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# Comparing EU free trade agreements

## Agriculture

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The aim of this *InBrief* series is to provide a synthesis of various chapters of the ten free trade agreements (FTAs) recently concluded by the European Union with developing countries, as well as other relevant trade agreements when appropriate. Each *InBrief* offers a detailed and schematic overview of a specific set of trade and trade-related provisions in these agreements.

**Agriculture has always been a sensitive area in international trade liberalisation due to its importance for national food security and rural development and its dependence on nature. Within the World Trade Organization, a crucial step for integrating agriculture into the worldwide liberalisation process was made with the conclusion of the Uruguay Round. The free trade agreements between the European Union and its respective trading partners reinforce that process on a bilateral basis. These agreements may entail significant economic consequences, in particular for developing countries.**

### Agriculture in the WTO

The World Trade Organization Agreement on Agriculture (AoA) as part of the Uruguay Round Agreement Act defines binding steps in the agricultural liberalisation process with respect to market access, export competition and domestic support (see Box 1).

**Market access** shall be improved by converting non-tariff measures into tariffs (tariffication) and by **tariff reduction.** To inhibit a surge of imports, some countries can apply the **special safeguard** clause for defined products. This clause allows additional tariffs to be triggered by either extraordinarily increasing import quantities or by unusually decreasing import prices. Furthermore, certain defined quantities (**tariff rate quotas**, or '**TRQs**') that are subject to lower tariffs or no tariffs can be established in addition to tariff reduction to achieve minimum market access .

Measures to reduce trade-distorting **domestic support** are classified as red, amber, blue or green box, with the degree of trade distortion decreasing from red to green and reduction commitments declining accordingly. Total trade-distorting support (the **aggregate measure of support,** or '**AMS**') must be reduced. Minimal (de minimis) support is not included in the calculation of AMS.

The **peace clause** defined an exceptional role for agricultural subsidies until 31 December 2003. Even if agricultural subsidies (e.g. export subsidies) do not conform to the provisions of the Agreement on Subsidies and Countervailing Measures they are non-actionable if they conform to the provisions of the AoA. **Special and differential treatment (SDT)** for developing countries refers to lower reduction provisions and longer implementation periods allowed for such countries to realise commitments. Least developed countries (LDCs) are not required to undertake reduction commitments.

The problem of protecting specific designations of origin (**geographical indications**, or '**GIs**') is covered by the **Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS).** To regulate rights to use GIs for wines and spirits, the intention is to establish a multilateral system of notification and registration and to extend GI protection to products other than wines and spirits. Contentious points of discussion are geographical names that are used as generic and common terms connoting a production technique in some countries but used as GIs in other countries (e.g. cheddar cheese, port wine).

The **Agreement on Sanitary and Phytosanitary (SPS) Measures** specifies general exemptions from free trade commitments (GATT, Art. XX) associated with human, animal or plant life or health. It covers rules for establishing non-tariff barriers recognising a twofold objective: (1) granting sovereignty of WTO members to provide the level of health protection they deem appropriate and (2) preventing disguised restrictions on international trade.[1] Non-tariff SPS-related barriers must be consistent with international standards or based on a scientific risk assessment.

The **Doha Declaration** reaffirmed the process of reducing trade restrictions and distortions in world agricultural markets and the princi-

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cta

ple of special and differential treatment for developing countries. Developing-country needs, including food security and rural development, shall be taken into account in all negotiations and agreements (Art. 13 of the Doha Declaration).

## Agriculture in EU Free Trade Agreements

Similar to WTO provisions, in recent EU free trade agreements (FTAs) with developing countries agricultural liberalisation is still limited compared to that of industrial products. For agricultural produce, the general aim of free trade is subject to numerous exceptions, and any advanced concessions are strictly defined for single products and countries. In the seven Mediterranean (MED) agreements and the FTAs concluded with South Africa, Mexico and Chile, the following six instruments are applied, separately or in combination, to achieve trade preferences for the countries concerned beyond the provisions of WTO most-favoured-nation (MFN) status.

(1) Tariff concessions concern either *complete or partial tariff reductions.* For those products charged with both *ad valorem* and specific duties, a partial reduction is often achieved by simply abandoning the *ad valorem* component.
- For the EU, specification of the tariff reduction is usually related to WTO MFN rates.
- For the EU's trading partners, a tariff reduction normally refers to actually applied tariffs. These applied tariffs may be lower than the maximum (bound) tariffs agreed in the WTO. Some FTAs do not specify the tariff reduction itself but rather the final duty that is charged on imports from the EU.

(2) Tariff rate quota concessions are tariff reductions for defined quantities of certain products. In order to tailor them to the individual needs of the parties, there are *seasonal limitations* of favoured imports and adjustments of quantities by a fixed *annual growth rate* or by a rate to be decided flexibly based on an *annual review.*

(3) Safeguard clauses can be common for all products, or special safeguards may be defined for agriculture.[2] Safeguards can be applied to both imports and exports.
- Imports: Similar to the AoA, safeguard measures can be triggered based on *quantity* or *price*. For instance, the EU can make concessions for certain fruits and vegetables by lowering the entry price.[3]
- Exports: Shortage clauses similar to GATT Art. XI define criteria for possible export restrictions, such as a decrease of domestic food availability.

(4) Specific rules of origin for agricultural products ensure the exclusive application of preferences only to FTA members.[4]
- Criteria are defined for determining whether a product is *'wholly obtained',* i.e. if plant products are harvested and animals are born and raised completely within one partner country.
- For processed products, the *'import content rule'* defines ratios for the value of imported inputs that are tolerated within *'originating'* products. In most EU FTAs, this ratio is set at below 10% of the ex-works price.[5] For some processed agricultural products thresholds larger than the standard 10% apply. Working and processing, such as transporting, sorting and classifying, packaging, affixing marks, labels or logos, mixing products, and slaughter of animals, are considered insufficient for conferring originating status to products with imported content.
- *Bilateral cumulation* allows the contracting countries to cumulate origin. This encourages bilateral trade in intermediate products between the EU and the contracting partner.
- Regarding GIs, since a multinational system of notification still is under negotiation at the WTO level, just a few provisions on protecting certain GIs are found within some FTAs.

