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Page: 1/16

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Special Session**

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TARIFF IMPLEMENTATION ISSUES – ISSUES WITH TARIFF RATE QUOTAS

COMMUNICATION FROM THE UNITED STATES

The following communication, dated 21 November 2019, is being circulated at the request of the delegation of the United States.

1.1. In July 2018, the United States submitted a communication to the World Trade Organization (JOB/AG/141) noting the need for more trade to improve global welfare, help producers, and address the challenges of sustainably feeding a growing world population. The communication also noted that tariffs remain much higher in the agricultural sector than in other sectors, tariff reductions have contributed to the welfare gains from trade, and locking in tariff reductions can contribute further to global welfare.

1.2. The US communication identified six areas of the market access pillar where further analysis of Members' current implementation of tariffs should be considered by Members in order to better understand Members' current tariff regimes. The areas included: (i) bound versus applied tariffs, (ii) complex tariffs, (iii) high tariffs (e.g., tariff peaks), (iv) issues with TRQs, (v) special agricultural safeguards (SSGs), and (vi) regional/preferential trade agreements. The United States has since provided a detailed analysis on tariff treatment as it relates to bound versus applied tariffs (JOB/AG/147), complex tariffs (JOB/AG/164), and tariff peaks (JOB/AG/167).

1.3. In this communication, the United States analyses the tariff rate quota (TRQ) operation and administration of 40 Members¹ who have designated TRQs as part of their WTO schedule of commitments, using Members' submitted tariff schedules and TRQ commitments, Member submitted notifications, WTO tariff profiles, and World Integrated Trade Solutions (WITS) data.² This analysis considers the prevalence of TRQs³ by Member, product group⁴, and development status with particular focus on the TRQ fill rates and TRQ administration.⁵

¹ For the purpose of this communication, members of the European Union (including Bulgaria, Croatia, Czech Republic, Hungary, Latvia, Lithuania, Poland, Romania, Slovak Republic, and Slovenia) are referred to as a single WTO Member.

² WITS is a collaboration between the World Bank and the United Nations Conference on Trade and Development in consultation with the WTO, International Trade Centre, and United Nations Statistical Division.

³ Of particular note for analysis of TRQ is the lack of ability to compare relative rates of protection across different types of complex tariffs due to the difficulties and complexities associated with calculating AVEs.

⁴ This communication uses product categories first defined in the Tokyo Round and adapted for the Harmonized System in the Uruguay Round. The product group breakdown in this publication is provided in the 2019 WTO World Tariff Profiles (page 40). The schedules of Costa Rica, Iceland, Norway, and South Africa contain lines that are outside the WTO definition of Agriculture. For the purpose of this analysis these lines are included in "Other Agricultural Products" category.

⁵ Development status is based on self-designation. Use of a Member's self-designated development status should not be taken as agreement with the self-designation.

1.4. While Members have generally provided greater transparency on agricultural tariffs and TRQs than on other agriculture-related issues, a number of problems related to transparency of agricultural tariffs remain, including:

- Bound tariff schedules that are provided in outdated HS nomenclature;
- Bound tariff schedules using nomenclature that does not correspond to the nomenclature in the Member's most recent tariff schedule;
- Applied tariff schedules submitted to the WTO that are out of date;
- Applied tariff rates submitted that are in a different tariff format than the bound rate (e.g., *ad valorem* vs. *specific*);
- Absence of tariff concordance information for Members' tariff schedules;
- Lack of *ad valorem* equivalent (AVE) data for non-*ad valorem* tariffs, including complex tariffs;
- Tariffs and Tariff Rate Quotas applied and notified at different (HS) line levels for each Member;
- Use of arbitrary letters or symbols to denote a tariff without clear explanation;
- Published tariff schedules containing rates different than corresponding schedules available on Members' official publication website(s).

1.5. The United States continues to urge Members to ensure that all WTO notifications relevant to market access are up to date and accurate. This includes notifications made through the Integrated Data Base (IDB), as well as notifications of regional trade agreements. Resolution of the transparency issues noted above will facilitate even greater Member understanding of agricultural tariffs.

Background: Tariff Rate Quotas

1.6. Tariff-rate quotas (TRQs) were a compromise policy instrument used during the Uruguay Round as part of the "tariffication" package to provide minimum import access opportunities for products previously protected by high tariffs and non-tariff barriers. This import system established a quota (equalling at least 5% of Member's domestic consumption of the commodity between 1986 and 1988) and a two-tier tariff regime for affected commodities.⁶ Imports within the quota enter at a lower (in-quota) tariff rate while a higher (out-of-quota) tariff rate is used for imports above the concessionary access level. Members may use a "single line method" and utilize one tariff line for both in-quota and out-of-quota imports or a "multiple line method" where one or more tariff lines are solely used for in-quota imports and another one or more tariff lines are used for out-of-quota imports. The creation of TRQs ensured some level of trade even with the imposition of high tariff equivalents that were meant to protect certain commodities from import competition.

Analysis: TRQ Coverage

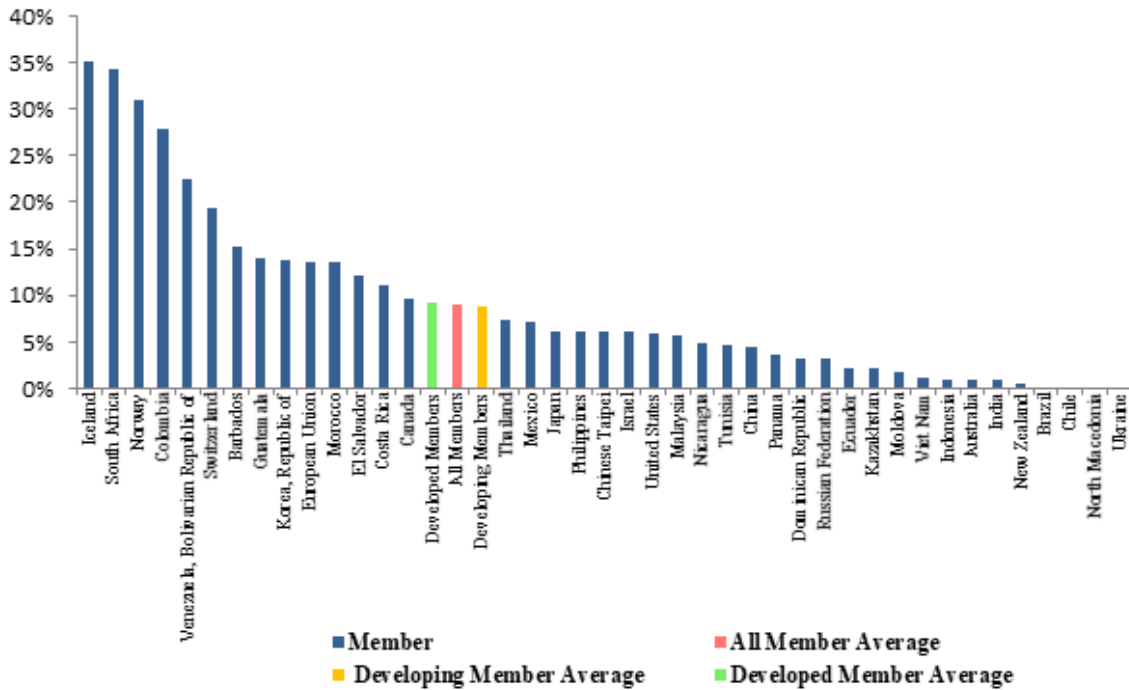
1.7. Currently, 40 WTO Members cumulatively have more than 1,000 TRQs in their bound schedules.⁷ On average, TRQs account for 9% of these WTO Members' bound agricultural schedules.⁸ However, TRQs account for more than 25% of the bound agricultural schedule for Iceland, South Africa, Norway, and Colombia and less than 1% for Australia, India, New Zealand, Brazil, Chile, North Macedonia, and Ukraine (Figure 1). The average share of TRQs in Members' bound schedules is similar for both developed Members and developing Members (i.e. 9.3% versus 8.8%).

⁶ https://www.wto.org/english/tratop_e/agric_e/ag_intro02_access_e.htm.

⁷ Secretariat's Report, G/AG/W/183.

