

## Trade Policy Review Body

### OVERVIEW OF DEVELOPMENTS IN THE INTERNATIONAL TRADING ENVIRONMENT

Annual Report by the Director-General

#### A. OVERVIEW

1. During 2001, the world economy experienced a sharp slowdown, with output growing by only 1%. Concurrently, the volume of world merchandise trade shrank by 1.5%, after growth of 12% in 2000 and average growth of 7% in the 1990s. In addition, world-wide foreign direct investment (FDI) inflows slumped to US\$735 billion in 2001, less than half the 2000 figures<sup>1</sup>; this decline in FDI was most pronounced in developed countries (-59%), with developing countries experiencing a more moderate decline (-14%). Neither the decline in trade nor FDI can be attributed to a resurgence in protectionism. The fall in world trade appears to be due to the economic slowdowns in the world's biggest economies and many others. One of the main reasons for the global economic slowdown is the slump in the technology sector; technology-related goods are highly traded, especially between rich and developing Asian countries, with the transmission mechanism between economies then swifter than usual. The drop in FDI inflows is also due to the global economic slowdown as well as to the weakening of business confidence, both of which contributed to a sharp fall in cross-border mergers and acquisitions that take place predominantly between developed countries.

2. It was against this background that Members agreed in Doha in November 2001 to put in place a comprehensive agenda for negotiation and future work, the Doha Development Agenda (DDA). The agreed agenda aims at further strengthening and liberalizing the multilateral trading system, including by dealing with unfinished business on market access.<sup>2</sup> Members also welcomed the Peoples' Republic of China and Chinese Taipei as the 143<sup>rd</sup> and 144<sup>th</sup> Members of the WTO. Both of these successes boosted confidence in the commitment of Members to cooperate within the multilateral trading system, particularly in support of the further participation of developing countries in the system. In this context it is worth noting that developing countries that have increased their integration into the world economy do better in growth and income-per-capita terms than those whose integration has lagged<sup>3</sup>; it is realized by many, including least-developed countries (LDCs), that openness and participation in the rules-based system provides a stimulus to competition and more efficient resource allocation, in furtherance of growth and development objectives. Success in the DDA will support these objectives.

3. Elimination of barriers to merchandise trade in both industrialized and developing countries, in which the DDA will be vital, could result in welfare gains ranging from US\$250 billion to US\$620 billion annually, of which about one third to one half would accrue to developing countries.<sup>4</sup> Removal of agricultural supports would raise global economic welfare by a further US\$128 billion

---

<sup>1</sup> UNCTAD, *World Investment Report 2002*.

<sup>2</sup> This unfinished business was the subject of a study by the WTO Secretariat (WTO, 2001, *Market Access: Unfinished Business*, Special Study 6, WTO Secretariat, Geneva).

<sup>3</sup> World Bank, 2001, *Globalization, Growth and Poverty: Building an Inclusive World Economy*.

<sup>4</sup> IMF and World Bank, *Market Access for Developing Country Exports – Selected Issues*, 27 September 2002, page 5.

annually, with some US\$30 billion to developing countries.<sup>5</sup> The more rapid growth associated with a global reduction in protection could reduce the number of people living in poverty by as much as 13% by 2015.<sup>6</sup> *Trade liberalization and poverty reduction go hand in hand.*

4. Several areas of great interest to all Members, especially to developing and least-developed countries, are the subject of work under the DDA. A key is agriculture which, despite its small and diminishing contribution to GDP in most developed economies, receives a disproportionate amount of assistance in the form of subsidies and protection at the border. Such assistance distorts markets at home and the world. OECD countries' total support of US\$311 billion to domestic agriculture in 2001 dwarfs the US\$50 billion these countries spend annually on development assistance. The need to reduce support for agriculture is being addressed in ongoing WTO negotiations.

5. In market access there remain serious obstacles to trade. While average bound and applied MFN tariffs in developed countries are low, tariff "peaks", and escalation can constitute major impediments to poorer countries' development and industrialization, for example, through exports; they tend to be concentrated in agricultural products, textiles and clothing, and other manufactures in which developing countries have a potential comparative advantage. Since agricultural products and textiles and clothing account for more than 70% of poor countries' exports, the potential benefits from the reduction/elimination of peaks and escalation are large. In developing countries, average tariffs tend to be significantly higher for trade between them than on their exports to developed countries. In many developing countries, therefore, high tariffs increase the cost of doing business and thereby hamper exports. Also, in a number of these Members, the low level of tariff bindings and significant gaps between bound and applied rates create unpredictability and commercial risk. All of these tariff issues are identified as matters for negotiation in the Doha Declaration.

6. In addition, a significant number of quantitative restrictions remain in place under the WTO Agreement on Textiles and Clothing (ATC), although these are to be removed by the end of 2004. Other non-tariff barriers, notably technical barriers, also remain serious impediments to trade; these too are an essential element in the negotiations.

7. The increasing use of contingency measures, particularly anti-dumping actions, is also a key area of interest to Members. Although the upward trend was somewhat reversed in 2001, when the number of new anti-dumping measures in force fell to 159 from 235 in the previous year, this is still considerably greater than the numbers imposed in 1995, 1996 and 1997. More Members, including developing countries, are resorting to them increasingly. The rising trend in the use of such measures prompted Members to place the matter on the DDA.

