

AGRICULTURAL DOMESTIC SUPPORT UNDER THE WTO

The WTO Agreement on Agriculture subjects different groups of developed and developing countries to different limits on domestic support and allows various exemptions from these limits. Offering a comprehensive assessment of the Agreement's rules and implementation, this book develops guidance toward socially desirable support policies. Although dispute settlement has clarified interpretation of the Agriculture and SCM Agreements, gaps remain between the legal disciplines and the economic effects of support. Considering the Agriculture Agreement also in the context of today's priorities of sustainability and climate change mitigation, Lars Brink and David Orden build a strategy that aligns the rules and members' commitments with the economic impacts of agricultural support measures. While providing in-depth analysis of the existing rules, their shortcomings and the limited scope of ongoing negotiations, the authors take a long-term view, where policies directed toward evolving priorities in agriculture are compatible with strengthened rules that reduce trade and production distortions.

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Experience and Prospects

LARS BRINK

Agriculture, Trade and Policy Advisor

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Lars Brink dedicates this book to Satya, beloved wife
and partner.

David Orden dedicates this book to Denise for many reasons
and to the memories of Charles R. Henderson, J. Paxton
Marshall, G. Edward Schuh and Timothy E. Josling.

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FOREWORD

I consider it a great honor to be invited to contribute a foreword to this volume on WTO domestic support disciplines in agriculture written by two of the leading scholars in the field. The introduction of disciplines on agricultural domestic support alongside disciplines on border measures was one of the real novelties in the Agreement on Agriculture resulting from the Uruguay Round negotiations. But the nature of those disciplines, and their uneven impact across WTO members, has been a source of continuing controversy.

For this reason, this volume is both important and timely. It provides a clear account of the current rules on agricultural domestic support, how they apply to different members and the policy space they allow. It describes the changing landscape of domestic support both among members and between different types of support measures. It shows how disputes between members under the Agriculture and SCM Agreements have helped to clarify some key concepts in measuring domestic support and evaluating whether measures are deemed to be trade-distorting or not.

The volume includes a careful analysis of the extent to which the legal categories of domestic support are consistent with an economic interpretation of trade-distorting support, with a particular focus on the exemption from limit of direct payments on green box grounds and on the way market price support is measured. The authors describe the very meagre outcomes to date in terms of revising the rules under the negotiating process mandated under Article 20 of the Agreement. They discuss some of the issues around agricultural domestic support – entitlements to provide support, acquisition at administered prices of public stocks for food security purposes, cotton, and transparency – that were on the agenda for Ministerial negotiations in 2022, though without an outcome on that occasion.

With these analytical chapters as the foundation, the authors conclude with two more normative chapters. One examines whether the rules on agricultural domestic support are sufficiently flexible and well-defined to

allow members to address twenty-first-century priorities – including productivity growth, biosecurity, water management, protection of biodiversity and mitigation of climate change – and, if not, how they might be amended so as not to constrain governments from implementing appropriate policies.

The final chapter contains the authors' observations and recommendations as to how the domestic support provisions of the Agreement might be improved to strengthen its contribution to establishing a fair and market-oriented agricultural trading system. The authors are clear they wish to see further reductions in trade-distorting support on a systematic, rules-based and multilateral basis, while leaving room for contributions to climate change mitigation and achievement of other welfare-enhancing non-trade objectives. They identify numerous problematic elements confronting the achievement of this result.

The authors then ask how these problematic elements might be addressed. They reject the option that agricultural support policies could be disciplined under other WTO agreements, arguing instead that there are greater benefits in retaining and reforming the Agriculture Agreement. Their suggestions for reform revolve around four issues: balancing and reducing the amount of Article 6 support, improving the measurement of market price support, managing domestic support following the dramatic increase in several countries during the Covid-19 period and enhancing policy space to address sustainability and mitigation of climate change.

The domestic support disciplines in the Agriculture Agreement are both its least understood and most controversial elements. This volume will undoubtedly become the definitive work on agricultural domestic support for years to come. Lars Brink and David Orden have provided an inestimable service by drawing on their collective expertise and understanding of this complex topic to prepare this volume. It provides a very thorough guide to those seeking to come to grips with the issues around domestic support for the first time, whether as students or newly-appointed trade officials. It will also be an invaluable resource for seasoned trade officials, negotiators and academics as they seek to map a way forward for the reform of domestic support disciplines for agriculture in the WTO.

