

Module 2.
Agreements on Agriculture, SPS and
TBT: MA Restrictions, Commitments
and Compliance

ECN 330

Analyzing Economic Integration and
Multilateral Trade Liberalization

MA Commitments in Goods - Agriculture
6.3. Strengthening of related agreements and rules

	Goods	Services	Intellectual property	Trade disputes
Basic principles	GATT	GATS	TRIPS	DSM
Additional details	Agreements and Annexes			
Specific sectors or issues	Agriculture Safeguards SPS + TBT			
Market access commitments	Schedule of Commitments			
Country- specific requirements	MA commitments in schedules: tariffs + quotas			
	Limitations on market access, national treatment			

6. MA Commitments: Agreement on Agriculture

6.1. Int'l agricultural trade before Uruguay Round

Trade policy intervention

Agricultural programs

Implications for international trade

6.2. Rules and commitments resulting from UR-GATT

Market access (MA): bindings and tariffication

Domestic support (DS)

Export subsidies (ES)

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6.4. Tariff application: agriculture and industrial

Agriculture, EU

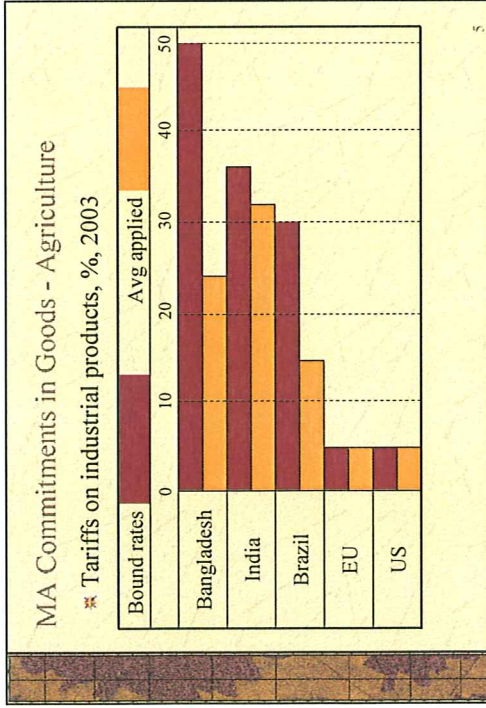
Agriculture, US

Textiles and clothing, US

Textiles and clothing, EU

Manufactured goods from
low-income countries

Manufactured goods from
high-income countries



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✧ Tariff comparisons across country types, 2002

Product type	Avg bound tariff, %		No. of countries with mega-tariffs (+100%)	
	OECD	Non-OECD	OECD	Non-OECD
Dairy	112	74	5	29
Frozen meat (b, p, c)	106	75	4	31
Fresh meat (b, p, c)	96	73	3	30
Sugar beet	104	64	3	28
Vegetables, fresh	87	64	3	28
Vegetables, frozen	52	63	1	29
Grain products	79	67	3	28
Grain	69	66	3	28
Fruit, fresh	25	65	0	27
Fibre	7	63	0	26

Source: www.oecd.org

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✧ Share of bound tariffs by rates, selected countries (% of lines items)

	Agricultural line items		Industrial line items	
	Duty-free	Rates greater than: > 15% > 100%	Duty-free	Rates greater than: > 15%
Canada	42	1	0	29
US	28	3	0	37
EU-15	27	34	1	22
Norway	23	61	44	44
Argentina	0	97	0	0
Brazil	2	96	0	0
Mexico	0	96	5	0
Romania	0	98	40	0
India	2	99	45	0

Source: WTO, ERAD, Special Studies 6, MA: Unfinished Business, 2001

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✧ Avg tariffs on unprocessed and processed goods

Member	Unprocessed agricultural products	Processed agricultural products
Australia	1	6
Brazil	34	36
Canada	2	6
EU	4	11
India	97	139
Japan	4	15
Mexico	32	50
New Zealand	2	10
US	4	5

