



# **Implementation experience of the Agreement on Agriculture: discussions on a select disputes**

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**Diwakar DIXIT  
Agriculture and Commodities Division**

# Towards tariff-only regime

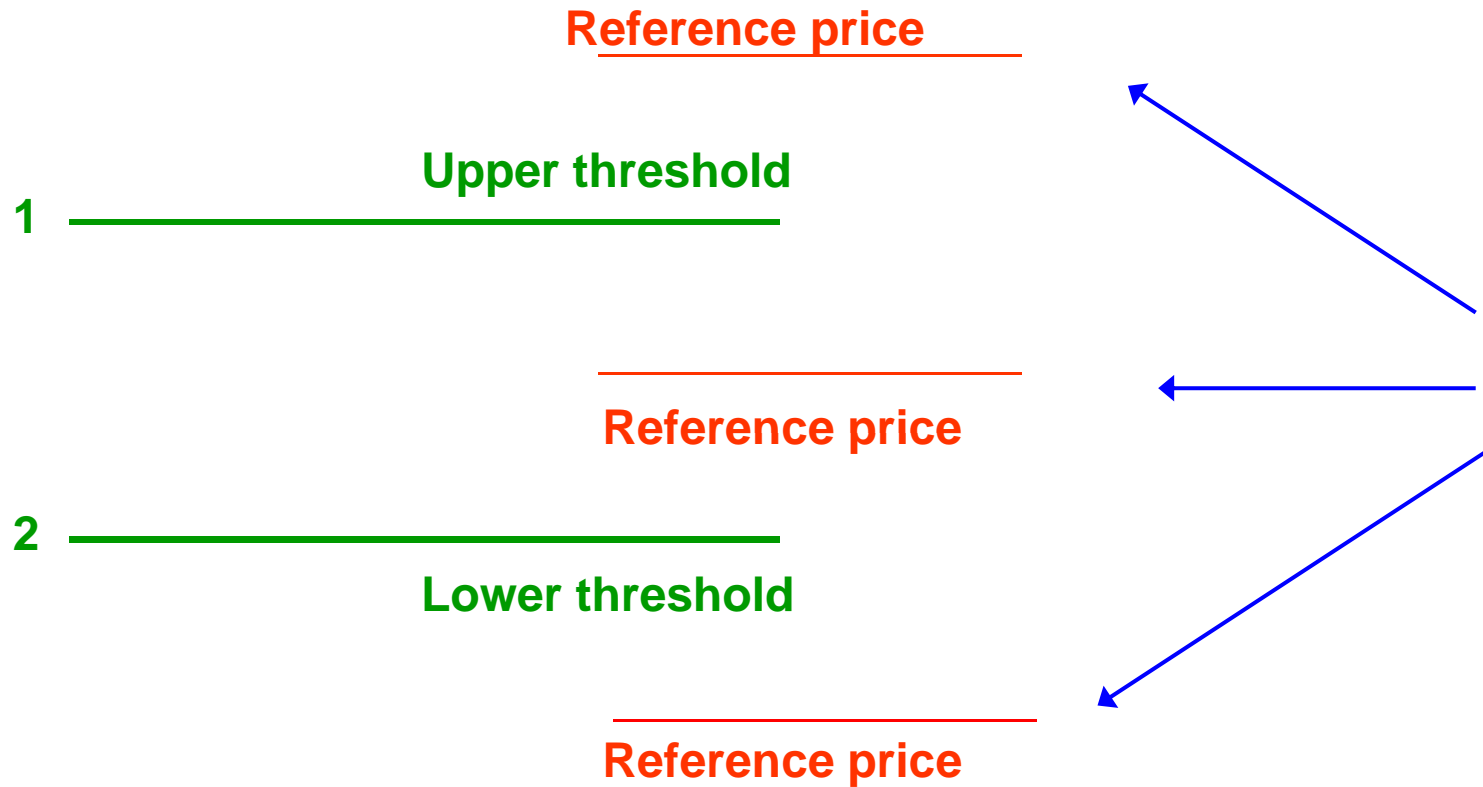
## Prohibition to maintain, resort or revert to (Art.4.2)

- Quantitative restrictions
- Variable levies
- Minimum import prices
- Discretionary import licensing
- NTMs maintained by STE
- Voluntary export restraints
- Similar border measures [...]

## Tariff-only regime (Chile Price-band case)

- Price-band system:
  - Upper and lower price thresholds fixed annually and a reference price fixed on a weekly basis.
- Application of an ad-valorem duty plus price-band related specific duty.
- Specific duty could be positive, zero or negative (i.e. duty rebates)
- Bound tariff respected.
- Examination of the measure vis-à-vis Article 4.2 of the Agreement.