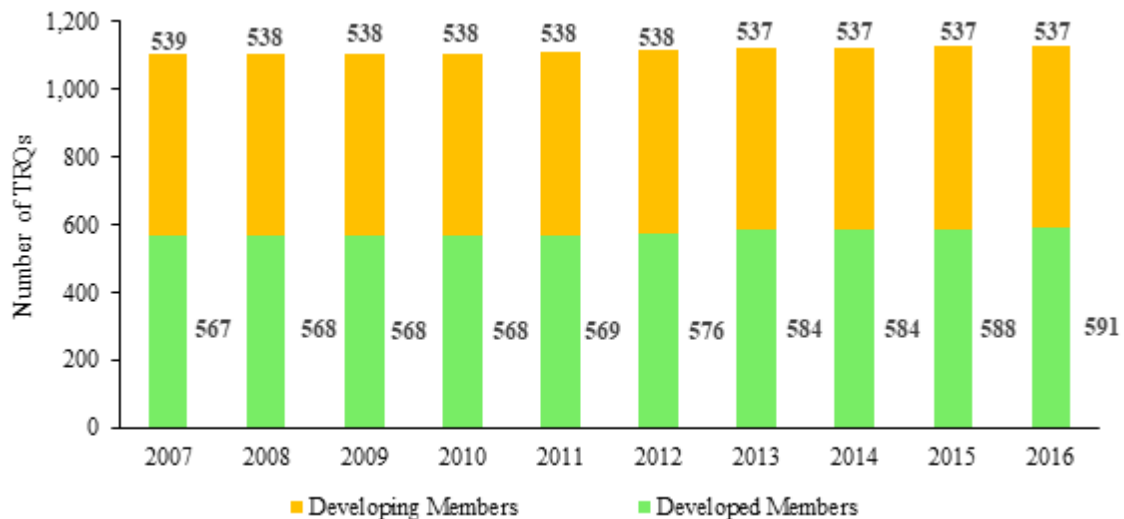
⁸ Percent of HS six-digit subheadings in the schedule of agricultural concessions covered by tariff quotas. Partial coverage is taken into account on a pro rata basis as provided in the 2018 WTO World Tariff Profiles.

Figure 1: TRQs (HS-6 Lines as % of Bound Agricultural Tariff Schedule), 2017



1.8. The total number of scheduled tariff quotas has remained relatively unchanged over the last decade with increases in scheduled quotas being driven primarily by the enlargement of the European Union and the accession of Kazakhstan, Russian Federation, and Ukraine.⁹ Decreases occurred due to certain Members phasing out or withdrawing their WTO TRQ concessions¹⁰ (Figure 2).

Figure 2: Total Number of Scheduled Tariff Rate Quotas, 2007-2016, Based on Scheduled TRQ-IDs (Source: G/AG/W/183)



⁹ G/AG/W/183.

¹⁰ Chinese Taipei phased out its TRQ on persimmons in 2008 (G/AG/N/TPKM/55); based on Panama's response to a question posed by European Union, it appears that Panama withdrew its Maize TRQ concession in 2013 (AGIMS ID 75070).

1.9. Members have scheduled TRQs for a wide variety of products with "animal products", "oilseeds, fats, and oils", and "fruits, vegetables, and plants" product groups having the largest number of TRQ lines (at the HS-6 level). "Cotton" and "coffee and tea" products have the lowest number of TRQ lines (Figure 3). In relative terms (as percentage of the total number of HS-6 lines in a product group), TRQs are most concentrated in "dairy products", "sugar and confectionery", and "animal products". "Other agricultural products" and "cotton" have the lowest share of TRQs relative to the number of product group lines (Figure 4).

Figure 3: TRQs (Average Number of HS-6 TRQ Lines Per Product Group), 2017

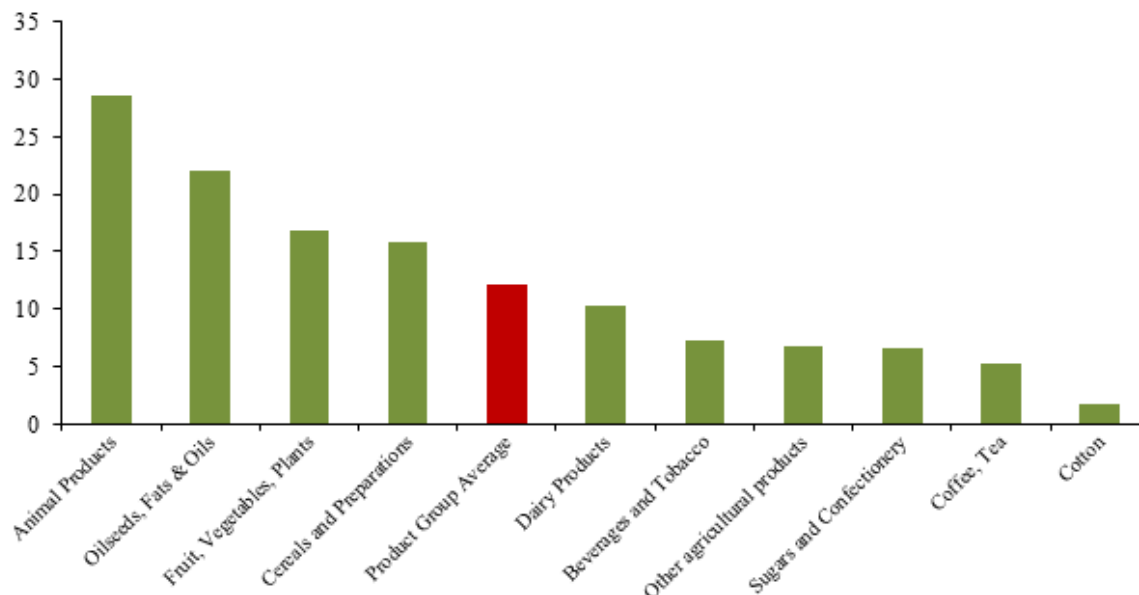
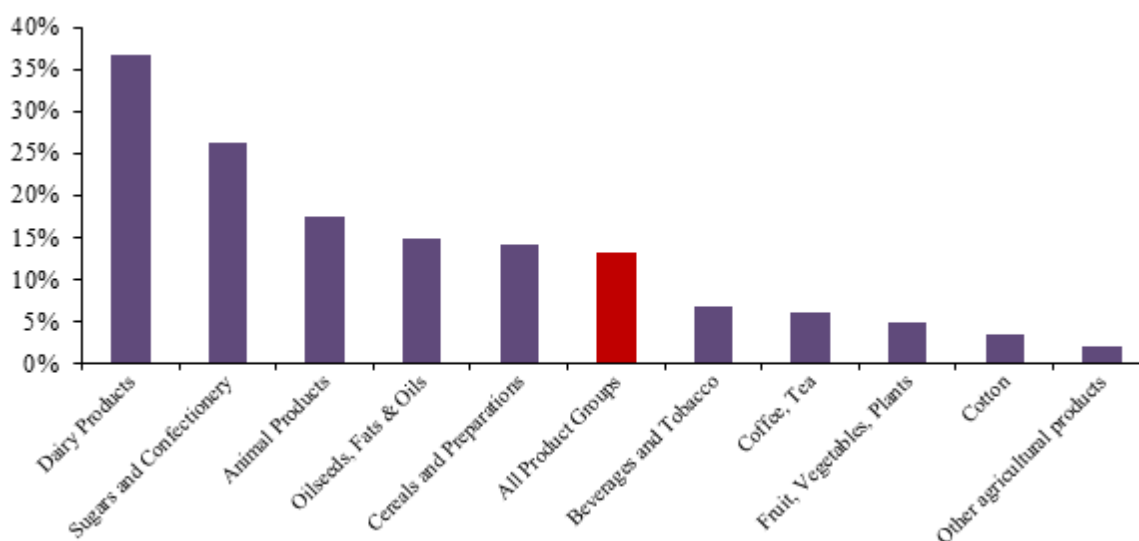