Source: WTO, ERAD, Special Studies 6, MA: Unfinished Business, 2001

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- Non-*ad valorem* tariff bindings as % of all bound ag tariffs, selected members

	< 20% of all lines	20-50% of all lines	> 50% of all lines
	Australia	Canada	Malta
	Bulgaria	Cyprus	Norway
	Egypt	EU	Switzerland
	India	Poland	
	Israel	Slovenia	
	Japan	Thailand	
	Korea	US	
	Mexico		
	New Zealand		
	Singapore		

Source: WTO, ERAD, *Special Studies 6, MA: Unfinished Business*, 2001

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6.5. MA commitments under agriculture: tariffs

- ✂ Harmonized code
- ✂ Bound rates: *ad valorem*, specific or mixed tariffs
- ✂ Initial negotiating rights (INR)
- ✂ Safeguards and special safeguards (SSGs)

6.6. Tariff commitments in "tariff schedules"

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- ✧ Nominal protection rates and price supports

Country groupings by rate of nominal protection coefficient, P_P/P_B								
Group 1	NPC	Group 2	NPC	Group 3	NPC	Group 4	NPC	
Australia	1.00	US	1.07	EU	1.25	Japan	2.19	
New Zealand	1.02	Mexico	1.08	Turkey	1.30	Norway	2.23	
		Canada	1.13			Switzerland	2.31	
						Korea	2.57	
						Iceland	2.69	
Price support as a % of total support (rough indicator of MA)								
Australia	0%	US	20%	EU	44%	Japan	91%	
New Zealand	74%	Mexico	43%	Turkey	77%	Norway	43%	
		Canada	45%			Switzerland	52%	
						Korea	92%	
						Iceland	50%	

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MA schedule of commitments, agriculture – Norway, chapter 2						
Harmonized system		MFN rate of duty (tariff)			SSG	INR
		Base rate	Bound rate			
Code	Product description	kr/kg	%	kr/kg	%	
02.01	Meat of bovine animals, fresh or chilled					
.10	whole/half carcasses	37.97	405	32.28	344	SSG -
.20	other cuts with bone-in	74.12	405	66.40	344	SSG -
MA commitments – Albania, chapter 2						
02.01	Meat of bovine animals, fresh or chilled					
.10	whole/half carcasses				10	- AU
.20	other cuts with bone-in				10	- KYG PO EC

Source: www.wto.org

Source: www.wto.org

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TRQ application by member country

	Developed		Emerging		Developing	
	Country	No.	Country	No.	Country	No.
Selected members	Norway	232	Poland	109	Colombia	67
	Iceland	90	Bulgaria	73	Venezuela	61
	EU-15	87	Korea	67	S. Africa	53
Sub-totals	US	54	Czech	24	Barbados	36
	10 members	549	16 members	492	17 members	384
Total	43 members with right to apply TRQs on 1,425 lines					

Source: www.wto.org, Agricultural Negotiations: Background

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Principle methods of TRQ application, 1995-2000

	Nor	EU	US	Kor	Total	Nor	EU	US	Total
	Number of TRQs					Avg fill rates, %			
Tariffs	213				660	66			71
1 st come/serve		21	32		147		71	53	56
Licenses	1	59		21	324	39	68		59
Auctioning	10			6	83	18			30
Historical	8	6		17	20?	85	95		91
State trader				10	7?				81
Producer groups				3	17				74
Total, all lines	232	87	54	67	1425	64			63

Source: www.wto.org

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TRQ application by product category, 1995-2000

Products	Member		Nor		EU		Pol		Total		Nor		EU		Total	
Cereals																
Sugar + products																
Meat + products																
Dairy																
Fruit + vegetable																
Beverages																
Agriculture fibre																
All products																

Source: www.wto.org (WTO document, TN/AG/S/5, Mar 2002)

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TRQ case study on meat (quantities in 1000 MT) - Norway