# Tariff-only regime (Chile Price-band case)



## Tariff-only regime (Chile Price-band case)

- Article 4.2 applies is irrespective of the fact whether conversion of on-tariff measures actually took place or not.
- Article 4.2 is an additional obligation over and above Article II of GATT 1994.
- Regime or measure itself had an inherent or in-built or automatic variability (rather than discrete administrative actions to change the duty)
- Lack of transparency and predictability
- Scope of “similar border measures”

## Implementation of export subsidy rules (Guidance from disputes )

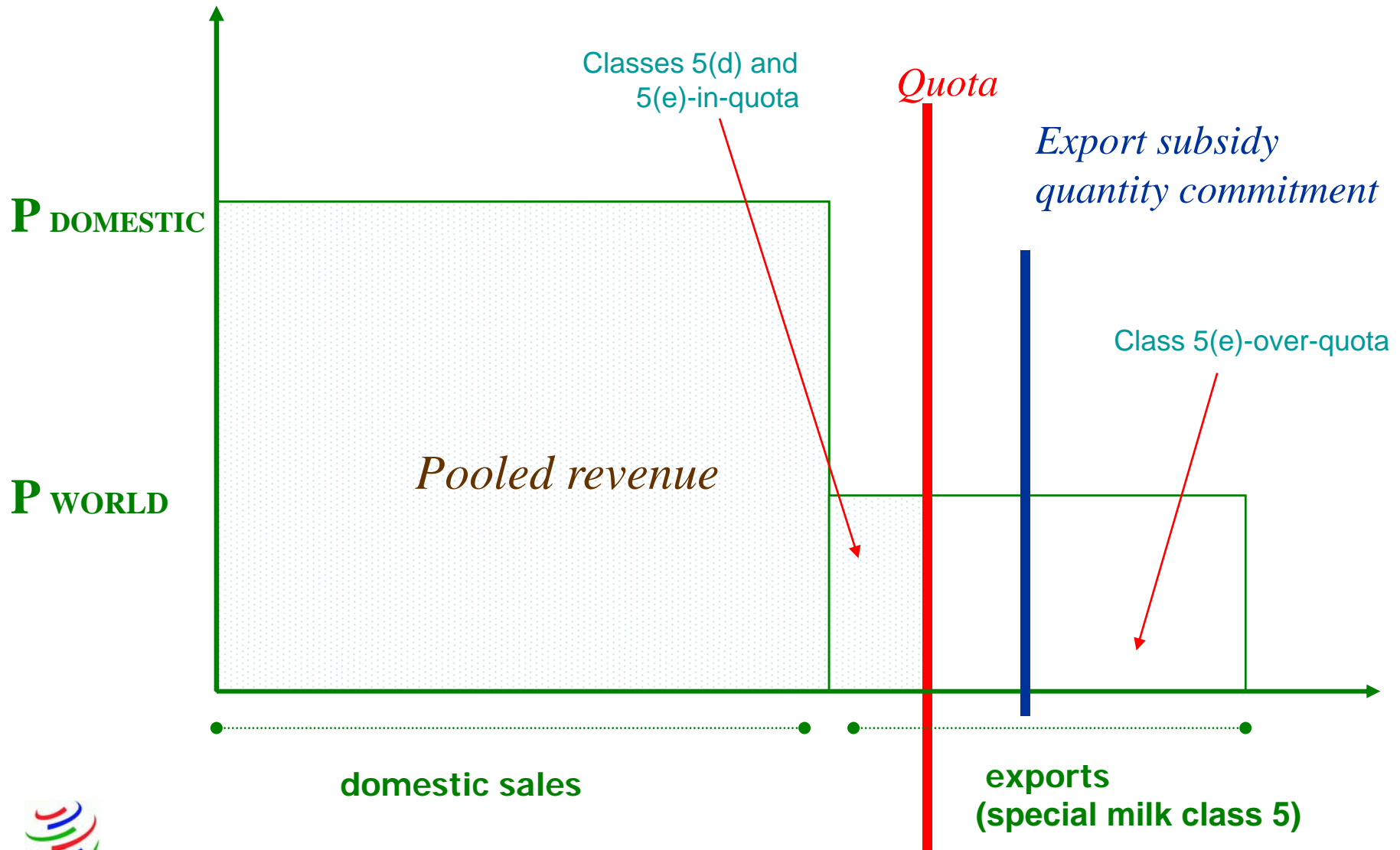
- Article 9.1(a): “.....the provision by **government or their agencies** of direct subsidies, including **payments-in-kind..... contingent on export performance**”
- Article 9.1(c): “**payments on the export of an agricultural product that are financed by virtue of governmental action, whether or not a charge on the public account is involved.....”**”