Figure 4: TRQs (Average HS-6 TRQ Lines as % of Product Group Lines), 2017

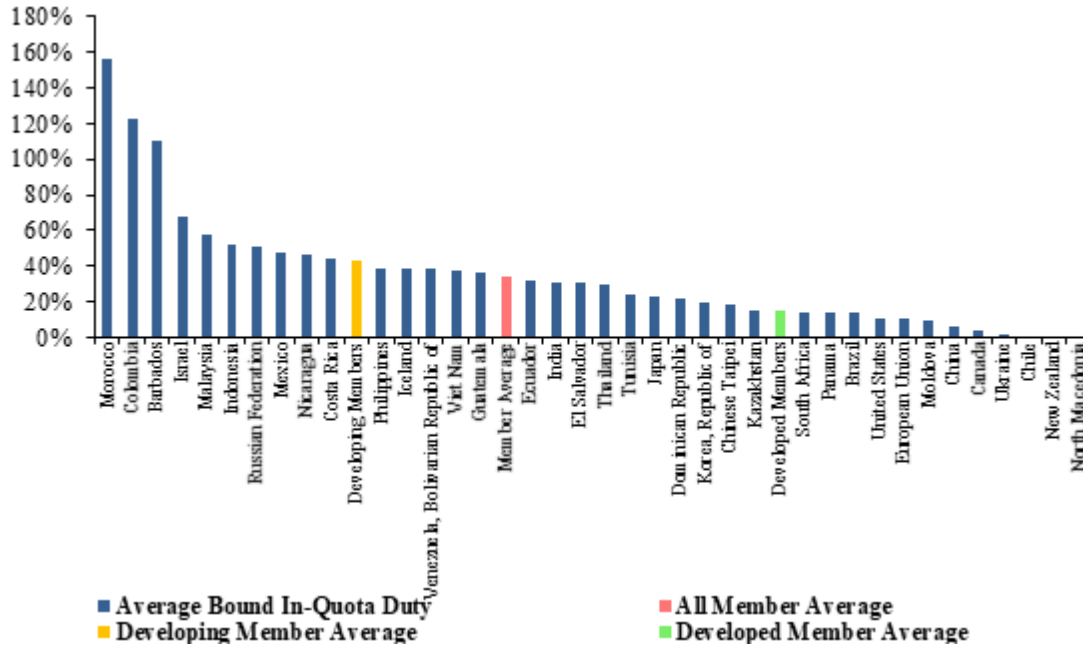


Analysis: TRQ Rates

1.10. One factor determining whether a product exported from one Member can gain access to the market of another Member is the level of the tariff, and in particular the in-quota tariff. Amongst the Members with TRQ commitments, 18 Members had duty free bound in-quota rates, which, on average, accounted for 28% of the total number of TRQ lines. Of these Members, three (Chile, New Zealand, and North Macedonia) had a duty free bound in-quota rate for all their scheduled TRQs. Overall, the average bound in-quota duty for all Members' TRQs and for all products was 34.5% (Figure 5). Developed Members' average bound in-quota duty was 15%, and developing

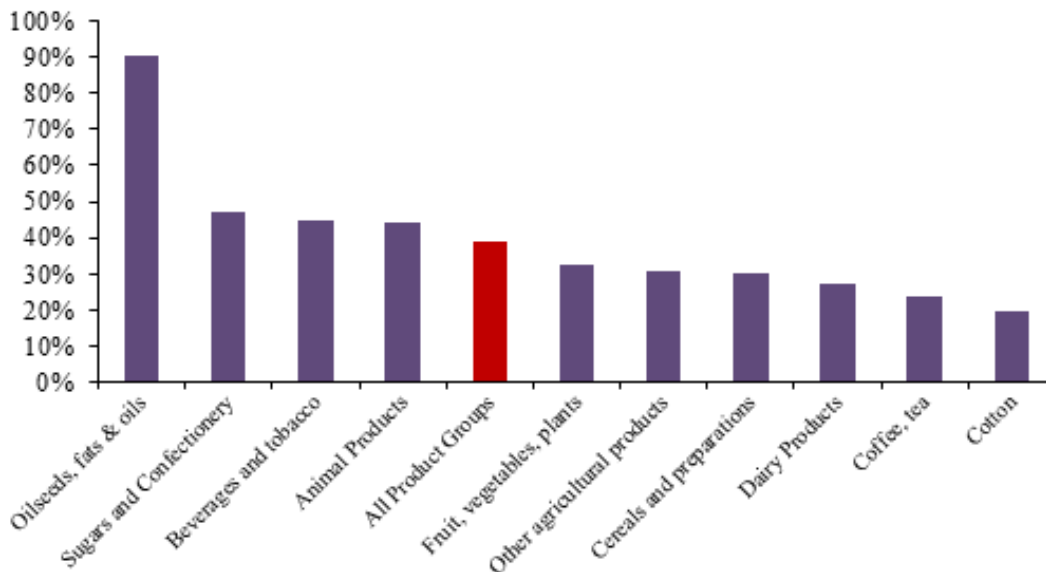
Members' average bound in-quota duty was 42.8%. In addition to the three Members with duty free in-quota rates, Ukraine, Canada, and China had average bound in-quota rate of less than 10%. Morocco, Colombia, and Barbados had an average bound in-quota rate greater than 100%.¹¹

Figure 5: Average Bound In-Quota Rate for TRQs (AV Duties Only)



1.11. "Oilseeds, fats, and oils" product group had a substantially higher bound in-quota rate than any other product group (90.4%). The "sugars and confectionery" (47%) and "beverages and tobacco" (45%) product groups had the next highest bound in-quota rates. Conversely, "cotton" had the lowest average bound in-quota rate (19.8%) followed by "coffee and tea" products (23.9%)¹² (Figure 6).

Figure 6: Average Bound In-Quota Rate Per Product Group (AV Duties Only)

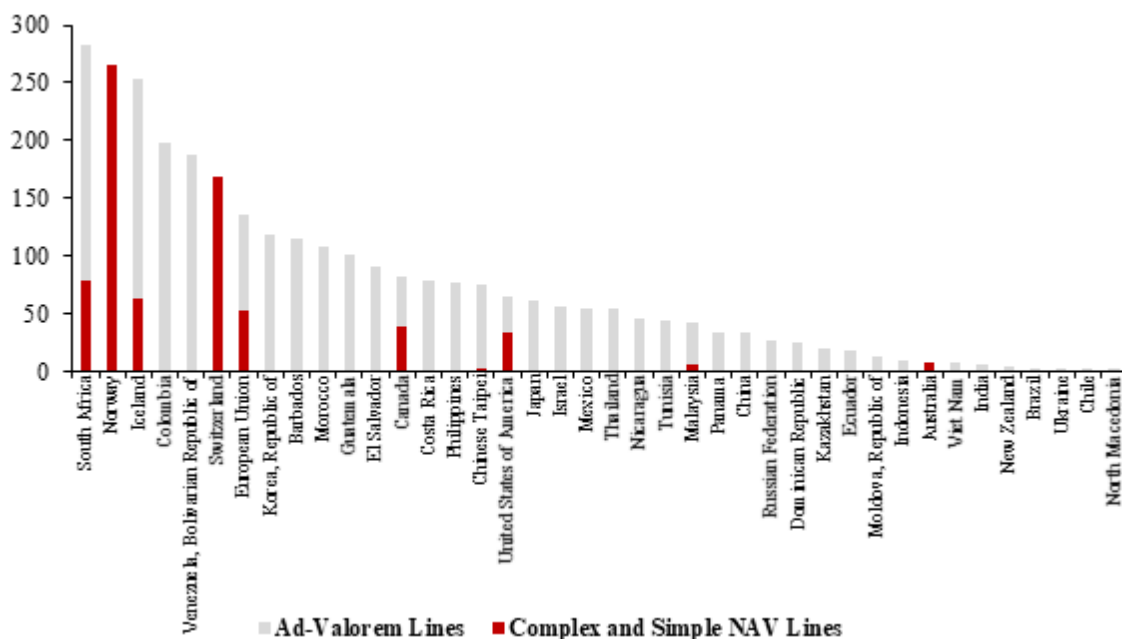


¹¹ Analysis does not take account of NAV duties as *ad valorem* equivalent (AVE) rates are not available for all Members and commodities.

¹² The Nairobi Ministerial Conference adopted a decision on cotton (WT/MIN(15)/46) calls for cotton from LDCs to be given duty-free and quota-free access to the markets of developed countries – and to those of developing countries declaring that they are able to do so – from 1 January 2016.

1.12. In-quota duties bound in simple (e.g., specific) and in complex (e.g., compound, mixed, etc.) non-*ad valorem* (NAV) terms are an integral part of several developed (and a few developing) Members' TRQ schedules (Figure 7).¹³ Switzerland, for example, has bound all in-quota duties in specific NAV tariff format. Norway bound its in-quota TRQ lines utilizing both complex (mixed tariffs) and simple NAVs. Australia, Canada, European Union, Iceland, Israel, Japan, Malaysia, South Africa; Chinese Taipei and the United States also each had at least one tariff line with the in-quota duty bound in complex NAV terms.