(5) Options for flexible adjustments to a partner's market access are offered by two clauses:
- The review clause commits the parties to examine in Association Committees further opportunities to enhance liberalisation in agricultural products, taking into account the sensitivities of trade in agriculture and domestic agricultural policies.
- The flexibility clause allows partners to modify the agreement if one of the parties changes its domestic agricultural policies.

(6) Other specifics summarise those topics that are not common to all agreements.

Domestic support is not part of the FTAs and therefore no domestic-support related provisions are found.

### Box 1 Key elements in the WTO Agreement on Agriculture (AoA)

**Market access (Art. 4)**
- Tariffication of trade barriers
- "Binding" tariffs
- Tariff reductions (reference period 1986–88):
  - on average, 36% for developed countries over 6 years (24% for developing countries over 10 years)
  - by product, 15% for developed countries (10% for developing countries)
- Special safeguard clause allows additional tariffs
- Tariff rate quotas ensure minimum market access

**Export competition (Art. 8-9)**
- Reduction in value and outlays of export subsidies: 36% and 21% for developed countries (24% and 14% for developing countries) (reference period 1986–90)

**Domestic support (Art. 6 and Annex 2)**
- Reduction commitments according to degree of trade distortion (reference period 1986–88)
- "Traffic light" boxes (red, amber, blue and green) distinguish between different types of domestic support
- AMS reduction by 20% for developed countries (13% for developing countries)
- De minimis clause exempts minimal support from reduction

**Implementation period**
- Developed countries 1995–2000, developing countries 1995–2004

**Peace clause (Art. 13)**
- Agricultural subsidies exceptionally protected from litigation until end 2003

**Special and differential treatment (Art. 15-16)**
- Lower reductions and longer implementation periods for developing countries, exemption from reduction commitments for least developed countries

See **www.wto.org/english/tratop_e/agric_e/agric_e.htm**

**Table 1 EU strategic (sensitive) agricultural products**

| High domestic protection | High domestic protection with remarkable surpluses |
|---|---|
| Bovine animals and beef | Meat |
| Domestic swine | |
| Poultry | |
| Dairy | Dairy |
| Cereals | Cereals |
| Sugar | Sugar |
| Some fruits and vegetables[7] | |
| Olive oil | |
| Citrus fruit and grapes | |
| Flowers | |
| Rice | |

In all agreements, the pattern of product coverage of liberalised imports into the EU reflects the degree of EU domestic protection and the risk, or existence, of internal surpluses for the respective products.[6] Here, three general rules apply:

- **High domestic protection** leads to a low willingness for tariff reduction, as this could undermine high domestic prices.
- **High domestic protection supplemented by** risks of **internal surpluses** leads to additional restrictions on imports by not extending TRQs.
- Existing **remarkable surpluses** increase EU interest in improving its access to the markets of the contracting partner.

These general statements define not only the EU's strategic position but also the scope for bargaining for contracting partners (Table 1).

## The Euro-Mediterranean Agreements

Since the first Euro-Mediterranean Conference in November 1995, the EU and twelve Mediterranean countries have been engaged in negotiating Association Agreements. The overall objective is to form, by 2010, one Euro-Mediterranean free trade area from the separate agreements in place. To date, bilateral Association Agreements have been concluded with seven trade partners: Tunisia (1995), Israel (1995), Morocco (1996), Jordan (1997), the Palestinian Authority (1997), Algeria (2001) and Lebanon (2002).

The seven MED partners are heterogeneous with regard to agriculture. For instance, the agricultural sector generates a large proportion of GDP and employment in Morocco and Tunisia (14% and 12%, and 45% and 29%, respectively) compared to much lower figures in Israel (3% and 4%). Production is mainly Mediterranean products like fruits and vegetables, potatoes, olives and olive oil and wine. In general, agricultural policies are characterised by a trend of opening domestic markets and decreasing protection.

The MED agreements aim at establishing a WTO-compatible free trade area for all products, with a transitional period of up to twelve years. Yet no specific liberalisation roadmap has been defined for the agricultural sector as a whole. Only for certain products have specific concessions for liberalisation been determined.

(1) Tariff concessions are not a central instrument in the MED agreements. Concessions related to market access are mainly granted by TRQs.

- Tariff reductions granted by the EU refer mainly to live horses, goats, and sheep; meat of those animals; and to some fruits and vegetables.
- Tariff reductions granted by the MED countries concern live animals and meat, dairy products and some fruits and vegetables. The agreements with Morocco, Tunisia and Algeria contain no general tariff concessions in favour of the EU except for those limited by TRQs.

Among the MED agreements, only the one with Lebanon defines concrete steps for tariff reductions by the EU trade partner, starting five years after the agreement enters into force (Art. 9-10 of the Interim Agreement of September 2002).

(2) Tariff rate quotas are the key instrument to achieve preferences for MED countries. The most important quotas refer to some of the strategic products mentioned in Table 1, such as citrus fruits, tomatoes, apples, olive oil, cut flowers and wine. Some quotas are subject to seasonal constraints. For certain products, reference quantities are defined instead of TRQs. The EU has the option to announce some TRQs flexibly based on annual evaluations of import volumes. Especially fruits and vegetables, as well as corresponding processed products, are subject to reference quantities. TRQs granted in favour of the EU mainly relate to cereals and sugar and corresponding products. All agreements except that with Algeria define an increase of quota volume by 3% per year, but just for some products.[8]

(3) All agreements contain common safeguard clauses, though there are no specific agricultural safeguard provisions. Further, all MED agreements have a shortage clause related to exports.

