

BOOK REVIEWS

doi:10.1017/S1474745624000272

Lars Brink and David Orden, *Agricultural Domestic Support under the WTO: Experience and Prospects*

Cambridge University Press, 2023

(Received 8 May 2024; accepted 8 May 2024; first published online 24 September 2024)

The WTO Agriculture Agreement regulates, among other things, the types, entitlements, and maximum limits of agricultural subsidies that WTO Members may provide to their domestic producers. This is known as domestic support. Although few subjects in international trade are as complex, significant, and politically sensitive as domestic support, it is rare to find a book that examines in detail this subject.

This book provides a comprehensive analysis of the various aspects of domestic support, including the WTO legal disciplines, economic analyses, trends, WTO disputes, as well as ongoing WTO negotiations. In terms of timing, the book's release comes during a crucial period in which domestic support, as well as related subjects, such as public stockholding, have taken center stage in WTO negotiations.

In the introductory chapter, in Section 1 of the book, the authors explain that domestic support is part of three major areas regulated by the Agriculture Agreement, the other two being market access and export competition. The authors remind that the concept of domestic support – limits on the amounts of support without applying a test of adverse effects – was a novel discipline that resulted from the Uruguay Round negotiations, which took place between 1986 and 1984.

In Section 2, the authors present a clear explanation of the legal disciplines under the Agriculture Agreement concerning domestic support. They begin by addressing the negotiating history of this agreement, describing the different options considered by negotiators during the Uruguay Round for disciplining and limiting domestic subsidies for agricultural producers. As the authors indicate, Uruguay Round negotiators eventually settled on the concept of domestic support that differs from the concept of Producer Subsidy Equivalent, which had been developed years earlier by the Organisation for Economic Co-operation and Development. The book then explains how to calculate a Member's annual level of domestic support, expressed in terms of Aggregate Measurement of Support (AMS). As explained below, Members' AMS include market price support (MPS) measures, which, for instance, may take the form of government-set administrative prices for certain agricultural goods that exceed certain thresholds specified in the Agreement. Finally, the book describes the rules that govern the various carve-outs when calculating the AMS, namely the green box (subsidies that either do not distort trade, or distort it minimally), the blue box (subsidies that require farmers to limit production), and Article 6.2 development subsidies that are available only to developing countries.

Section 3 contains an economic analysis of the trade-distorting potential of two aspects of domestic support: the green box exemption and MPS. The Agriculture Agreement requires green box measures to either not distort trade or do so only minimally. The authors put this requirement to the test by reviewing the previous analyses conducted by other economists that have focused on various green box measures adopted by the United States (US) and the

European Union (EU). These different analyses generally confirm that green box measures of the US and the EU distort trade, but only at minimal levels.

As to MPS, the authors distinguish between MPS as defined under the Agriculture Agreement and MPS as traditionally understood in economic terms. As the authors emphasize, while MPS under the Agriculture Agreement is measured in terms of the gap between the government's administered price for a given product and the price that prevailed for that product in the period 1986–1988, economists assess MPS by measuring the gap between the domestic price and the border price for a given product. MPS under the Agriculture Agreement thus measures the protective effect on domestic producers caused exclusively by the governmental administered price, whereas economic MPS assesses the protective effect caused by all government policies that affect the domestic price and the border price. These policies would include not only a governmentally administered price, but also potentially other non-price measures, such as subsidies and import duties.

Section 4 of the book examines the trends in the types of domestic support notified by WTO Members to the Committee on Agriculture. The authors take a deep dive into more than 1,000 notifications submitted by WTO Members since 1995, from which they extract all types of trends and statistics: WTO Members that provide the largest amounts of domestic support, green box measures, blue box measures, Article 6.2 measures, the evolution of domestic support over the years, the differences between amounts reported as product-specific and non-product specific domestic support, among other things. For example, the authors note that, in the period 2016–2018, five WTO Members accounted for the largest amounts of domestic support, namely India, China, US, EU, and Japan.

Section 5 deals with the important issue of transparency. Often overlooked, transparency is more than just an obligation to notify domestic support measures. It is the instrument to ascertain whether WTO Members are complying with their domestic support obligations relating to scheduled AMS limits, *de minimis* limits, and the use of exemptions such as the green box, blue box, and Article 6.2 subsidies for developing countries. As the authors note, some WTO Members have a poor record of adhering to their transparency obligations, either because they notify outside the established deadlines, because they provide incomplete information, or because they do not notify at all.