Figure 7: Bound In-Quota TRQ Duties by Tariff Type, Number of TRQ Lines (HS-6 Level)

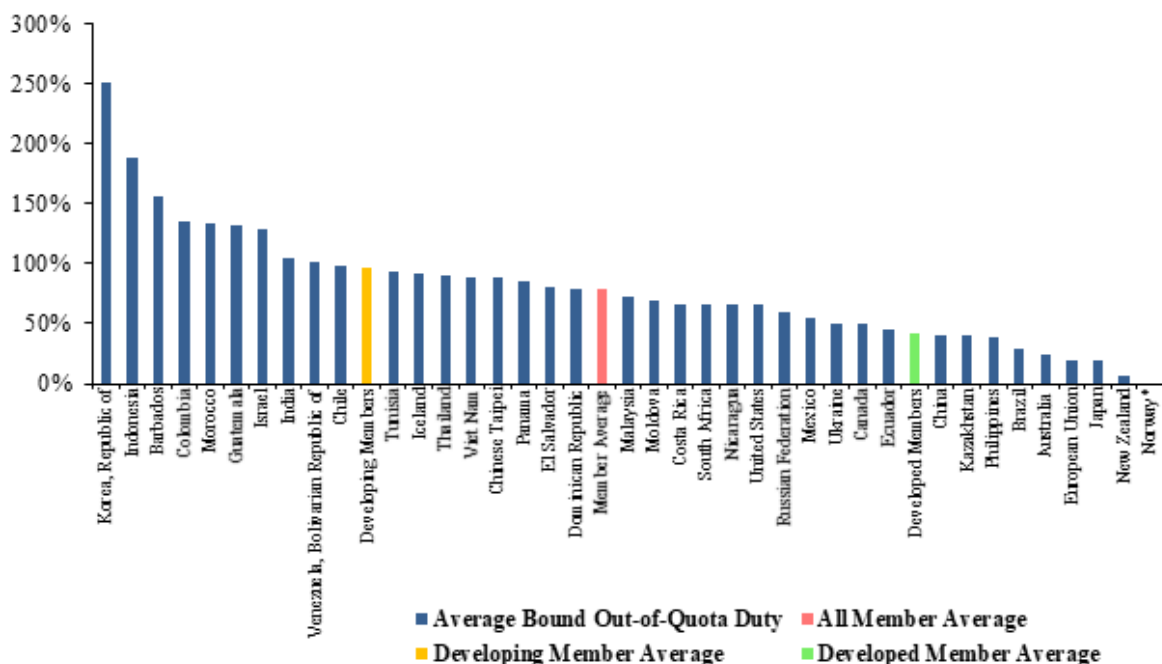


1.13. Analysis of the second tier of the quota, the out-of-quota bound rates, show that six Members provide duty free access for several TRQ tariff lines and products that effectively cancel the restrictive function of a TRQ.¹⁴ On average, TRQs with bound duty free out-of-quota rates, however, only accounted for 7% of the total number of TRQ lines for those six Members. The average bound out-of-quota duty for all Members' TRQs and for all products was 79.2% (Figure 8). Developed Members' average bound out-of-quota duty was 41.5%, while developing Members' average bound out-of-quota duty was 96.6%. Republic of Korea, Indonesia, and Barbados had an average bound out-of-quota rate greater than 150%. New Zealand was the only Member with an average bound out-of-quota rate less than 10%.¹⁵

¹³ Some tariff lines utilize both complex and simple NAV tariffs at HS-6 line level. To avoid a double count and overstate the number of TRQ lines a Member utilizes, "Complex and Simple NAV" category was used.

¹⁴ Canada, Iceland, Norway, South Africa, Switzerland, and the United States.

¹⁵ (*) Analysis does not take account of NAV duties as AVE rates are not available for all Members and commodities. While Norway has several TRQ lines with out-of-quota AV duties that are below 10%, a vast majority of its bound TRQ schedule utilize out-of-quota NAV duties. The position for this Member relative to other Members could be significantly skewed given that no AVE data is currently available.

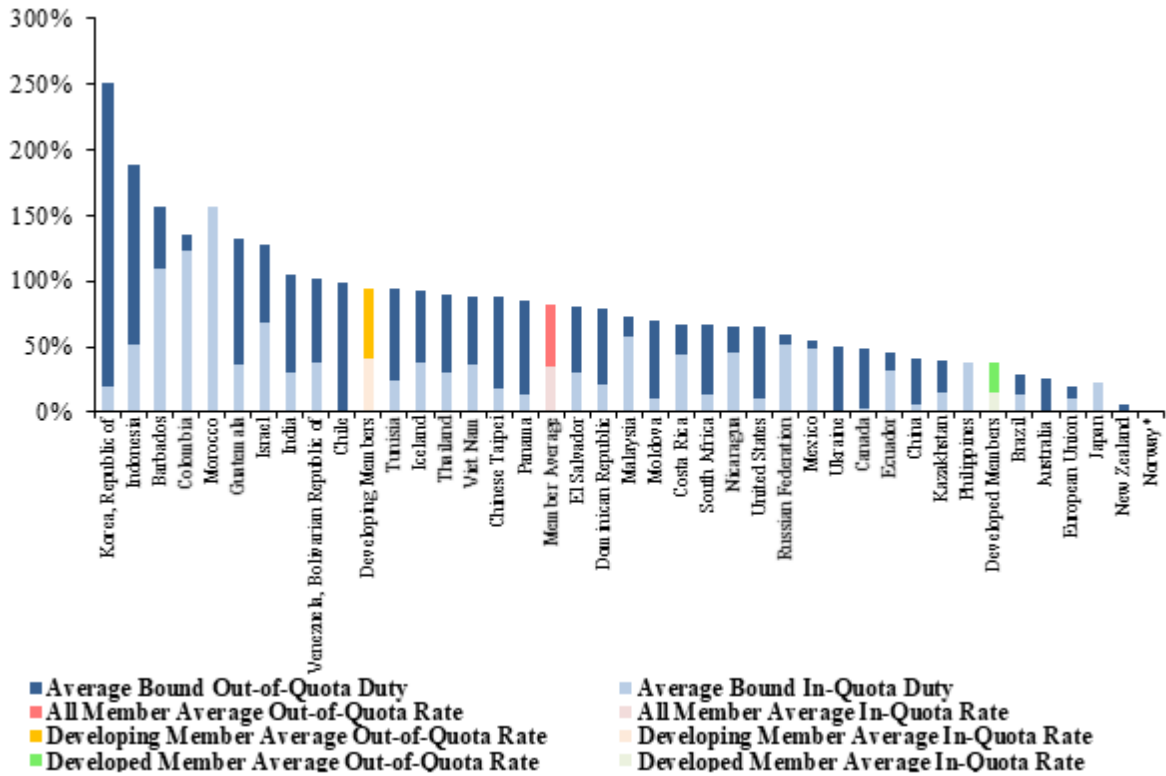
Figure 8: Average Bound Out-of-Quota Rate for TRQs (AV Duties Only)

1.14. Comparison of bound out-of-quota duties to bound in-quota duties show that, on average for all Members and product groups, bound out-of-quota duties are 2.3 times larger than the in-quota duties. However, the difference between in-quota and over-quota rates vary from Member to Member and product to product. The average bound in-quota rate for the Republic of Korea, for example, is 12.8 times less than the average bound out-of-quota rate. On the other side of the spectrum, the bound in-quota rate for the Russian Federation was 1.2 times less than the bound out-of-quota duty (Figure 9).