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July 2022

ACKNOWLEDGMENTS

This book represents our cumulative effort to study and analyze the domestic support provisions of the WTO Agreement on Agriculture and related disciplines from their beginning some three decades ago. It builds upon the paper *Taking Stock and Looking Forward on Domestic Support under the WTO Agreement on Agriculture*, commissioned by the International Agricultural Trade Research Consortium (IATRC), which we completed in April 2020. It is also a sequel to the 2011 Cambridge volume *WTO Disciplines on Agricultural Support: Seeking a Fair Basis for Trade* for which David Orden was lead editor and Lars Brink a senior contributor.

We offer a comprehensive assessment of the experience over time and the prospects for future guidance through the WTO toward socially desirable domestic support policies and constraints on those that distort trade in agriculture. The analysis ranges from a description of the rules and members' commitments of the Agriculture Agreement, to discussion of the sometimes difficult interface between legal assessments and economic analysis, to the trends and patterns of support among members and across policies, to transparency and ongoing negotiations and to the policy space for members to address salient twenty-first-century priorities within their domestic support obligations. We review and assess the disputes adjudicated about domestic support under the Agriculture Agreement and the Agreement on Subsidies and Countervailing Measures.

In the decade spanned by the two publications mentioned, our study across the topic of domestic support has benefited from interchanges, queries, insights and advice from many colleagues working in similar and related areas. We have been particularly inspired by the books they have authored and edited. Without implicating any of the following persons in our analysis, arguments or conclusions, we thank, among others, Dukgeun Ahn, Kym Anderson, Scott Andersen, Ken Ash, Rick Barichello, John Beghin, David Blandford, Jim Bohland, Chad Bown, Antoine Bouët, Chris Carson, Carmel Cahill, Guoqiang Cheng, May Chow, Howard Conley, Pam Cooper, Caesar Cororaton, Harry de

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We express our appreciation to Ms. Finola O'Sullivan, senior law editor at Cambridge University Press through mid-2021. Her careful guidance marshalled the 2011 book from acquisition through publication, and she was instrumental, along with Marianne Nield, in orchestrating the publication of this volume.

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ABBREVIATIONS

AAP	applied administered price
ACP	African, Caribbean and Pacific
Ag-IMS	Agriculture Information Management System (WTO)
AGST	data tables referenced in members' schedules
AMIS	Agricultural Market Information System
AMS	Aggregate Measurement of Support
ARC	Agriculture Risk Coverage (US)
BPS	Basic Payment Scheme (EU)
BTAMS	Bound Total AMS
CAP	Common Agricultural Policy (EU)
CCP	Countercyclical Payments (US)
CFAP	Coronavirus Food Assistance Program (US)
CNY	Chinese yuan
COFCO	China National Cereals, Oils and Foodstuffs Import and Export Corporation
CRP	Conservation Reserve Program (US)
CTAMS	Current Total AMS
CVD	countervailing duty
DSU	Dispute Settlement Understanding
EBA	Everything But Arms (EU)
EC	European Communities
EMS	Equivalent Measurement of Support
EPA	Economic Partnership Agreement (EU)
EU	European Union
EUR	Euro
FAO	Food and Agriculture Organization of the United Nations
FERP	fixed external reference price
FRP	Fair and Remunerative Price (India)
GATT	General Agreement on Tariffs and Trade
GHG	greenhouse gas
GSM	General Sales Manager (US)
GSSE	General Services Support Estimate (OECD)

LIST OF ABBREVIATIONS

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GTAP	Global Trade Analysis Project
IATRC	International Agricultural Trade Research Consortium
IDB	Inter-American Development Bank
IFPRI	International Food Policy Research Institute
INR	Indian rupee
LDC	least developed country
LRP	lagged reference price
MFP	Market Facilitation Program (US)
MLA	Market Loss Assistance (US)
MPS	market price support
%MPS	market price support as percent of value of production
NAFTA	North American Free Trade Agreement
NPS	non-product-specific
OECD	Organization for Economic Cooperation and Development
PFC	Production Flexibility Contract (US)
PLC	Price Loss Coverage (US)
PODS	Producer-Oriented Domestic Support
PS	product-specific
PSE	Producer Support Estimate (earlier Producer Subsidy Equivalent) (OECD)
SAP	State Advised Price (India)
SAPS	Single Area Payment Scheme (EU)
SCM	subsidies and countervailing measures
SCGP	Supply Credit Guarantee Program (US)
SFP	Single Farm Payment (EU)
SIM	Specific Implementation Matter
STAX	Stacked Income Protection Plan (US)
TRQ	tariff-rate quota
USD	US dollar
USDA	United States Department of Agriculture
USMCA	United States–Mexico–Canada Agreement
VoP	value of production
WTO	World Trade Organization