	Base yr 1986-88	Mkt access		Production		Consumption	
		4%	7%	'85-94	'95-01	'85-94	'95-01
Beef	76.5	3.1	5.4	80.0	89.0	78.5	88.4
Pork	89.2	3.6	6.2	87.6	104.1	85.6	103.6
Lamb	25.2	1.0	1.8	24.9	24.7	24.8	24.9
Chicken	15.2	0.6	1.1	18.9	30.8	19.5	31.0
1999-01 situation	Mkt access quota		Consume, avg		Tariff rates, %		
	MAQ vol	fill %	M/C	Total	In-Q _n	MFN	
Beef	1,084	44	1.0	88.3	139	344	
Pork	1,381	66	1.3	103.8	137	363	
Lamb	206	93	0.9	23.0	162	429	
Chicken	221	8	0.0	32.1	109	290	

Source: www.wto.org; UN, FAO trade and production statistics, SSB

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Interpretation of the TRQ data

- What does the market look like for each of the meat products? Provide a simple market depiction for what the internal market situation of this country looks like. Note: think about the country in net trade terms.
- What is the reason for the underfill? Explain why you think this is the reason.

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- Special safeguards: agriculture
 - Cases where bound tariffs do not provide sufficient protection
 - Safeguard mechanisms triggered automatically
 - $[Q_M] > [Q_M]_{\text{target}}$
 - $[P_D] < [P_D]_{\text{target}}$
 - SSGs negotiated product-by-product
 - Not used with TRQs
 - Current negotiations require agreement on the future of SSGs

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6.8. Safeguard mechanisms and special safeguards (SSGs)

- Safeguards (SGs): industrial goods
 - Emergency situations
 - Serious injury to domestic industry, actual or threat of
 - Requires compensation
- Prohibit "grey area" measures
 - Voluntary export restraints
 - Orderly marketing agreements
 - Other bilateral measures/arrangements

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6.9. Concluding comments on MA commitments

Summary of proposals on MA reductions

G-10 proposal (SW, Jpn, Nor)		EU proposal		G-20 (BZ, IN)		US proposal	
Duty, %	Cut, % terms Either/or	Duty, %	Cut, %	Duty, %	Cut, %	Duty, %	Cut, %
0-20	27	32 ± 7%	0-30	35	0-20	45	0-20
20-50	31	36 ± 8%	30-60	45	20-50	55	20-40
50-70	37	42 ± 9%	60-90	50	50-75	65	40-60
> 70	45	50 ± 10%	> 90	60	> 75	75	> 60
Tariff ceilings? No limit		Avg cut 39% 100% but not sensitive goods		Avg cut, 54% 100% ceilings		Avg cut 66% 75% ceilings	

Source: AgrnFacts, Aug 2006

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Summary of negotiation process – MA in agriculture

Consolidated proposal, tariffs cuts in agriculture			
Developed countries		Developing countries	
Tariff range	Reduction commitment	Tariff range	Reduction commitment
$0 < \tau \leq 20\%$	48-52%	$0 < \tau \leq 30\%$	$\frac{2}{3}$ the cut of DCs
$20 < \tau \leq 50\%$	55-60%	$30 < \tau \leq 80\%$	$\frac{2}{3}$ the cut of DCs
$50 < \tau \leq 75\%$	62-65%	$80 < \tau \leq 130\%$	$\frac{2}{3}$ the cut of DCs
$\tau > 75\%$	66-73%	$\tau > 130\%$	$\frac{2}{3}$ the cut of DCs

Source: WTO doc. JOB(07)128, 17 Jul 2007

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Tariff rate quotas

MAQ	↑ TRQ volume according to agreed formula LDCs: ↑ volume by $\frac{2}{3}$ the rate of DCs
In-quota tariff	Not yet clear, even on whether rate should be set with intention of making MAQ binding
TRQ administration	Still not clear; depends on other aspects of negotiation (e.g., state-trading)