1.15. Some Members have bound TRQ lines where the out-of-quota rate is lower than the in-quota rate. For example, the EU's TRQ on paddy rice consists of multiple tariff lines. The "rice for sowing" line (HS 10061010) has a bound in-quota rate of 15%. The bound out-of-quota duty for that line, however, is only 7.7%. Based on the most recent tariff schedule from the EU, the applied rate for that line is 7.7%. Similarly, Nicaragua's TRQ on chicken consists of multiple tariff lines. The line for "fatty livers, fresh or chilled" (HS 02074300) has an in-quota bound duty of 60%. The bound out-of-quota duty for that line, however, is 40%. The current applied MFN duty rate for that line is 15%.¹⁶

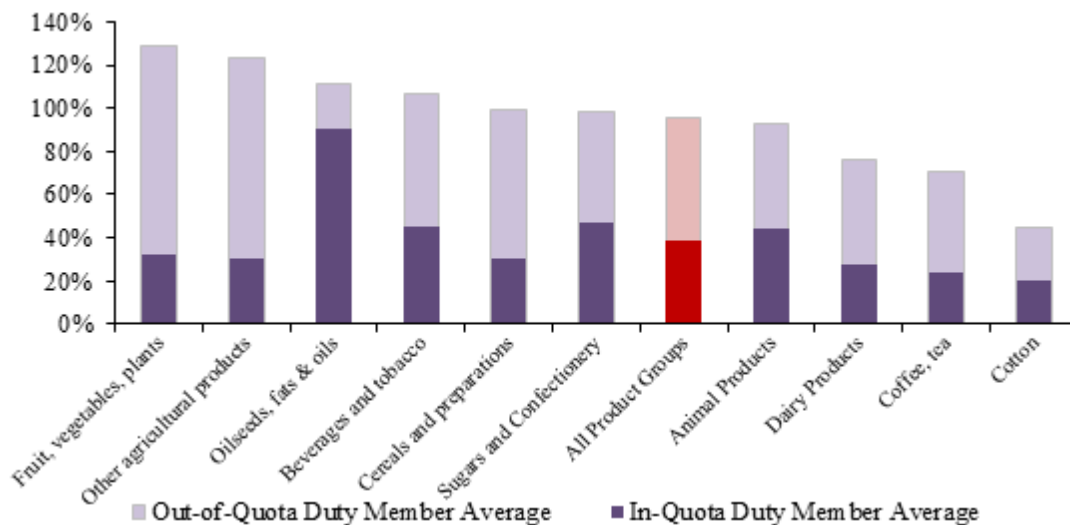
¹⁶ Barbados, China, Costa Rica, Ecuador, European Union, Iceland, Japan, Republic of Korea, Morocco, Mexico, Malaysia, Nicaragua, Philippines, El Salvador, and Bolivarian Republic of Venezuela have final bound in-quota AV duties larger than their respective bound out-of-quota AV duties in their TRQ schedules. The United States urges the Secretariat and all Members utilizing TRQs to review their respective bound schedules for possible mistakes or provide further understanding on the matter.

Figure 9: Average Bound In-Quota and Out-of-Quota Rates for TRQs (AV Duties Only)



1.16. "Fruit, vegetables, plants" product group had the highest bound out-of-quota rate of any product group (128%) followed by "other agricultural products" group (123%). The out-of-quota rates for these two product groups, on average, were also four times higher than their respective bound in-quota duties, the largest difference of any product group. "Oilseeds, fats, and oils" product group had the third largest out-of-quota rate (112%). The average bound out-of-quota duties of the product group were just 1.2 times higher than their average bound in-quota duties, the smallest difference of all the agricultural product groups. "Cotton" had the lowest average bound out-of-quota rate (44%) followed by "coffee and tea" products (71%) (Figure 10).¹⁷

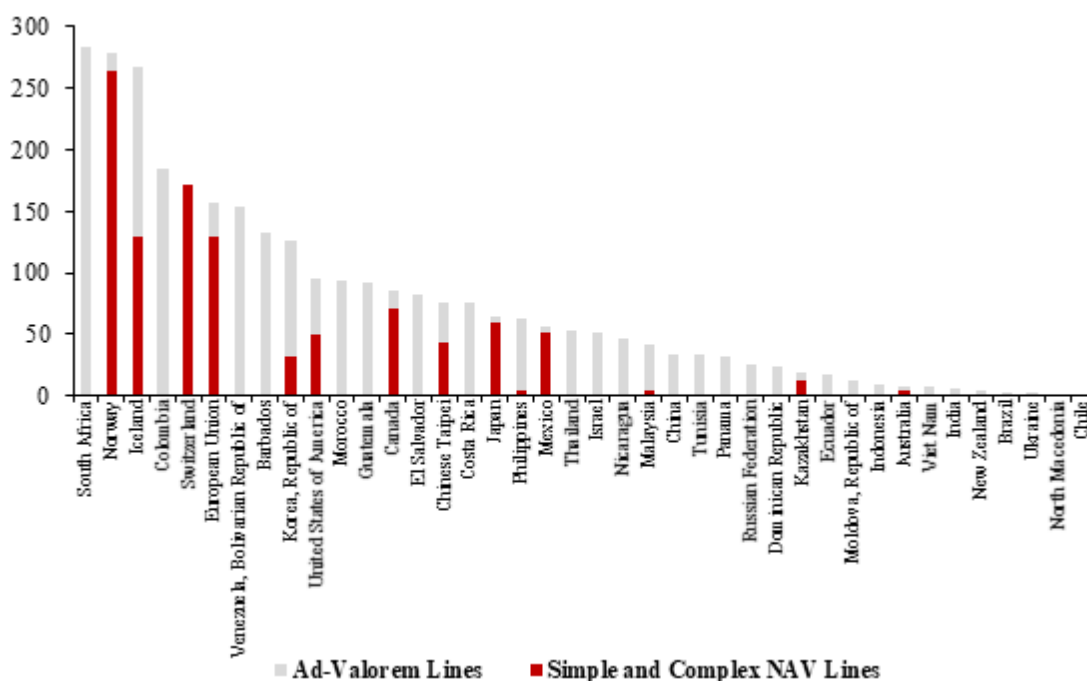
Figure 10: Average Bound In-Quota and Out-of-Quota Rates Per Product Group (AV Duties Only)



¹⁷ Comparison could not be made between in-quota and over-quota lines if part of the TRQ is described in AV terms while the other is described in NAV terms.

1.17. Out-of-quota duties bound in simple and complex NAV terms are also an integral part of several developed and developing Member's TRQ schedules, as is the case with in-quota rates. Seventeen Members, five more than those that bound in-quota duties, bound their out-of-quota duties in NAV terms (Figure 11).¹⁸ Altogether, 1,025 out-of-quota tariff lines (at the HS-6 digit) are bound in NAV terms, higher than 717 in-quota tariff lines that were bound in NAV terms. With the exception of North Macedonia (which has only one complex tariff TRQ) and Switzerland (all of whose agricultural schedule is in simple (specific) tariff terms), no Member solely bound their out-of-quota TRQs in simple or complex NAV terms.¹⁹ For Norway, Japan, Mexico, European Union, and Canada, tariff lines in simple or complex NAV terms accounted for 80% or more of all the out-of-quota tariff lines. Complex NAV tariffs made up more than half of Canada's, Mexico's, and Norway's bound out-of-quota lines.

Figure 11: Bound Out-of-Quota TRQ Duties by Tariff Type, Number of TRQ Lines (HS-6 Level)



Applied TRQ Transparency Issues

1.18. In its attempt to understand the current TRQ landscape, the United States encountered several transparency issues that it would like to bring to Members' and the Secretariat's attention. First, 17 of the 40 Members with TRQs have bound and applied TRQ lines at a level broader than HS-6 (e.g. HS-2 or HS-4 level). The United States had difficulty understanding the scope of these TRQs – that is, what lines (at HS-6 or national tariff level) were part of these Members scheduled TRQs – and the tariff rates associated with these TRQ lines. For example, Barbados lists all of Chapter 15 as part of its animal or vegetable fats TRQ. However, Chapter 15 includes non-agricultural products. An exporter may be confused as to what lines within Chapter 15 are subject to the TRQ and what lines, if any, are not.^{20,21}

¹⁸ Some tariff lines utilize both complex and simple NAV tariffs at HS-6 line level. To avoid a double count and overstate the number of TRQ lines a Member utilizes, "Complex and Simple NAV" category was used.

¹⁹ All agricultural lines in Switzerland's tariff schedule are in specific (NAV) tariff terms.

²⁰ Members that have TRQs at a level that is broader than HS-6 include: Barbados, Colombia, Costa Rica, Dominican Republic, El Salvador, Guatemala, Indonesia, Israel, Republic of Moldova, Morocco, Nicaragua, Norway, Philippines, South Africa, Thailand, Tunisia, and the Bolivarian Republic of Venezuela.

