes by using the dispute settlement mechanisms established within their RTAs. Historically this has not been the case, partly because of the WTO dispute settlement mechanism. The use of that mechanism is no longer an option, but the WTO could use other mechanisms to prevent disputes. As noted, the SPS and TBT Committees have an important role in the discovery of trade concerns and their resolution before full-blown dispute procedures are initiated. Other committees within the WTO discuss trade frictions but do not have an established process to address them. This could be addressed by replicating the special trade concern (STC) process for SPS and TBT measures. This process is important to signal



The WTO could pursue a stronger monitoring role, going beyond its typical country policy reviews to membership-wide assessment of conformity with existing agreements. © WTO.

issues and their importance, even though concerns may not be resolved. The slow speed of resolution of trade frictions remains a frustrating element of WTO procedures.

Finally, the WTO could pursue a stronger monitoring role, going beyond its typical country policy reviews to membership-wide assessment of conformity with existing agreements. For example, the WTO could provide systematic updates on conformity with agricultural subsidies notifications, and transparency commitments on SPS measures (e.g. establishment of portals on regulations and their effectiveness). In sum, we conjecture that the WTO will have to adjust to a world of RTAs by focusing on increasing the transparency of RTAs and reporting on their conformity with existing WTO agreements. The WTO can also use existing tools to head off disputes, such as those through the SPS and TBT committees, and extend this approach to other WTO committees. Beyond these incremental changes, a radical re-examination of the architecture of trade rules and institutions may be required to deal with the complex and evolving trade environment.

## Further Reading

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## Summaries

### **Trade Agreements in the Last 20 Years: Retrospect and Prospect for Agriculture**

We provide an overview of major developments in multi- and plurilateral trade agreements over the last twenty years with a focus on the implications for agricultural and food markets. We take stock of what has been accomplished in market integration, remaining obstacles to trade, events that have changed the trade landscape, and emerging issues. Agricultural tariffs have fallen through commitments made in the Uruguay Round Agreement on Agriculture and through the proliferation of regional trade agreements (RTAs).

Nevertheless, agricultural trade remains distorted with some extremely high tariffs. RTAs have achieved progress on nontariff measures and other beyond-the-border frictions. World Trade Organization (WTO) negotiations on agricultural trade distortions have stalled because of their complexity and divergent political interests among WTO members. In addition, the dispute settlement mechanism no longer functions. The WTO will have to adjust to a world of RTAs and use its tools and procedures to support the multilateral trading system by promoting increased transparency of RTAs and their conformity with existing WTO agreements. The WTO can also use existing tools to head off disputes using specific trade concern mechanisms, such as those implemented through the sanitary and phytosanitary (SPS) and Technical Barriers to Trade (TBT) committees.

### **Les accords commerciaux au cours des 20 dernières années : rétrospective et perspectives pour l'agriculture**

d'ensemble des principales évolutions dans les accords commerciaux multilatéraux et plurilatéraux au cours des vingt dernières années, en mettant l'accent sur les implications pour les marchés agricoles et alimentaires. Nous faisons le point sur ce qui a été accompli en matière d'intégration des marchés, les obstacles au commerce restant en place, les événements qui ont modifié le paysage commercial et les problèmes émergents. Les tarifs agricoles ont baissé du fait des engagements pris dans le cadre de l'Accord du Cycle d'Uruguay sur l'agriculture et de la prolifération des accords commerciaux régionaux (ACR). Néanmoins, le commerce agricole reste faussé, certains droits de douane demeurant extrêmement élevés. Les ACR ont permis de réaliser des progrès sur les mesures non tarifaires et d'autres frictions au-delà des frontières. Les négociations à l'Organisation mondiale du commerce (OMC) sur les distorsions des échanges agricoles sont au point mort en raison de leur complexité et des intérêts politiques divergents parmi les membres de l'OMC. De plus, le mécanisme de règlement des différends ne fonctionne plus. L'OMC devra s'adapter à un monde d'ACR et utiliser ses outils et procédures pour soutenir le système commercial multilatéral en promouvant une transparence accrue des ACR et leur conformité avec les accords existants de l'OMC. L'OMC peut également utiliser les outils existants pour éviter les différends en utilisant les mécanismes portant sur des questions commerciales spécifiques, tels que ceux mis en oeuvre par le biais des comités pour les questions sanitaire et phytosanitaire (SPS) et les obstacles techniques au commerce (OTC).

## **Handelsabkommen in den letzten 20 Jahren: Rückblick und Ausblick für die Landwirtschaft**

Wir geben einen Überblick über die wichtigsten Entwicklungen bei multi- und plurilateralen Handelsabkommen in den letzten zwanzig Jahren. Der Fokus liegt dabei auf den Agrar- und Lebensmittelmärkten. Wir machen eine Bestandsaufnahme von dem, was bei der Marktintegration erreicht wurde, von den verbleibenden Handelshemmnissen, von Ereignissen, die die Handelslandschaft verändert haben, und von neuen Problemen. Die Agrarzölle sind durch die Beschlüsse der Uruguay-Runde und durch die zunehmende Anzahl an regionalen Handelsabkommen (RTAs) gesunken. Dennoch bleibt der Agrarhandel mit einigen extrem hohen Zöllen verzerrt. Im Rahmen der regionalen Handelsabkommen wurden Fortschritte bei nichttarifären Maßnahmen und anderen grenzüberschreitenden Spannungen erzielt. Die Verhandlungen der Welthandelsorganisation (WTO) über Handelsverzerrungen im Agrarbereich sind aufgrund ihrer Komplexität und der unterschiedlichen politischen Interessen ihrer Mitglieder ins Stocken geraten. Darüber hinaus funktioniert der WTO-Streitbeilegungsmechanismus nicht mehr. Die WTO muss sich auf eine Welt mit regionalen Handelsabkommen einstellen. Und sie muss ihre Instrumente und Verfahren einsetzen, um das multilaterale Handelssystem zu unterstützen, indem sie eine größere Transparenz der regionalen Handelsabkommen und deren Übereinstimmung mit den bestehenden WTO-Übereinkommen fördert. Die WTO kann hierbei auch auf bestehende Instrumente zurückgreifen, um Streitigkeiten mit Hilfe spezieller Mechanismen für Handelsfragen abzuwenden. Als Beispiele können die Ausschüsse für gesundheitliche und pflanzenschutzrechtliche Maßnahmen (SPS) und technische Handelshemmnisse (TBT) genannt werden.