As for the EU's entry price system (EPS), which constitutes a special EU safeguard for fruits and vegetables, the agreement with Morocco is the only MED agreement that foresees a seasonal reduction of the EPS with respect to *some favoured products* (Protocol 1, Art. 3 and 4) (Table 2). The concessions are limited to certain *periods* of the year and defined *quantities*. The agreed entry price is below the MFN entry price.

**Table 2 Reductions in the entry price system in favour of Morocco***

| Favoured product | Period | Quantity (tonnes) | Agreed entry price ( /tonne) | MFN entry price ( /tonne) |
|---|---|---|---|---|
| Tomatoes | Nov–March | 150,676 | 500 | 700–920 |
| Courgettes | Oct–20 April | 5,000 | 451 | 451–730 |
| Artichokes | Nov–Dec | 500 | 600 | 1000 |
| Cucumbers | Nov–May | 5,000 | 500 | 576–1200 |
| Clementines | Nov–Feb | 110,000 | 500 | 675 |
| Oranges | Dec–May | 300,000 | 275 | 372 |

* These figures refer to the agreement as concluded in 1996. Numbers may change as a result of revisions.

**Table 3a Elimination of EU duties on agricultural imports from South Africa***

| Product categories* → / Years after TDCA in force | Products not in Annex IV ↓ | List 1 Annex IV: 01-02-04-06-07-08-09-12-15-16-17-18-20-21-22-23-24-35-38 | List 2 Annex IV: 01-04-07-08-09-15-20-24 | List 3 Annex IV: 06-07-08-10-11-15-16-20-22-23 | List 4 Annex IV: 01-02-04-07-08-10-11-12-15-16-17-19-20-22-23-35 | List 5 and 6 Annex IV: 04-06-08-13-15-17-18-19-20-21-22-29-33-38 | List 7 and 8 Annex IV: 01-02-04-06-07-08-10-11-16-17-20-21-22-23-35 |
|---|---|---|---|---|---|---|---|
| | Value of original duty (original duty = 100 %) | | | | | | |
| | Duties abolished | 75% | 91% | 100% | 100% | TRQs or partial liberalisation | No immediate liberalisation (periodic review –list 7) or no liberalisation because of EU denominations (list 8) |
| 1 | | 50% | 82% | 100% | 100% | | |
| 2 | | 25% | 73% | 100% | 100% | | |
| 3 | | Duties abolished | 64% | 87% | 100% | | |
| 4 | | | 55% | 75% | 100% | | |
| 5 | | | 45% | 62% | 83% | | |
| 6 | | | 36% | 50% | 67% | | |
| 7 | | | 27% | 37% | 50% | | |
| 8 | | | 18% | 25% | 33% | | |
| 9 | | | 9% | 12% | 17% | | |
| 10 | | | Duties abolished | Duties abolished | Duties abolished | | |

* Main product chapters: 01 live animals; 02 meat and edible meat offal; 04 dairy produce; 06 live trees and plants; 07 edible vegetables; 08 edible fruit and nuts; 09 coffee, tea and spices; 10 cereals; 11 products of the milling industry; 12 oil seeds and oleaginous fruits; 13 vegetable saps and extracts; 14 vegetable plaiting materials; 15 animal or vegetable fats; 16 preparations of meat; 17 sugars; 18 cocoa; 19 preparations of cereals; 20 preparations of vegetables, fruit, nuts; 21 miscellaneous edible preparations; 22 beverages, spirits and vinegar; 23 residues andwaste from the food industries; 24 tobacco; 29 organic chemicals; 33 essential oils and resinoids; 35 albuminoidal substances; 38 miscellaneous chemical products.

(4) For agriculture-specific rules of origin, the general provisions as discussed in the previous section apply. Bilateral cumulation is valid for all MED agreements. No specific GIs are named.

(5) Options for flexible adjustments are foreseen in the form of both the review and flexibility clauses applying to all agreements. The review process terminates five years after the agreement enters into force.[9] In case of applying the flexibility clause, resulting disadvantages for one party shall be balanced by further concessions from the other.

(6) Other specifics in the MED agreements concern the absence of a timetable for liberalisation related either to the EU or to the partner countries (except for Lebanon). Certain preferences are defined, but only as exceptions to MFN tariffs. Instead of showing a clear time schedule for liberalisation, the agreements lay down different deadlines for the revision of the current state of liberalisation and for granting further concessions.

As for imports into the EU from Lebanon, a timetable for liberalisation is defined though some products are exempted from that process (Protocol 1). For imports into Lebanon from the EU, the same approach is adopted as in the other MED agreements, i.e. description of the preferences (Protocol 2). Another feature of the Lebanon agreement is its general emphasis on cooperation to reduce fraud (Art. 13 Interim Agreement).

*With respect to strategic products the degree of liberalisation is limited. The MED agreements fix first steps to trade liberalisation by conceding preferential market access in the framework of TRQs. No time schedules are defined for an overall process of tariff reduction (except for imports from Lebanon into the EU), but all agreements have a review clause to examine further opportunities to enhance liberalisation in agricultural products. Thus, further steps to liberalisation are not laid down in the agreements but are dependent on the result of the intended reviews. In addition, a flexibility clause allows for modifying the agreement if one of the parties changes its domestic agricultural policies.*

## Agreements with South Africa, Mexico and Chile

Unlike the MED agreements, the agreements with South Africa, Mexico and Chile are characterised by the assumption of a general liberalisation within a predetermined period of time. Exceptions from liberalisation are accepted for sensitive products. For most agricultural products, tariff elimination is not achieved immediately but according to tariff reduction schedules. Each agreement defines a set of schedules with different starting dates for the elimination process and with different phase-out periods. Detailed annexes assign individual products to the different tariff reduction schedules and respectively to the exemptions. These three agreements cover a wider range of products than the MED agreements.