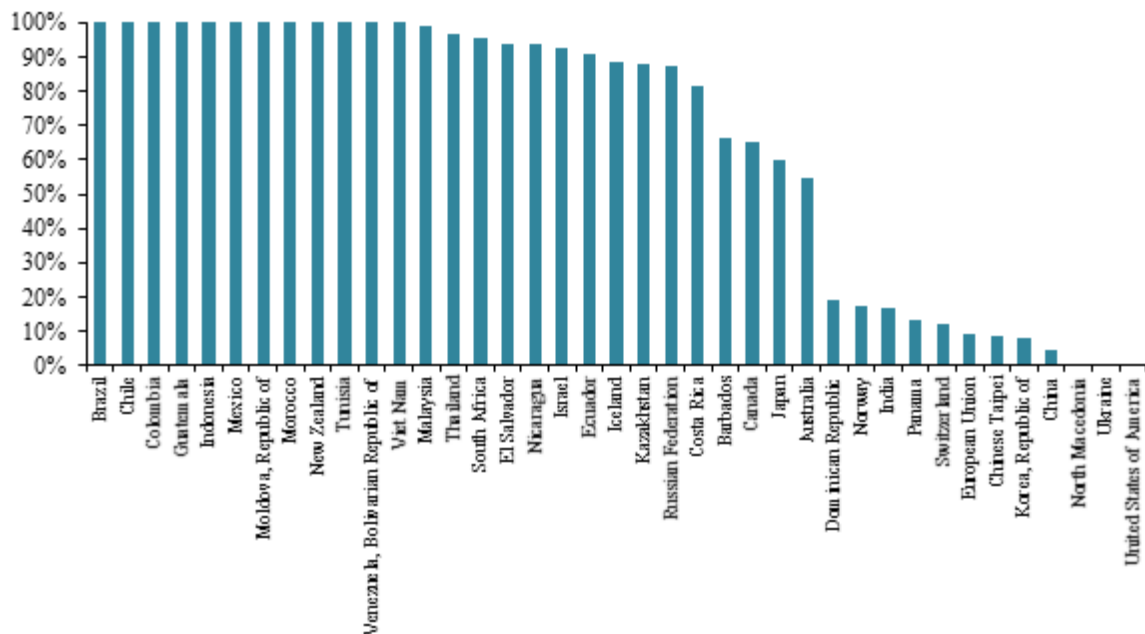
²¹ The Decision adopted by the Committee on Market Access regarding Modalities and Operation of the Integrated Database (G/MA/367, circulated on 3 June 2019), now requires Members to submit in-quota and out-of-quota indicators for each affected tariff line. However, as of November 2019, the United States is not aware of any Member having provided this data.

1.19. Second, for Members that utilize a "single line" TRQ method, the higher out-of-quota rate is often supplied in Member's IDB submitted schedules while the lower in-quota rate is not provided. As no applied in-quota rates are provided, exporters may face difficulties understanding the actual market access that is afforded to a Member. For example, the EU TRQ on garlic has an in-quota rate of 9.6% and an out-of-quota rate of "9.6% + 120 EUR/100 KG". In its IDB submitted applied schedule, only the out-of-quota rate is provided for the TRQ line.²² This problem is further exacerbated by the fact that there is no easy way to assess whether a Member uses a "single" or "multiple" TRQ line method when examining the various data from WTO Tariff Analysis Online Database (TAO).

1.20. Third, there are transparency issues assessing both bound versus applied rates in TRQs, as well as issues assessing changes in applied rates. With regards to the first issue, the TRQ commitments specified in the WTO Tariff Analysis Online database are not updated with the most recent nomenclature with many of these bound TRQ lines in the database still in HS-96 format. This is compounded by the fact that certain Members' applied and bound schedules are not up to date. With respect to the second, Members cannot assess or easily evaluate possible changes in applied tariffs (or potential changes in TRQ quantities).

1.21. In regard to the out-of-quota rates, analysis of Members' most recent applied schedule and their respective schedule of concessions shows that Members had changed the rates for an average of 65.7% of their respective out-of-quota tariff lines. Brazil, Chile, Indonesia, Mexico, New Zealand, and Viet Nam, along with six other Members, had changed all of their out-of-quota rates since joining the WTO. North Macedonia, Ukraine, and United States had no changes between the bound and applied out-of-quota rates. It appears that all rate changes consisted of tariff decreases. Without proper publication of current in-quota and out-of-quota rates, some exporters may find themselves at a disadvantage when deciding if they should ship their goods to one Member instead of another. If Members decide to raise their rates back to previous levels, the consequences for exporters may be significant (Figure 12).^{23,24}

Figure 12: Out-of-Quota Rate Change Between Bound and Applied TRQs (% of HS-6 Lines w/Different Bound and Applied Rates)



²² WTO TQ ID: EECQ075.

²³ Analysis was based on TRQs at HS-6 or national tariff line level only.

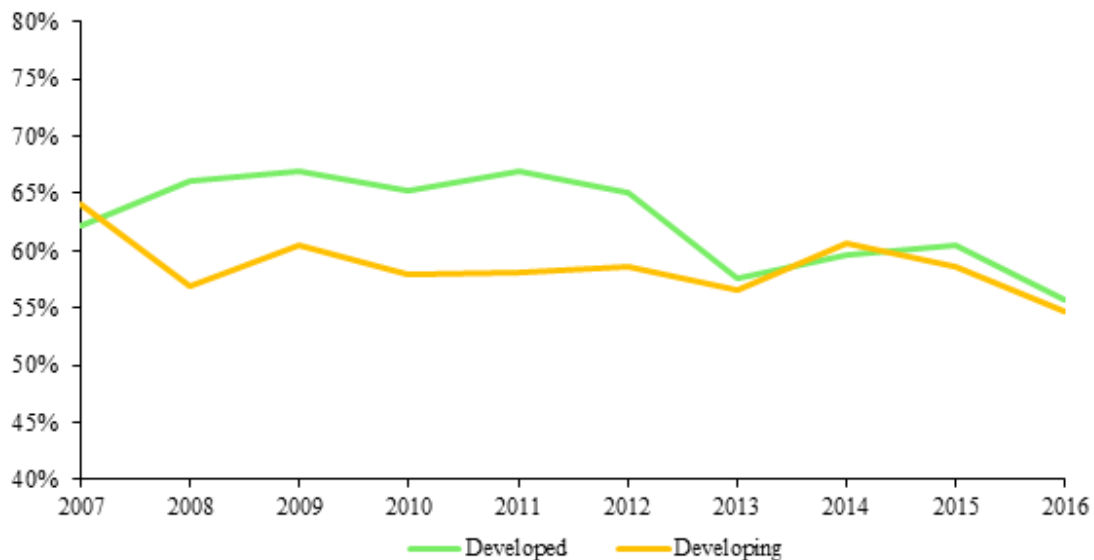
²⁴ While there are multiple rate differences in Canada's bound and applied schedules, a significant majority of these differences had low deviation. Differences in rates for the Russian Federation and Kazakhstan may be attributed to ongoing implementation of their respective WTO commitments.

1.22. Twenty years ago, the Secretariat provided a background note relative to the Committee's notification requirements that still applies today. Based on Canada's prior submission (G/AG/W/43) examining the problems of Market Access notifications, the Secretariat suggested Members should indicate in their MA:1 notifications all the constituent products that are covered by the aggregate or jointly administered tariff quotas. The Secretariat also suggested indicating, if there are differences between the bound in-quota rates applicable to the various individual tariff quotas, of how a Member intends to ensure that the tariff treatment specified in the Member's schedule encompasses all the products concerned in a notification.²⁵

Analysis: TRQ Fill & Administration

1.23. Over the last 10 years, data gathered from WTO Member notifications has indicated that fill rates have been in decline globally, most significantly since 2014 (declines of 16.1 percentage points and 11.3 percentage points for developed and developing Members, respectively); however, the long-term decline in fill rates for developed Members dates back to 2011. Members with the most substantial declines over the previous decade include El Salvador, Tunisia, Malaysia and Ukraine, all Members with at least 17 percentage point declines (Figure 13). In the three-year period ending 2016, only four Members on average filled their TRQs to capacity: Australia, Mexico, Viet Nam, and Israel. The simple three-year average fill rate for all Members with opened TRQs was 56% (Figure 14).^{26,27}

Figure 13: Aggregate Simple Average Fill Rates, 2007-2016 (Source: G/AG/W/183)