Section 6 addresses the ongoing WTO negotiations regarding domestic support as part of the broader negotiations on agriculture. As mentioned at the beginning of this review, the value of this book is enhanced by the timing of its release, as it coincides with crucial WTO negotiations on issues bearing directly on domestic support. This includes negotiations on possible reductions of domestic support entitlements as well as clarification on the operation of public stockholding for food security purposes, which is a type of green box measure regulated in paragraph 3 of Annex 2 of the Agriculture Agreement. The authors describe the history of the agriculture negotiations that were launched in 2000 in the context of the 'fundamental reform' envisaged in Article 20 of the Agriculture Agreement. Following the failure, in 2008, to agree on modalities for cutting domestic support, perhaps the only concrete progress was the 2013 interim solution on public stockholding, which took the form of a 'peace clause' to not challenge in dispute settlement any public stockholding measure that results in exceeding a Member's domestic support limits. This refers to a situation whereby, in the context of a programme for acquiring stocks for food security purposes, a Member purchases a commodity (for example, wheat) at a price fixed by the government. If the government price is higher than the reference price stipulated in the Agriculture Agreement (price of 1986–1988), this would amount to market price support and, thus, must be included in that Member's domestic support calculations for that year. This is particularly problematic for WTO Members that are limited by *de minimis* levels because they do not have domestic support entitlements inscribed in their schedules. Fast forward to 2024, the issue of public stockholding was one of the most contentious issues discussed at the 13th

WTO Ministerial Conference held in Abu Dhabi. Once again, WTO Members failed to agree on a permanent solution to replace the 2013 interim solution.

Section 7 discusses the WTO disputes involving agricultural subsidies. These include *Korea – Various Measures on Beef*, *China – Agricultural Producers*, and *India – Sugar and Sugarcane*, three disputes that dealt with domestic support in the form of MPS. As the authors explain, the findings of the respective WTO panels are relevant to the calculation of MPS of any WTO Member.

In Section 8, the authors examine the recent evolution in agricultural policies, addressing five specific issues: productivity growth, biosecurity in agriculture, water management, safeguarding and enhancing biodiversity, and mitigation of climate change. According to the authors, in recent years, countries have shaped their agricultural subsidies in a manner that addresses these five priorities. The authors also note that, under the existing rules of the Agriculture Agreement, the green box allows countries to adopt domestic support measures of these types.

Finally, in Section 9, the authors present the lessons from the 30 years of application of the domestic support disciplines of the Agriculture Agreement. One of the authors' salient comments is that, despite the existence of hundreds of free trade agreements, the WTO Agriculture Agreement is the only legal regime that limits the levels of countries' domestic support. The authors also describe some problematic dimensions of the Agriculture Agreement, such as the calculation of MPS, which is based on a 1986–1988 reference price commonly regarded as outdated.

Overall, this book is a great contribution to the study and analysis of domestic support disciplines under the Agriculture Agreement. The book covers the legal aspects of domestic support by explaining the provisions of the Agriculture Agreement and the related WTO disputes, and also explains the real-world results of these disciplines from an economics perspective. Given that this book appears to be the first comprehensive study on this technical subject, it fills an important gap in the literature. However, this also means that, in order to fully appreciate its content, the reader must have some knowledge of WTO law and trade in agricultural products.

ALEJANDRO SÁNCHEZ
 Advisory Centre on WTO Law
 Email: alejandro.sanchez@acwl.ch

doi:10.1017/S1474745624000260

Juneyoung Lee, *Culture and International Trade Law: From Conflict to Coordination*

Brill/Nijhoff, 2023.

(Received 8 May 2024; accepted 8 May 2024; first published online 25 September 2024)

In Bach's 'Coffee Cantata', an early reflection on the influence of trade, there emerges Europe's growing fascination with coffee that began to reshape societal and cultural norms. Humorous yet incisive, it offers a window into challenges faced by contemporary international law in reconciling international trade dynamics with the imperative of preserving cultural diversity. By representing social changes instigated by a simple drink, 'Coffee Cantata' parallels today's legal discussion in which international rules seek to promote free trade and protect cultural assets. It is a fitting