### *The EU-South Africa TDCA*

The EU and South Africa concluded their Trade, Development and Cooperation Agreement (TDCA) in 1999, and the TDCA has been provisionally in force since January 2000.

In South Africa the agricultural sector plays a minor role compared to the industrial sector in terms of GDP and employment (contributing 3% and 4%, respectively). South Africa's main agricultural product is maize, followed by sugarcane and wheat. Major export commodities are citrus fruits, cane sugar and wine. Over half of the country's agricultural exports originate from the

**Table 3b Elimination of South African duties on agricultural imports from the EU**

| Product categories* → | Products not in Annex VI ↓ | List 1 Annex VI: 02-06-07-08-09-10-11-12-14-15-16-18-19-20-21-22-23-24-35 | List 2 Annex VI: 02-07-08-11-12-13-15-17-19-20-21-23-29-35 | List 3 Annex VI: 02-04-06-07-08-09-10-11-12-13-15-16-18-19-20-21-22-23-24-29-33-35-51-52 | List 4 Annex VI 02-04-10-11-16-17-18-19-21-23-53 |
|---|---|---|---|---|---|
| Years after TDCA in force | Value of original duty (original duty = 100 %) | | | | |
| | Duties abolished | 75% | 100% | 100% | No immediate liberalisation; products shall be reviewed periodically |
| 1 | | 50% | 100% | 100% | |
| 2 | | 25% | 100% | 100% | |
| 3 | | Duties abolished | 67% | 100% | |
| 4 | | | 33% | 100% | |
| 5 | | | Duties abolished | 88% | |
| 6 | | | | 75% | |
| 7 | | | | 63% | |
| 8 | | | | 50% | |
| 9 | | | | 38% | |
| 10 | | | | 25% | |
| 11 | | | | 13% | |
| 12 | | | | Duties abolished | |

* Main product chapters: 01 live animals; 02 meat and edible meat offal; 04 dairy produce; 06 live trees and plants; 07 edible vegetables; 08 edible fruit and nuts; 09 coffee, tea and spices; 10 cereals; 11 products of the milling industry; 12 oil seeds and oleaginous fruits; 13 vegetable saps and extracts; 14 vegetable plaiting materials; 15 animal or vegetable fats; 16 preparations of meat; 17 sugars; 18 cocoa; 19 preparations of cereals; 20 preparations of vegetables, fruit, nuts; 21 miscellaneous edible preparations; 22 beverages, spirits and vinegar; 23 residues andwaste from the food industries; 24 tobacco; 29 organic chemicals; 33 essential oils and resinoids; 35 albuminoidal substances; 38 miscellaneous chemical products; 51 wool; 52 cotton; 53 other vegetable textile fibres.

Western Cape. Since 1994, several comprehensive reforms have affected the agricultural sector, including land reforms, labour market reforms, marketing policy and trade policy reforms. Trade in agriculture has increased through general deregulation and a further opening of the domestic market.

(1) Tariff concessions are characterised by an asymmetric and differentiated reduction of tariffs aimed to establish a free trade area for agricultural products (Art. 14 and 15). Tables 3a and 3b provide the schedules of the TDCA as an example of how liberalisation of the agricultural sectors is structured in EU FTAs.[10] In the case of the TDCA:

- The transition period for the completion of the tariff reduction schedule is twelve years on the side of South Africa and ten years on the EU side.
- The reduction of duties takes place in six different reduction schemes in the case of the EU and four reduction schemes in the case of South Africa. Duties on the more sensitive products of the two parties are liberalised either partially or more slowly.

Products whose denomination is protected within the EU are excluded from trade liberalisation. This pertains especially to cheese and wine (Art. 13 and 9). Table 4 lists the products excluded from liberalisation.

(2) Tariff rate quota concessions are implemented for some of the products that are excluded from the overall liberalisation process (Table 5). Additionally, some quotas

**Table 4 Exceptions from trade liberalisation between the EU and South Africa**

| Main products excluded from liberalised import into the EU | Main products excluded from liberalised import into South Africa |
|---|---|
| beef / sugar / some dairy (powdered milk products) / sweet corn / maize and maize products / rice and rice products / starches / some cut flowers / some fresh fruits (certain citrus, apples, pears grapes, bananas) / prepared tomatoes / some prepared fruits and fruit juices / some wines / vermouth / ethyl alcohol | beef, swine, goats, sheep / sugar / some dairy (butter and other fats and oils derived from milk: dairy spreads, cheese and curd, ice cream) / sweet corn / maize and maize products / barley and barley products / wheat and wheat products (incl. wheat starches) / chocolate |

**Table 5 Tariff rate quotas conceded by the EU and South Africa**

| Main TRQs (quota/year) conceded for imports into the EU | Main TRQs (quota/year) conceded for imports into South Africa |
|---|---|
| cut flowers (1,600 t, half duty) / strawberries (250 t, half duty) / several canned fruits (60,000 t, half duty) / several fruit juices (5,700 t, half duty / some wines (32 million litres, duty free) | cheese and curd (5,000 t, half duty) |

are established for those products that do not benefit from immediate liberalisation. Annual growth rates are defined.

(3) Specific agricultural safeguard clauses emphasise the sensitivity of agricultural markets and the right to take provisional measures in exceptional circumstances (Art. 16). Beyond that, agriculture is integrated into a common safeguard clause which lays down requirements for applying the safeguards, applicable safeguard measures and procedures. Compared with the other agreements, South Africa has achieved more flexibility to initiate so-called 'Transitional Safeguard Measures' (Art. 25) during a transition period of twelve years.[11] The TDCA contains no shortage clause.