Tariff escalation

Reduce differential	Not clear – must still define link between commodity and food product
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Preferential treatment (non-reciprocal agreements)

Margins	Not clear. ↑ MA → erosion; sugar + banana are main products; longer implement period
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MA flexibility	LDCs, recently acceded, small vulnerable
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Right to designate sensitive products

Developed countries	Developing countries
Limits on the number of sensitive products	
4-6% of all ag tariff lines	$\frac{1}{3}$ more tariff lines than DCs
Reductions in tariffs	
Min rate cut	Max rate cut
$\frac{1}{3}$ rate cuts on non-sensitive products	$\frac{2}{3}$ rate cuts on non-sensitive products
By no less than $\frac{2}{3}$ % rate cut on non-sensitive products	

Special safeguards

Reduce number	↓ 50% 1 st year and by equal amounts thereafter; or limit SSGs to sensitive goods + stricter conditions on triggers
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Source: WTO doc. JOB(07)128, 17 Jul 2007

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Non-ag MA negotiations

- ♦ Tariffs bindings
 - LDCs previously excluded on all or some lines should bind avg tariffs of 28.5% over 90% of tariff lines
 - Flexibility on how to structure tariffs along product categories
- ♦ Complete the conversion to ad valorem tariffs
- ♦ Tariff reductions (Swiss formula)

$$t_1 = [(a \text{ or } b) \times t_0] / [(a \text{ or } b) + t_0]$$

where: t_1 is final bound rate; t_0 is base MFN rate of 2001; a is (8-9) the coefficient for DCs; b is (19-23) the coefficient for LDCs

- Equal annual reductions over 5 yrs for DCs, 9 yrs for LDCs
- No exclusions on products

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- ♦ Non-reciprocal preferences
 - Identified the specific tariff lines in question
 - LDC exports are concentrated in few lines
 - ♦ Either exempt those lines in whole or part
 - ♦ Development assistance to overcome S-side capacity in LDCs
 - ♦ Improve their ability to overcome other regulations (ROO, SPS, TBT, etc)
- ♦ MA flexibility for
 - Small, vulnerable economies
 - Recently acceded members
 - LDCs

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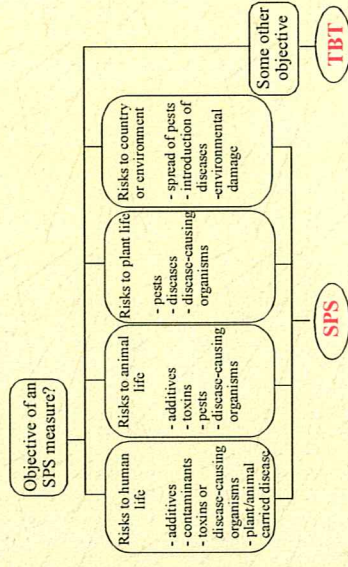
SPS and TBT Agreements, continued . . .

- ✖ SPS concerns and issues for the WTO
 - ♦ Free trade versus safety restrictions
 - ♦ International standards and national sovereignty
 - ♦ Risk assessment
 - ♦ Rules-based trade and scientific evidence
 - ♦ Principles of non-discrimination: harmonization vs equivalence
 - ♦ Principles of predictability and transparency (enquiry pt)

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7. Agreements on SPS and TBT

7.1 Objectives of SPS



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SPS and TBT Agreements, continued . . .

7.2 Objectives of TBT

- ✖ Product safety
- ✖ Product packaging
- ✖ Product labelling
- ✖ Pharmaceutical restrictions

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Trade in the absence of a multilateral agreement

- ◆ Regulatory issues treated as a "general exception"
- ◆ Exporters forced to comply with importer's requirements
- ◆ Exporters forced to prove product is safe

- ◆ Exporters forced to comply with importer's requirements

- ◆ Exporters forced to prove product is safe

✦ Implications

- ### ◆ Rules-based application of measures

- ◆ Reverse burden of proof

- ◆ Premium on reliability and credibility

7.6. Theory and practice

- ✧ Free trade versus regulations for social objectives
- ✧ Theory overestimates the benefits of trade and underestimates the costs

- ✘ Theory overestimates the benefits of trade and underestimates the costs

7.5. Codex Alimentarius

What is codex alimentarius?