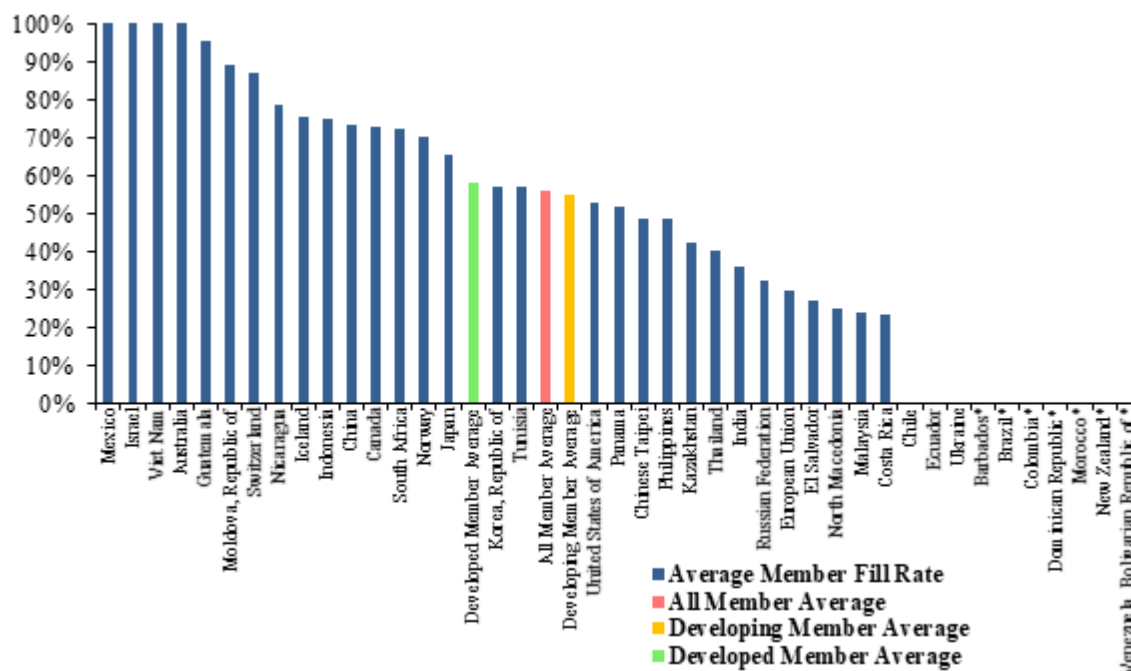


²⁵ G/AG/W/45 (pages 2-3).

²⁶ Members with (*) after their names submitted no data on tariff quota fill rates for the 2014 to 2016 time period (Barbados, Dominican Republic, Morocco, the Bolivarian Republic of Venezuela) or did not open any tariff quotas (Brazil, Colombia, New Zealand) during the time period.

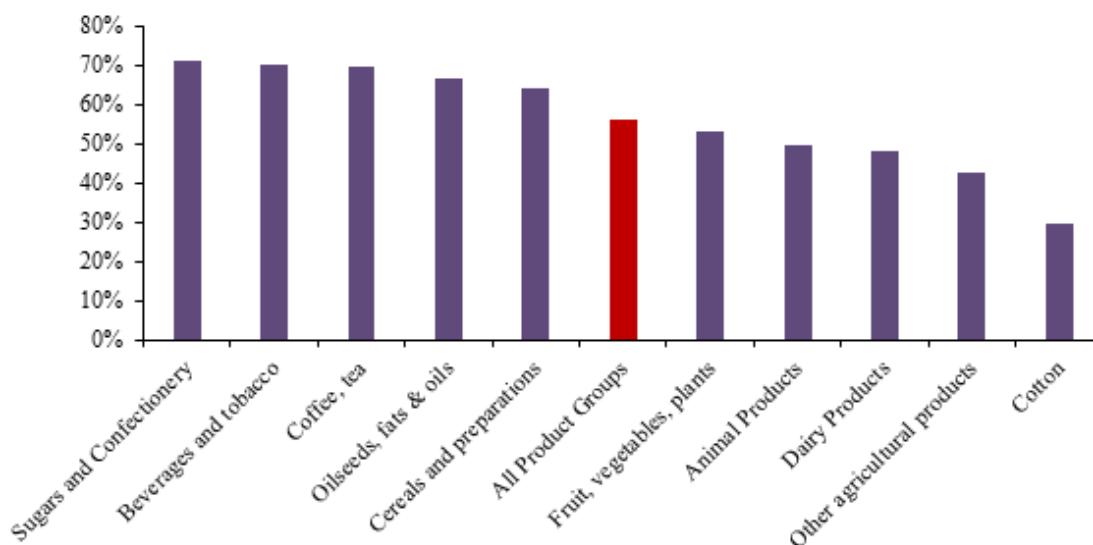
²⁷ Tariff quotas with notified fill rates above 100% were set at a maximum of 100% and then averages were calculated so as not to skew the data. "Fill rates" are the average of each reported rate over the three-year period, calculated as a simple average.

Figure 14: Tariff Quota Fill Rates, Simple 3-Year Average (2014-2016) Capped at 100%



1.24. TRQs containing sugar and confectionary products had the highest fill rates at 71% on a simple average basis over the 2014 to 2016 period. Not far behind were the "beverage and tobacco" (70%), "coffee and tea" (70%), and "oilseeds, fats, and oils" (67%) product groups. Cotton TRQs came in with the lowest fill rates in the same period with only 30% fill rates on average (Figure 15).²⁸

Figure 15: Tariff Quota Fill Rates by Product Group, Simple 3-Year Average (2014-2016)



1.25. While TRQ fill rates generally range from zero to 100%, it is possible to overfill a TRQ, an instance where a Member allows additional access and imports a larger quantity of a product at the in-quota rate than is laid out in their tariff schedules. This might occur regularly or on an ad hoc basis to satisfy domestic demand for certain products. Indonesia, Switzerland, Thailand, Mexico, Israel, and Guatemala all have three-year simple average fill rates above 100% when calculated in a way that allows for a fill rate scale beyond zero to 100%. Not all Members express this uniformly.

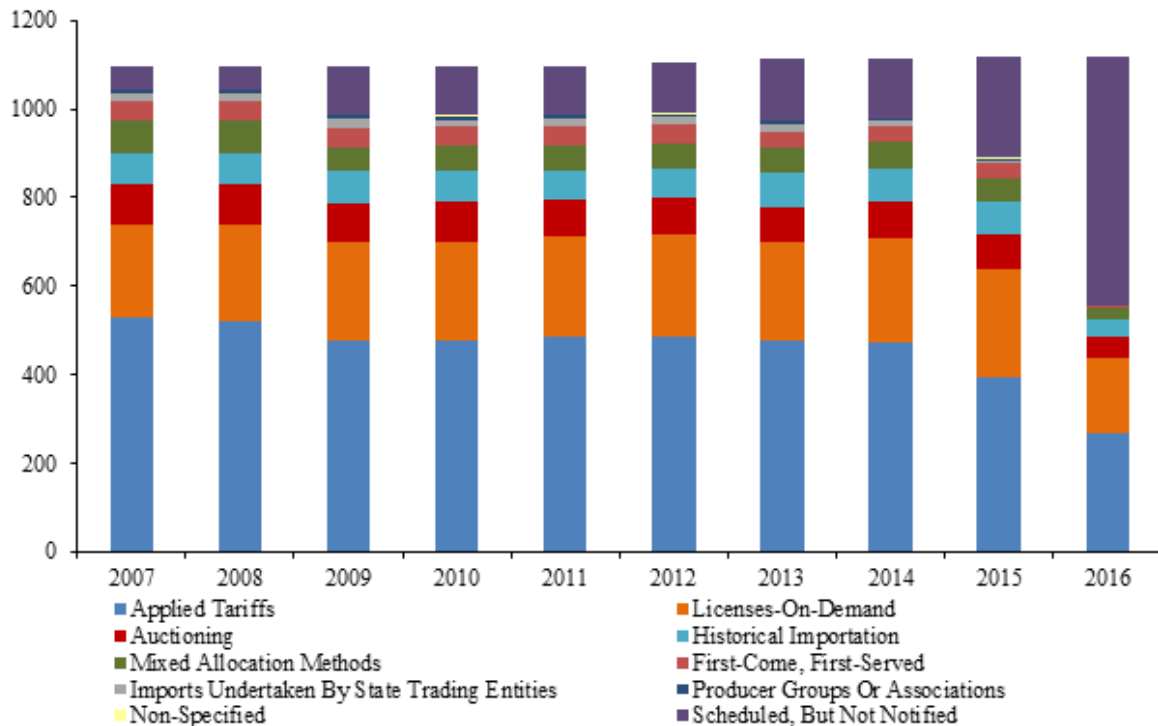
²⁸ Tariff quotas with notified fill rates above 100% were set at a maximum of 100% and then averages were calculated so as not to skew the data. Fill rates are the average of each reported rate over the three-year period, calculated as a simple average.