(4) Regarding agriculture-specific rules of origin some provisions (all in Protocol 1 attached to the main agreement) concern the extension of 'origin' to countries which are not joining the FTA. Products containing components from other African, Caribbean and Pacific (ACP) countries are defined as originating in South Africa (and thus receive TDCA preferences) if the value added in South Africa exceeds the imported ACP value (Art. 3-7 of Protocol 1). Beyond the value requirement, products need not undergo additional working or processing in South Africa. As for inputs originating in the Southern African Customs Union (SACU – South Africa, Botswana, Lesotho, Namibia and Swaziland), any 'working or processing carried out within SACU shall be considered as having been carried out in South Africa, when further worked or processed there' (Art. 3.4 of Protocol 1). Flexible cumulation of origin across such a large number of third countries is a unique feature distinguishing this TDCA from other agreements.

Geographical indications are covered in the separate Agreement on Trade in Wine and the Agreement on Trade in Spirits. These agreements specify rules for some products traditionally produced and marketed under the same trademark in South Africa and in the EU. Strongly diverging positions of EU and South African negotiators on the details of these agreements were among the main factors delaying the TDCA negotiations. Besides the WTO-level negotiations on a multilateral register, South Africa's transitional use of trademarks was integrated in the TDCA after strong negotiation. The key elements of these supplementing agreements are as follows:

- For sherry and port, the use of traditional names must be stopped within five years for any export marketing except for trade within the SACU and SADC (Southern African Development Community). Regarding the latter, such use must cease within eight years. Within twelve years, use of the names within South Africa's domestic market must end (Art. 5 of the wine agreement).
- For spirits, use of the names Grappa, Ouzo, Korn, Kornbrand, Jägertee, Jagertee, Jagatee and Pacharan may continue during a transitional period of five years (Art. 4 of the spirits agreement).

Products whose denomination is protected within the EU are excluded from trade liberalisation. This pertains especially to the cheese and wine listed within the TDCA itself (Annex IV, list 8).

(5) Options for flexible adjustments are included in the TDCA by means of both a review clause and a flexibility clause (Art. 18 and 20). The review clause states that within five years of the TDCA entering into force, further liberalisation steps shall be considered especially for those products that are excluded from total tariff reduction. The flexibility clause allows the parties, after agreement has been reached in the Cooperation Council, to amend the agricultural arrangements in the TDCA as a result of changes in domestic agricultural policies. Yet it also requires that the party amending the arrangements make liberalisation concessions at an equivalent level on imports from the other party.

(6) The TDCA contains a range of other specifics:

- Additional provisions are laid down in the aforementioned Agreement on Trade in Wine and Agreement on Trade in Spirits.
- A provision enables South Africa to offer an accelerated tariff reduction compared to the agreed time schedules. Accelerated reduction is coupled with the elimination of EU export refunds on the respective products. Implementation is to be decided by the EU (Art. 17).
- A general additional objective is cooperation on issues of (environmental) sustainability (Art. 84). Concrete measures – by means of knowledge transfers, capacity building and joint ventures – aim at modernising and restructuring the agricultural sector, enhancing the competitiveness of farmers from disadvantaged communities, diversifying output, developing cooperation in animal and plant health, and examining possibilities to harmonise SPS standards and rules (Art. 61).

*As in the other agreements important products are excluded from tariff reduction in the TDCA. Market access for a limited amount of those products is granted by TRQs. Further steps for liberalisation shall be considered in a review process five years after entry into*

**Table 6 Exceptions from trade liberalisation between the EU and Mexico**

| Main products excluded from liberalised import into the EU | Main products excluded from liberalised import into Mexico |
|---|---|
| bovine animals, beef, swine, poultry / dairy / eggs / honey / cut flowers / some fruits and vegetables (e.g. olives for the production of oil, sweet corn, asparagus, peas, beans, apples, pears, strawberries, grapes, bananas) / cereals except buckwheat / sugar / some juices (tomatoes, citrus fruits, pineapple, apple, pear) / vermouth / ethyl alcohol / vinegar | bovine animal, beef, swine poultry / dairy / eggs / potatoes / bananas / cereals except buckwheat / roasted coffee / some oil and fats (palm oil, cobra oil, animal fats or oil) / sugar / cocoa / grape juice and grape most / rum |

**Table 7 Tarif rate quotas conceded by the EU and Mexico**

| Main TRQs (quota/year) conceded for imports into the EU | Main TRQs (quota/year) conceded for imports into Mexico |
|---|---|
| eggs (1,500 t, half duty) / honey (30,000 t, half duty ) / cut flowers (1,500 t, duty free) / aspargus (600 t, duty free; 1,000 t prepared, half duty) / peas (500 t, half duty) / cane molasses (275,000 t, duty free) / prepared tropical fruit (1,500 t, duty free) / juices (orange 1,000 t, half duty; 30,000 t, 25% duty; 2,500 t pineapple juice, half duty ) | no TRQs conceded |

*force. But there are some provisions particular to the South Africa TDCA. The transition period for tariff reduction is asymmetric with twelve years on the side of South Africa and ten years on the side of the EU. An accelerated tariff reduction coupled with the elimination of EU export refunds on the respective products can be offered by South Africa and agreed on by the EU. With respect to safeguards, South Africa has the right to impose transitional measures and thus can react relatively flexibly. As for rules of origin, special provisions refer to products from ACP countries and from the SACU. Flexible amendment is foreseen in response to changes in domestic agricultural politics, but the party that changes the arrangements has to balance possible disadvantages.*

## The EU-Mexico Global Agreement

The EU and Mexico signed their Economic Partnership, Political Coordination and Cooperation Agreement, also known as the 'Global Agreement', in December 1997. The agreement came into force in October 2000.