- ◆ A joint FAO/WHO committee charged with preparing *standards, recommendations, and guidelines to protect consumers' health, ensuring fair trading practices and facilitating international trade.*

What codex does:

- ◆ Sets commodity food standards, defines codes of practice covering hygiene and food technology, evaluates and establishes max limits on pesticide residues, and evaluates food additives, contaminants and veterinary drugs

✻ Participation in international meetings

- ◆ SPS + TBT encourage WTO members to participate fully in the development of *harmonized international standards*

8. Trade Disputes Involving SPS and TBT

8.1. Case of hormones in beef

- ✖ Through WTO Agreements, members states can fulfil their agreed commitments by basing their national regulations on international standards. The standards are based on voluntary participation, but members must now justify any deviance from international standards.
- ✖ Codex has approved standards for hormones used by the US and Canada in meat production, but the EU voted against the standards when they were being approved by Codex.
- ✖ In 1996, the US and Canada requested consultations with the EC on measures taken by the EC: prohibiting or restricting imports of meat and meat products from the US and Canada related to a council directive "Prohibiting the Use in Livestock Farming of Certain Substances Having a Hormonal Action".
- ✖ The EC issued an absolute ban on imports of meat and meat products from cattle treated with any of six specific hormones for growth promotion purposes (no hormones whatsoever are tolerated in meat production).

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Trade Disputes, SPS and TBT, continued ...

Hormones in beef, continued

- ✖ Issue: Does the EU have the right to ban imports of beef with hormones? Does it matter that the EU never approved the Codex standard?

Dispute resolution:

- ✖ First, is this dispute about a SPS measure, a TBT measure, or both? Explain.
- ✖ Second, how would you resolve this case? Explain.

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Trade Disputes, SPS and TBT, continued ...

Hormone case continued:

- ✖ Countries must conduct risk assessments in order to document why regulations that are more stringent than international standards are necessary to achieve specific objectives.
 - ✖ One of the important considerations is that the EU regulations are not based on the voluntary Codex standards – standards which the EU explicitly opposed.
- Additional info:
- ♦ The EU has a TRQ on meat at 11,500 tons which accounts for a negligible portion of total EU beef consumption.
 - ♦ The in-quota tariff is only 20%, but the out-of-quota rate is considered to be prohibitively high (i.e., too high for foreign meat to compete on the EU market).
 - ♦ The TRQ on high quality beef has been nearly filled by Argentina, Australia, Brazil, New Zealand and Uruguay
 - ♦ The US and Canada have high beef production and export capacity.

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Trade Disputes, SPS and TBT, continued ...

8.2 Case of the EU - Peruvian sardine dispute

- ✖ EU regulation stating that only the species *Sardina pilchardus* was permitted to be marketed as a "sardine" in the EU. This ruling implies that "sardines" can not be marketed in combination with an additional name, in the way Peru had done for their sardine species *Sardinops sagax*, which they call "Peruvian sardines".
- ✖ The result is that the Peruvian product was denied access to the EU market.
- ✖ The Codex standard for sardines and sardine-like species states that only the species *Sardina pilchardus* can be sold under the name of "sardines". However, the standard also lists species which are defined as sardine-like fish. These can be sold with additional labels, based on either country of origin (e.g., Peruvian sardines), geographical origin (e.g., Pacific sardines) or as species name (e.g., Norwegian "Brisling Sardines").

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Trade Disputes, SPS and TBT, continued . . .