# Canada - Dairy Case

- Basic components of Canada's dairy regime:
  - Production quotas
  - Administered support prices; and
  - Border protection
- Milk classification scheme: pricing of milk based on its end use
- Classes 1-4 : milk exclusively for the domestic market
- Special Milk Classes: five sub-classes of class 5
- Sub-classes 5(a) to (c) : products sold either in domestic or export markets
- **Special Class 5(d)** : milk used in products for traditional export markets;
- **Special Class 5(e)**: removal of surplus milk from the domestic market

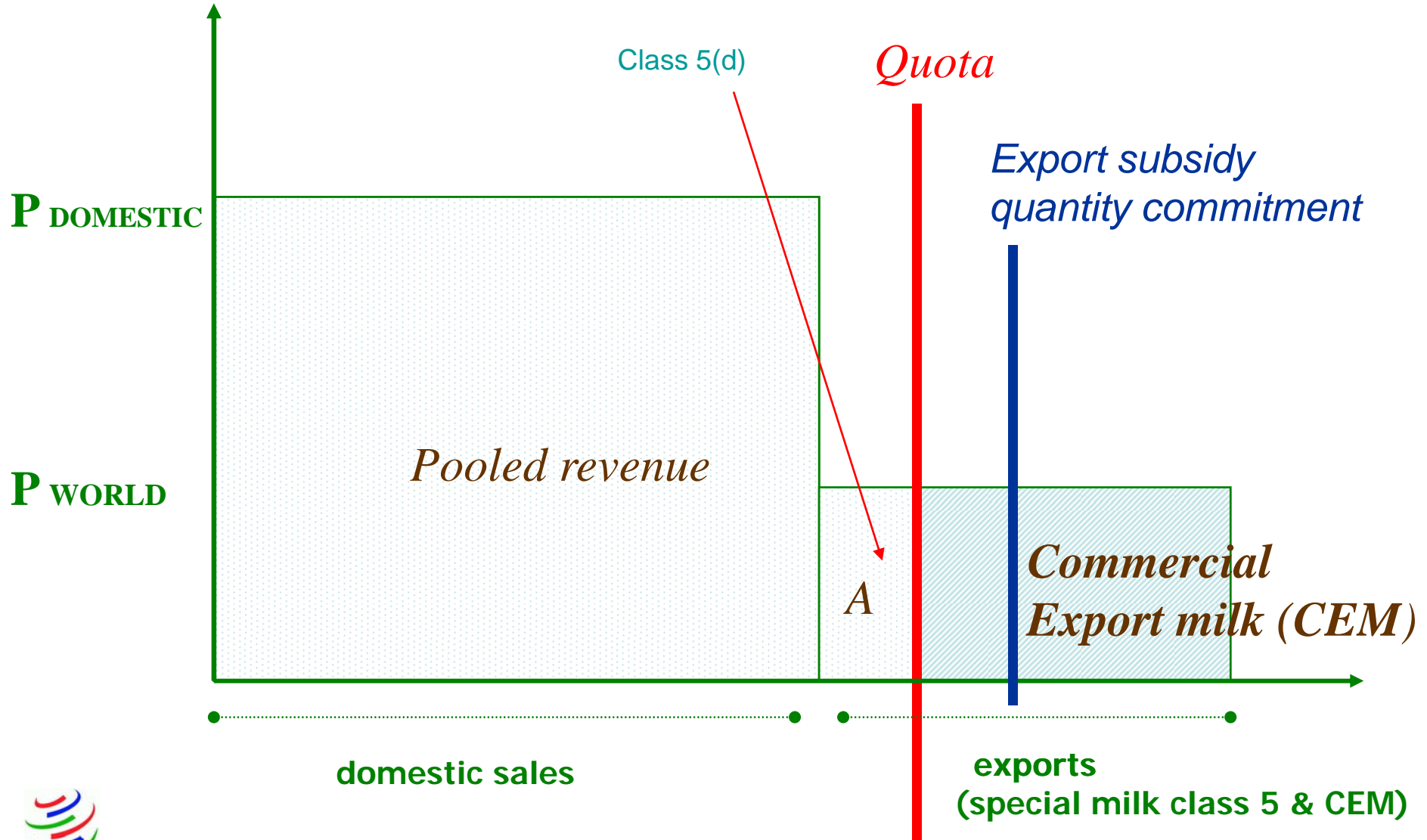


# Canada - Dairy Case I

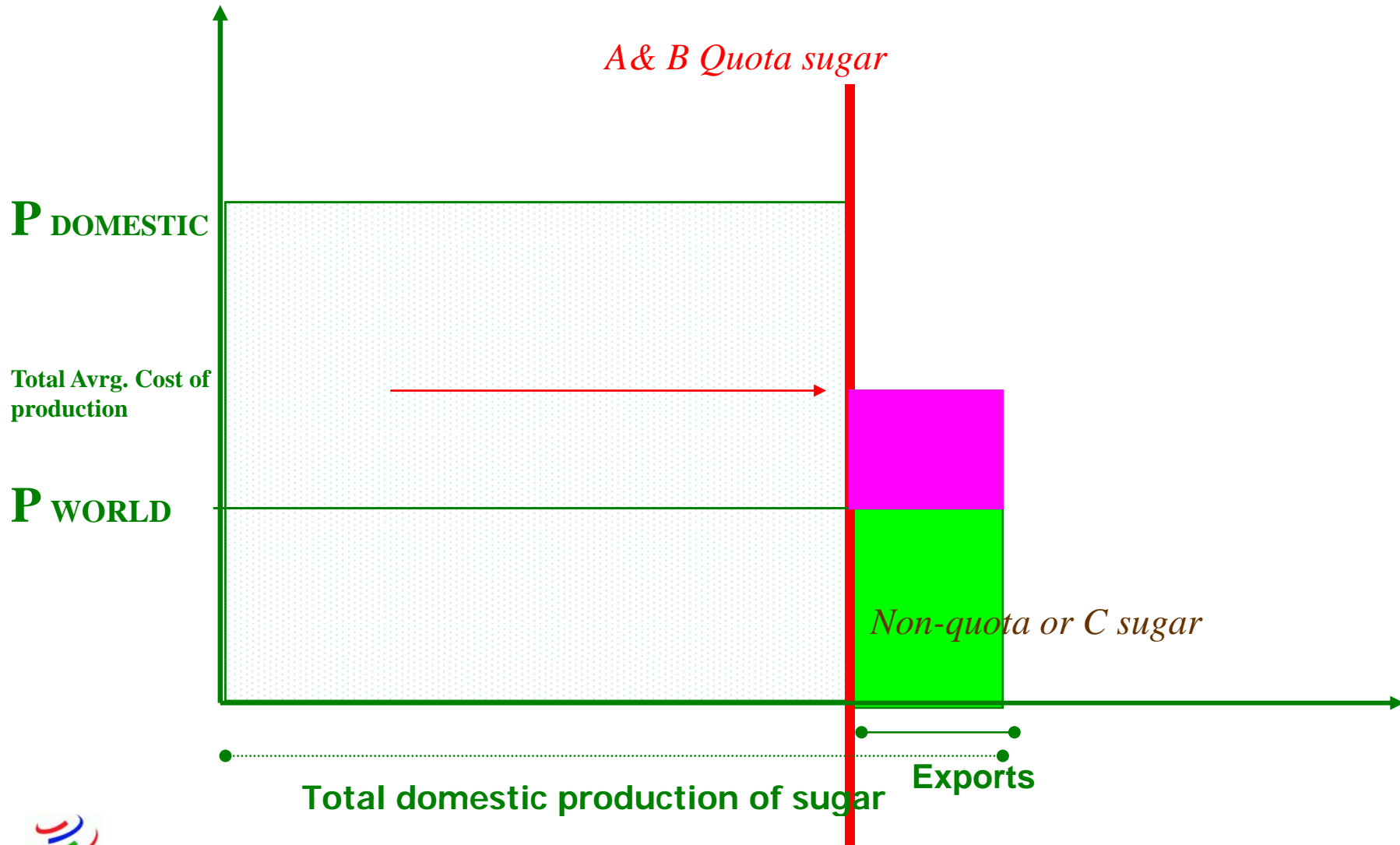




# Canada - Dairy Case II



# EC-Sugar Case



- “payments on the export ..... financed by virtue of governmental action”
- Article 9.1(c) covers an “unusual” form of subsidy as payments can be made by private parties
- Need of a demonstrable link between financing of payments and governmental action.
- “Payment” includes payments-in-kind: provision of goods and services at discounted prices (at less than their *proper value*)
- issue of right benchmark to determine “payment”  
(Total cost of production test)
- “cross-subsidization” is covered under “payment”.  
**(The issue of dividing line with Domestic Support and Export Subsidies disciplines)**

**THANK YOU**