Mexico's agricultural sector is characterised by a low share in GDP (4%) but a high share in overall employment (45%). The main Mexican products exported to the EU are coffee, vegetables and spirits. The major imports from the EU are oilseeds, dairy products and wine. Mexico initiated a major agricultural policy reform in the early 1990s affecting its most important crops, i.e. copra, cotton seed, barley, rice, soy, sorghum, sunflower, and wheat. Import controls and government direct price supports to producers were abolished, and subsidies to agricultural inputs, credit and insurance were drastically reduced.

(1) The Global Agreement sets out a transition period of ten years for the implementation of all liberalisation commitments. For products subject to tariff concessions, as many as eight different liberalisation schemes (both complete and partial) are defined for both the EU and Mexico (Art. 8 and 9).[12] In schedules which foresee complete liberalisation, the longest transitional periods for the EU and Mexico are nine and ten years, respectively. Products whose denomination is protected within the EU are excluded from trade liberalisation. This pertains especially to cheese and wine (Art. 8, 10). Table 6 lists the main products that are excluded from liberalisation.

(2) Tariff rate quotas (Table 7) are conceded by the EU for imports originating in Mexico. No annual growth rate is defined, but the contracting parties can make further concessions according to a review clause. As for imports into Mexico, there are no concessions for those products that are excluded from trade liberalisation (Annex II, Section A and B).

(3) Regarding special safeguards clauses, only a common safeguard clause exists (Art. 15). It describes the requirements for implementing safeguard measures, timeframes for consultation and the need for compensation.[13] A shortage clause (Decision, Art. 16) defines conditions for justifying export restrictions similar to GATT Article XI.

(4) As for agriculture-specific rules of origin, general provisions for qualification as originating product apply and bilateral cumulation is valid (Annex III). Geographical indications are tackled by the separate Agreement on the Mutual Recognition and Protection of Designation of Spirit Drinks. Mexico protects all European designations (Annex I) and the EU protects Tequila and Mezcal (Annex II) in accordance with existing domestic law.

(5) Options for flexible adjustments are offered through a review clause (Art. 10). This review clause is much more precise than those in other agreements. The clause provides for further liberalisation of agricultural trade after an evaluation by the Joint Council within the first three years of the agreement's enforcement. The Global Agreement also explicitly mentions a review of the TRQs (also within three years), as well as of the EU's protection of denomination (in accordance with developments in intellectual property rights). It further specifies that 'where appropriate' the relevant rules of origin shall be reviewed as well. No flexibility clause is defined.

(6) Other specifics concern the supplementing Agreement on the Mutual Recognition and Protection of Designation of Spirit Drinks.

*In the Global Agreement the transition period for tariff reduction is ten years. But again some important products are excluded from tariff reduction. For some of the excluded products the EU concedes preferential market access within the limits of tariff rate quotas, whereas Mexico grants the EU no such preferential access. The problems of geographical indications are covered by an additional agreement wherein Mexico commits to protect all European designations and the EU commits to protect Tequila and Mezcal. Further steps for liberalisation shall be considered in an elaborate review process three years after entry into force of the agreement. Flexible adjustment of the agreement due to changes in national policy is not foreseen.*

## The EU-Chile Association Agreement

The latest free trade agreement concluded by the EU to date is the one signed with Chile in November 2002. Though the Association Agreement goes beyond trade to cover political dialogue and cooperation, its trade provisions stand out as the most detailed yet in EU bilateral agreements. Apart from trade in goods and agricultural products, the agreement covers services, investment, government procurement, intellectual property rights, competition, customs procedures and, in annexed agreements, wine and spirits and SPS standards.

Chile's agricultural sector contributes a relatively minor proportion of the country's GDP and employment (11% and 14%, respectively). Main agricultural products are cereals, fodder, sugarbeets, potatoes and vegetables. Due to the inverted growing season, fruits have become a particularly important product exported to northern countries. Wine has also gained increased status as a key export product.

(1) The Association Agreement defines a transition period of maximum ten years for trade liberalisation of agricultural commodities and processed agricultural products. Regarding tariff concessions, there are four tariff elimination schedules in which the EU completely eliminates duties with transitional periods of zero, four, seven and ten years. In addition, duties are partially liberalised in four other product schemes (Art. 71). On the Chilean side, liberalisation takes place in three schedules of zero, five and ten years, in which tariffs for the respective products are phased out completely. Besides TRQs, Chile has not committed to any further partial liberalisation schedules (Art. 72). As in the Global Agreement, products whose denomination is protected within the EU are excluded from trade liberalisation. This is especially valid for cheese and wine (Art. 71). Table 8 lists other main products that are excluded from liberalisation.

(2) Main tariff rate quotas for products excluded from liberalisation are listed in

Table 9. An annual growth rate is specified per product. Quotas for meat increase by 10% of the original quantity. The rest of the quotas increase by 5% of the original quantity, except those for sugar confectionery, cocoa preparations and sweet biscuits, waffles and wafers, which do not increase.

(3) In addition to a common safeguard and shortage clause (Art. 92 and 93), a special safeguard clause for agricultural products is defined and extended to processed agricultural products (Art. 73, called the emergency clause). The clause contains provisions for measures that may be applied in case of emergency (e.g. raising tariffs to the pre-liberalisation level), as well as the timeframe for consultations before such measures enter into force (30 days) and regulations for immediate actions under exceptional circumstances (provisional measures for a maximum of 120 days). This clause concretises the case of emergency and admits the right to seek compensation to the exporting party.[14]

(4) Regarding agricultural rules of origin the general provisions for conferring goods to origin status apply and bilateral cumulation is applicable (Annex III, Art. 1-6). Elaborate processing requirements for originating agricultural products are listed in Appendix II of Annex III.