Sardine case, continued

- ✘ The three main arguments used by the EU to justify the ban were that: (1) the Codex standard was not relevant in this case, (2) the Codex standard enables countries to choose if they want to allow the use of additional names or not, and (3) the marketing of Peruvian sardines was confusing for European consumers. Thus, the consumer considerations were a legitimate reason for stronger requirements for sardine labelling.

- ✘ Issue: Are these arguments sufficient justification for restricting the so-called Peruvian sardines?

Dispute resolution:

- ✘ First, is this dispute about a SPS measure, a TBT measure, or both? Explain.
- ✘ Second, how would you resolve this case? Explain.

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Trade Disputes, SPS and TBT, continued . . .

US-Malaysia shrimp dispute, continued

- ✘ US regulations state that shrimp harvested with technology that may adversely affect certain species of sea turtles protected under US law may not be imported into the US, unless: (a) that the harvesting country concerned has a regulatory programme governing the incidental taking of such sea turtles in the course of such harvesting that is comparable to that of the US, and that the average rate of is comparable; or (b) that the fishing environment of the harvesting country does not pose a threat of incidental taking to sea turtles in the course of such harvesting.
- ✘ All shipments of shrimp and shrimp products into the US must be accompanied by a declaration attesting that the shrimp or shrimp product in question has been harvested either under conditions that do not adversely affect sea turtles or in waters subject to the jurisdiction of a nation currently certified.
- ✘ Shrimp or products harvested in conditions that do not affect sea turtles include: (a) aquaculture facilities; (b) shrimp harvested using TEDs; (c) shrimp harvesting that does not involve fishing nets or devices by vessels that do not require TEDs, (d) shrimps harvested in areas where sea turtles do not occur or under conditions that do not threaten sea turtles.
- ✘ US regulations effectively serve as an embargo on shrimp and products on "all shrimp and products harvested in the wild by citizens or vessels of nations which have not been certified".

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Trade Disputes, SPS and TBT, continued . . .

8.3 Case of the US - Malaysia shrimp dispute

- ✘ Most populations of sea turtles are considered to be threatened or endangered either directly (exploited for their meat, shells, eggs) or indirectly (incidental capture in fisheries, destruction of habitat, pollution of the oceans).
- ✘ The 1973 Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) recognizes all seven species of marine turtles as threatened with extinction.
- ✘ The US Endangered Species Act (ESA) of 1973 listed sea turtles to their list. In 1987, ESA regulations required that all US shrimp trawlers to use turtle excluder devices (TEDs) or tow-time restrictions in areas where there was a significant mortality of sea turtles associated with shrimp harvesting.
- ✘ TEDs are considered to be an effective way in which to exclude by-catch during shrimp trawling, and in 1990 the regulations were modified to require the use of TEDs at all times and in all areas where shrimp trawling interacts in a significant way with sea turtles.

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Trade Disputes, SPS and TBT, continued . . .

US-Malaysia Shrimp, continued

- ✘ US law also determines which foreign countries can be certified. However, US regulations also allow harvesting nations to certify on the basis of having adopted a TEDs program. Certification occurs under the following conditions: (a) TEDs are used at all times where conditions where there is a likelihood of threat. TEDs must be comparable in effectiveness to those used in the US, and (b) a credible enforcement effort that includes monitoring for compliance.
- ✘ Issue: Does US law have the right to embargo shrimp according to these regulations?

Dispute resolution:

- ✘ First, is this dispute about a SPS measure, a TBT measure, or both? Explain.
- ✘ Second, how would you have resolved this case? Explain.

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Trade Disputes, SPS and TBT, continued . . .

✂ Summary and concluding comments

- ◆ Regs play important role in facilitating trade
- ◆ Importance of SPS and TBT Agreements
 - Large share of domestic regs are related to SPS or TBT
 - Different regulatory approaches to risk, market failure are the source of trade disputes
- ◆ Importance of international standards
 - Cases where regs exceed international standards
 - "Race to the bottom"