Most report percentages above 100% if TRQs are overfilled, such as Switzerland reporting a 6,485% fill rate on its live bovine TRQ. Israel, on the other hand, which exceeds the quantity of in-quota imports for nearly all of its scheduled TRQs, simply reports 100%.

1.26. Members provide details on their own TRQ administrative methods through Table MA:1 notifications, as well as Table MA:2 especially in cases where a TRQ is not opened and a tariff is generally applied at or below the level of bound in-quota tariff in the relevant reporting year. How a Member administers a TRQ can take several forms including through primary administrative methods (as previously categorized and coded by the WTO Secretariat) as well as through additional secondary categories of conditions. Generally speaking, the administrative methods used for TRQs remained consistent over the last decade.²⁹

1.27. The majority of TRQ notified by Members utilize the "applied tariff" administration method, where the TRQ is not open and products within the TRQ are imported at the bound in-quota rate or below. Nearly half of existing TRQs are administered as applied tariffs, in which products enter in unlimited quantities under an in-quota rate (Figure 16). Members such as Chile, Ecuador, Ukraine, Mexico, New Zealand, Nicaragua and Norway have regularly closed scheduled TRQs, instead administering them as applied tariffs. A specific instance of this can be found with the European Union's TRQ for brown rice, which has an in-quota rate of 88 €/1000kg but can enter at the MFN rate of 66.5 €/1000kg. Additionally, some Members have scheduled TRQs that they neither opened nor notified, effectively rendering them closed and inoperable. In this situation, goods enter at unlimited quantities not at a lower in-quota rate, but a higher out-of-quota rate. This occurrence has been the focus of discussions by Members, with some advocating for an explanation why scheduled TRQs are not opened to improve global market access.

Figure 16: Number of Tariff Quotas by Administrative Method, 2007 to 2016
(Source: G/AG/W/183)



²⁹ The difference in administrative methods for TRQs in 2015 and 2016 are due to the delay in notifications.

1.28. The next most common administration method for existing scheduled TRQs is the "license-on-demand" method. In this case, import licenses or import shares are generally allocated in relation to quantities demanded prior to the opening of the TRQ period. Frequent users of this type of administrative method include Chile (sugar products) and Malaysia (meat, dairy, and egg products).

1.29. Another commonly used administration method is "first-come, first-served". In a basic "first come, first served" method, imports are permitted entry at the in-quota rate until the TRQ is filled, at which point they then enter at the out-of-quota rate. The tariff rates are determined by the order of the physical importation of products and there are no licenses or special access for certain importers. Morocco and North Macedonia exclusively use the "first-come, first-served" methods in their TRQ administration.

1.30. The historical importation administrative method allocates current shares of licenses for imported products based on past imports of the product. This method uses an explicit "base period" or base year laid out in TRQ notifications that is referenced when allocating current period import shares. The Philippines and Tunisia (applied to a host of agricultural products), and Ukraine (sugar products) are some of the exclusive users of the historical importation method. Australia, Mexico, and Switzerland have reported fill rates of 100% or nearly 100% for their TRQs administered through the historical importation method in the last decade.

1.31. With the TRQ administrative method known as auctioning, import shares or import licenses are allocated based on a competitive bid system administered by the importing Member government. Licenses or shares can be allocated and given to importers free of charge or they can be purchased and bring in revenue for Member governments. El Salvador (annual fill rates between 19 and 66%), Iceland (76 to 81%), and Panama (35 to 56%) are Members that have exclusively used the auctioning method in recent years.

1.32. There are also a variety of administrative methods that are rarely used, including methods that are not specified by Members or administered TRQs that use a combination of methods. Some import shares of active TRQs are given entirely to producer groups, associations, or state trading entities. Other TRQ administrative methods are completely unique and do not fall into any of the above categories.

1.33. In addition to the primary administrative methods above, there are several additional or secondary rules that Members apply when administering TRQs. Some Members allocate a fixed amount of licenses for new entrants. For example, Kazakhstan allocates 10% of its poultry TRQ volume to new suppliers.³⁰ Certain Members have included domestic purchase requirements, where the purchase or use of domestic production of the product is required to secure a share of the TRQ; required export certificates, or export documentation such as certificates of origin, which must be supplied by the exporter and issued by the exporting Member country to secure an import share of the TRQ; or imposed caps to allocation shares that are not always in proportion to historical allocation or requested import shares.

1.34. While it is important to note that a TRQ fill rate is a result of factors including market conditions, the type of TRQ administration method can also impact fill rates. On a simple average basis, the historical importation administrative method has averaged a 67% fill rate from 2007-2016, the highest rate among all methods. Mixed allocation methods have filled at a similar rate, averaging a 64% fill rate since 2007. Notably, however, neither of these administration methods are significantly utilized (accounting for approximately 12% of total scheduled TRQs).³¹ License on Demand, the second most utilized administration method, on the other hand, had an average fill rate of 53%. Economic conditions including world prices, economic growth, change in consumer demands and preferences are other factors that may cause the differences in TRQ fill rates between each administrative method.

³⁰ G/AG/N/KAZ/4.

³¹ G/AG/W/183.

- 1.35. From the perspective of potential exporting countries, there are two types of TRQ allocations:
1. Under a "global" TRQ allocation system, the available quota quantity is available to all eligible Members under the classification (other vs. *erga omnes*).
 2. Some TRQs may entail country-specific allocations.

Previous analysis on notified country-specific TRQs found that 12 Members currently apply country-specific TRQs.³² The European Union provided the most country-specific quota allocations of any Member (in terms of TRQ volumes) with 28 different scheduled quotas. Argentina, Australia, Brazil, Canada, New Zealand, Thailand, and China are also provided a large volume of Members' TRQ allocations. More detailed analysis of country-specific TRQs was difficult because there is no established location within WTO notifications that Members must report TRQ breakdowns by country.

1.36. According to the analysis, cheese, sugar, beef, milk, poultry, rice, pork, butter and wheat are the primary products subject to country-specific TRQs. The average fill rate of all country-specific TRQs is 61%, but can vary considerably depending on administering country and products covered.

Conclusion

1.37. The United States aims to deepen Members' understanding of the prevalence and different methods of administration of tariff rate quotas. In its analysis, the United States has found that TRQs are used by 40 Members, both developing and developed Members alike. TRQs are prevalent in all major agricultural product groups, with dairy, sugar and animal products having a larger share of TRQs than other product groups. However, it is worth mentioning that nearly half of scheduled quotas are administered as applied tariffs.

1.38. Although TRQs were designed as a tool of access, very high over quota and in-quota tariffs, low fill rates, and confusing operation and administration of TRQs are still prevalent today that can make TRQs a tool of protection rather than liberalization.

1.39. The United States requests that the Secretariat continue to compile and publish information on TRQ administration, with a focus on deeper analysis of the issues identified in this submission. Likewise, the United States requests that Members ensure that all WTO notifications relevant to TRQs are up to date and incorporate data that could improve other Members' knowledge.

1.40. The United States will continue its own analysis of the areas specified in the July 2018 submission (JOB/AG/141) and looks forward to constructive engagement from other Members.

³² JOB/AG/161; Dominican Republic, the European Union, Canada, the Republic of Moldova, Norway, Panama, the Russian Federation, the United States, Ukraine, Chile, Switzerland and Japan.

APPENDIX

Table 1: Simple Average Fill Rates by TRQ Administration Method and Year (%)³³

ADMINISTRATION METHOD	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	Simple Average Fill Rate 2007-2016
First-Come, First-Served	50	49	53	46	45	47	43	48	50	6	44
License-on-Demand	58	59	57	53	53	53	49	48	47	48	53
Auctioning	63	60	58	57	64	63	61	62	59	48	59
Historical Importation	73	70	67	68	69	76	64	62	61	56	67
Imports Undertaken by State Trading Entities	60	60	57	72	71	74	60	50	50	0	55
Producer Groups or Associations	65	66	61	54	53	51	54	84	75	0	56
Other	75	75	75	75	75	75	75	75	75	75	75
Mixed Allocation Methods	64	61	65	61	62	67	63	63	69	67	64
Non-Specified	0	58	0	57	100	47	42	82	49	43	48
Annual Simple Average Fill Rate Over All TRQs	61	60	59	57	58	59	55	55	54	51	57

³³ G/AG/W/183; Fill rates do not differentiate tariff quotas on the basis of their size or economic importance.