(5) Options for flexible adjustments are integrated by means of a review clause (called the evolution clause), thus providing opportunities to further enhance liberalisation three years after the implementation of the agreement (Art. 74). No flexibility clause is included.

(6) Other specifics of the Association Agreement concern Annex IV on SPS measures and Annex V on wine. Moreover, economic cooperation objectives include domestic measures to enhance sustainable agriculture and agricultural development. Technical assistance related to productivity and food quality is envisioned, as well as projects to support compliance with SPS measures (Art. 24) and to encourage conservation and improvement of the environment in the interest of sustainable development (Art. 28).

*The Association Agreement sets out a ten-year transition period for tariff reduction for both parties. Corresponding to the agreements with South Africa and Mexico, some products are excluded from general liberalisation and subject to preferential market access by TRQs. A review process aiming at further liberalisation shall start three years after entry into force of the agreement. No flexible adjustment of the agreement due to changes in national policy is foreseen. The Chile agreement is characterised by a comprehensive set of arrangements covered in supplemental annexes: one discusses SPS measures[15] and another concerns wine. Economic cooperation is intended to enhance sustainable agriculture and agricultural development.*

**Table 8 Exceptions from trade liberalisation between the EU and Chile**

| Main products excluded from liberalised import into the EU | Main products excluded from liberalised import into Chile |
|---|---|
| beef, swine, sheep and goats, poultry / dairy / eggs / some fruits and vegetables (e.g. beans, mushrooms of the genus agaricus, olives for the production of oil, sweet corn, manjoc) / cereals and the corresponding products of the milling industry / sugar / vermouth / ethyl alcohol / vinegar | dairy / leguminous vegetables / sweet corn / wheat and meslin flour, wheat groats and pellets of cereals / vegetable oil and margarine / sugar |

**Table 9 Tarif rate quotas conceded by the EU and Chile**

| Main TRQs (quota/year) conceded for imports into the EU | Main TRQs (quota/year) conceded for imports into the EU |
|---|---|
| beef (1,000 t, duty free) / meat of swine and prepared food (3,500 t, duty free) / meat of sheep (2,000 t, duty free) / meat of poultry and prepared food (7,250 t, duty free) / cheese and curd 1,500 t, duty free) / worked cereal grains (1,000 t duty free) / prepared mushrooms (500 t, duty free) | cheese and curd (1,500 t duty free) / olive oil (3,000 t per year, duty free) |

## Towards more comprehensive approaches

Trade in agricultural products is far from being completely liberalised. The EU and its trading partners retain many tariff barriers concerning market access. So the agricultural parts of EU FTAs contend with the conflict of trade liberalisation on the one hand and national interests to limit market access on the other hand.

The analysis of the different EU FTAs shows that the EU excludes important products from the targeted free trade. The EU's domestic protection and support pattern for certain agricultural products can be identified as a key factor determining these exceptions. For those products that are excluded from liberalisation, the EU grants important concessions by admitting market access within the limits of TRQs.

Concerning the liberalisation process, two different approaches for agriculture can be discerned:
(1) *Defining the products that benefit from preferential market access* (the MED agreements). This positive list approach limits the overall coverage of products. It defines the first steps of the liberalisation process, though an overall roadmap is missing. Flexibility with respect to further steps to an advanced liberalisation is granted by a review clause.
(2) *Defining timetables for the overall liberalisation process* (South Africa, Mexico, Chile and Lebanon for imports into the EU). These FTAs define timetables with differing start dates and lengths of the liberalisation process. Again, important products are excluded and they are favoured by concessions within the limits of TRQs. Allocating agricultural products to different timetables or exemptions from free trade and restricting market access to TRQs increases the controllability of the liberalisation process. Additional flexibility is achieved by review clauses concerning products that are (still) exempted from free trade.

Thus, though the agreements aim at liberalisation, important agricultural products remain excluded from free trade.

With respect to agriculture the agreements with South Africa, Mexico and Chile cover a wider range of issues and products, especially those connected to trade of wine and spirits. The Chile agreement includes additional provisions concerning cooperation to enhance sustainable agriculture and capacity building, possibly providing ways to intensify bilateral relations beyond trade liberalisation.

**Table 10 Comparative relevance of single FTA instruments**

| Set of Instruments | MED | TDCA | Mexico | Chile |
|---|---|---|---|---|
| **1) Tariffs** | | | | |
| Duty free | ✓ | | | |
| Reduction | ✓ | | | |
| Timeframe for liberalisation | only EU-Lebanon | ✓ | ✓ | ✓ |
| **2) Quota** | | | | |
| TRQs | ✓ | | | |
| Annual growth rates | - except for Algeria | ✓ | – | ✓ |
| **3) Safeguard clauses** | | | | |
| Agriculture-specific safeguard clause | – | ✓ | – | ✓ |
| Shortage clause | ✓ | – | ✓ | ✓ |
| Specific entry price system | only EU-Morocco | – | – | – |
| **4) Rules of origin** | | | | |
| Agriculture-specific rules of origin | ✓ | | | |
| Bilateral cumulation | ✓ | | | |
| Extension to non-member countries | – | ✓ | – | – |
| Protected geographical indications | – | ✓ | ✓ | – |
| **5) Options for adjustments** | | | | |
| General review | ✓ (5 years) | ✓ (5 years) | ✓ (3 years) | ✓ (3 years) |
| Policy changes | ✓ | ✓ | – | – |
| **6) Other specifics** | | | | |
| | • Lebanon lists exceptions from liberalisation | • Supplemental agreements on wine and spirits<br>• Option for accelerated tariff reduction<br>• Cooperation on domestic measures | • Supplemental agreement on spirit drinks | • Supplemental agreements on wine and SPS<br>• Cooperation on domestic measures |

**Box 2 Where to find articles on agriculture in EU trade agreements**

MED agreements:
**http://europa.eu.int/comm/external_relations/euromed/med_ass_agreemnts.htm**

TDCA (South Africa): Title II, Section C; Annex IV; and Protocol 1:
**http://europa.eu.int/eur-lex/en/archive/1999/l_31119991204en.html**

Global Agreement (Mexico): EC/Mexico Joint Council Decision no. 2/2000 of March 2000: Title II, Section 3; and Annexes I-III:
**http://europa.eu.int/comm/trade/bilateral/mexico/fta.htm**

Association Agreement (Chile): Title II, Chapter 1, subsection 2.3; and Annexes I-III:
**http://europa.eu.int/comm/trade/issues/bilateral/countries/chile/euchlagr_en.htm**

For other agreements, see the Trade Agreements Database and Archive by the Dartmouth Tuck School of Business:
**http://mba.tuck.dartmouth.edu/cib/research/trade_agreements.html**

## Notes

1 See also the ECDPM-CTA FTA *InBrief* on SPS measures.
2 See also the ECDPM FTA *InBrief* on safeguards and anti-dumping.
3 The entry price system (EPS) allows an additional charge (maximum tariff equivalent,' MTE') if import prices fall below the respective entry prices laid down in the WTO schedule for the EU; for some products the validity of the EPS is seasonally limited.
4 See also the ECDPM FTA *InBrief* on rules of origin.
5 The ex-works price is the price paid for the product after manufacturing in the originating country (where the last working or processing has been carried out), including the value of all the materials used, minus any internal taxes returned or repaid when the product obtained is exported.
6 This differentiation is based on the current EU Common Agricultural Policy (CAP) and thereby can change in the future due to reforms.
7 In general, the fruits and vegetables that can be classified as 'strategic' are those that are subject to the entry price system (EPS): tomatoes; cucumbers; globe artichokes (1 November to 30 June); courgettes; sweet oranges (1 December to 31 May); mandarins (including tangerines and satsumas); clementines, wilkings and similar citrus hybrids (1 November to end February); lemons (citrus limon, citrus limonum); table grapes (21 July to 20 November); apples, pears (16 July to 31 March); apricots (1 June to 31 July); cherries (21 May to 10 August); peaches including nectarines (11 July to 30 September); plums and sloes (11 June to 30 September); grape juice; grape must.
8 For Lebanon the increase is specified in absolute terms. Converting the increase to growth rates it accounts for up to 25 % for single products. But the underlying volumes are very small (e.g. 2,000 tonnes) so these growth rates are by no means representative for the MED agreements.
9 As for the agreement with Morocco additional market access was conceded by EU for tomatoes and by Morocco for wheat. The amount of preferential market access for EU wheat is dependent on Morocco's internal production.
10 For a detailed understanding of the extent to which the parties have liberalised their various agricultural sectors, see the annexes of the agreement.
11 See ECDPM FTA *InBrief* on safeguards.
12 The articles refer to Decision no 2/2000 of the EC/Mexico Joint Council of 23 March 2000.
13 See ECDPM FTA *InBrief* on safeguards and anti-dumping.
14 See ECDPM FTA *InBrief* on safeguards and anti-dumping.
15 See ECDPM – CTA FTA InBrief on SPS measures.

## Acronyms

| | |
|---|---|
| ACP | African, Caribbean and Pacific countries |
| AMS | Aggregate Measure of Support |
| AoA | WTO Agreement on Agriculture |
| EPS | Entry Price System |
| EU | European Union |
| FTA | Free trade agreement |
| GATT | General Agreement on Tariffs and Trade |
| GDP | Gross Domestic Product |
| GI | Geographical Indication |
| LDCs | Least developed countries |
| MED | Euro-Mediterranean Association |
| MFN | Most-Favoured-Nation |
| SACU | Southern African Customs Union |
| SADC | Southern African Development Community |
| SDT | Special and Differential Treatment |
| SPS | Sanitary and Phytosanitary Standards |
| TDCA | Trade Development and Cooperation Agreement |
| TRIPS | Agreement on Trade-related Aspects of Intellectual Property Rights |
| TRQs | Tariff Rate Quotas |
| WTO | World Trade Organization |

## Selected publications and information sources on agriculture

### *Publications*


CTA (2004), Agritrade Executive Brief on Market Access, March, **http://agritrade.cta.int/market/executive_brief.htm**

Dell'Aquila, C. and M. Kuiper (2003), *Which road to liberalisation? A first assessment of the EuroMed association agreements*, ENARPRI discussion paper no. 2, October, **www.enarpri.org/Publications/WPNo2.pdf**

Stevens, Chris (2002), Key agricultural issues in the post-Cotonou negotiations, Institute of Development Studies (IDS), **http://agritrade.cta.int/Stevens-post-cotonou.pdf**

UNCTAD (2003), Trade Negotiations in the Cotonou Agreement: Agriculture and Economic Partnerships Agreements, **www.unctad.org/en/docs//ditctncd20032_en.pdf**


### *Information sources*

**www.acp-eu-trade.org**

Agritrade: **http://agritrade.cta.int**

EU Expanding Exports Helpdesk: advice for developing countries exporting to the EU: **http://export-help.cec.eu.int/**

Schedules of concession in agriculture trade per WTO member state: **www.wto.org/english/tratop_e/schedules_e/goods_schedules_e.htm#parts**

Doha Declaration related to agriculture and TRIPS: **www.wto.org/english/tratop_e/dda_e/dohaexplained_e.htm**

Backgrounder of the WTO agricultural negotiations: **www.wto.org/english/tratop_e/agric_e/agnegs_bkgrnd_e.pdf**

## *InBrief* series on trade for 2004-2005

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