8. In services, market-access conditions are a key interest of Members. The services sector accounts for a large (around two thirds) and growing share of global GDP. Services have also been among the fastest growing segments of world trade. Between 1985 and 1999, services exports grew at a compound annual rate of over 9% compared to 8.2% for merchandise trade.<sup>7</sup> These figures are on a balance-of payments basis, and their coverage of services trade is thus confined largely to two modes of supply falling under the GATS: cross-border trade (mode 1) and consumption abroad (mode 2). Commercial presence (mode 3), the largest and most dynamic form of services transactions, is not captured. Further liberalization of restrictions under this mode, and any resulting inflows of foreign investment, can be an essential ingredient of growth and development strategies. Relaxation of restrictions on the movement of natural persons, covered by mode 4 of the GATS could also help to reduce poverty in poorer countries including through remittances, reductions in surplus

---

<sup>5</sup> This amount relates only to static gains; dynamic gains (from higher investment and faster productivity growth) may well be several times larger. IMF, *2002 World Economic Outlook*, p. 85.

<sup>6</sup> IMF and World Bank, *Market Access for Developing Country Exports – Selected Issues*, 27 September 2002, page 5.

<sup>7</sup> World Bank, *op. cit.*

labour and skills transfers. Progressive liberalization of trade in services is a core objective of the ongoing services negotiations mandated under Article XIX of the GATS. It is expected that the gains from liberalizing services are substantially greater than those from liberalizing trade in goods.<sup>8</sup>

9. While Members' agreement in Doha on the DDA reconfirmed their commitment to multilateralism, regional alternatives are a significant challenge to the multilateral trading system. When fully in line with WTO provisions, regional trade agreements (RTAs) can complement the strengthening and liberalization of world trade. But by discriminating against third countries and creating a complex network of trade regimes, such agreements pose systemic risk to the global trading system. Around 240 such agreements are currently in force and there could be close to 300 by 2005. A noteworthy development in this regard during the past year or so has been the pursuit and conclusion of regional agreements by some Asian countries that had previously eschewed them, notwithstanding the successful launching of new multilateral negotiations.

10. Having reiterated their positions on "special and differential" treatment, implementation, technical assistance and capacity building, developing countries sent a clear signal that their attitude to new negotiations would depend on progress in these areas. The Doha Declaration includes measures to address developing countries' concerns in these areas.

11. Any agreements to liberalize trade arising from the DDA should reduce inefficiencies in Members' use of scarce domestic resources, with potential positive effects for the environment. Trade liberalization could also help to alleviate poverty, a major cause of environmental degradation. By contributing to a more efficient allocation of Members' resources and thus raising productivity, especially of labour, freer trade will contribute to higher wages and living standards. Living standards will be further raised by the greater choice of goods and services at lower prices.

12. The launching of new negotiations should not prevent Members from opening up their markets further in the context of domestic reforms. As some Members (notably Australia; Hong Kong, China; India; and Singapore) have shown, unilateral liberalization can also be in their national interest. Unilateral liberalization has been especially noteworthy in financial services and telecommunications. Moreover, studies show that the potential economic benefits from further unilateral trade liberalization could be significant.<sup>9</sup> These benefits, in turn, are easier to reap in the context of concurrent, supportive multilateral liberalization, adding emphasis to the importance of success in the DDA.

## B. MARKET ACCESS FOR GOODS

### 1. Unfinished business on tariffs

13. Tariffs remain an important impediment to international trade, notwithstanding the considerable achievements of the Uruguay Round, especially the increase in the proportion of tariff lines that are bound and the negotiated cuts in bound rates. Even in industrialized countries, where average tariff protection is low, tariff "peaks" exist in certain sectors, notably agricultural products, textiles, clothing and footwear. These peaks constitute *prima facie* evidence that the domestic dead-

---

<sup>8</sup> World Bank (2002), *Global Economic Prospects and Developing countries, 2002*, Chapter 3: Trade in Services: Using Openness to Grow, World Bank, Washington, D.C. [Online]. Available at: <http://www.worldbank.org/prospects/gep2002/toc.htm>, [13 August 2002].

<sup>9</sup> In the case of the United States, for example, a recent study by the International Trade Commission found that the removal of significant import barriers would result in a welfare gain of US\$14.4 billion to the U.S. economy (or 0.1% of GDP). Liberalization of textiles and apparel accounts for most (US\$13 billion) of this welfare gain. Removal of these import barriers would also result in the net addition of some 17,400 full-time workers to the labour force. (See United States International Trade Commission, *The Economic Effects of Significant U.S. Import Restraints*, Third Update 2002, Investigation No. 332-325, June 2002, Publication 3519.)

weight and net welfare losses caused by tariff protection as well as the costs to consumers could be high.<sup>10</sup> The losses and costs to consumers are also likely to be high in developing countries, where overall tariff protection tends to be relatively high.

14. Particular attention is on the so-called "Quad" group of major traders (Canada, the European Union, Japan, and the United States) because tariffs used by them can have serious repercussions for their trading partners, especially developing and least-developed countries. They can lead to welfare losses not just domestically, but on a global scale; such impediments may slow developing countries' growth, especially by constraining exports. The "Quad" Members also warrant special attention as they are likely to play a leading role in the DDA.

15. The impediments to access faced by developing and least-developed countries' in major export markets are compounded by their own barriers to imports. High tariffs protect domestic firms from foreign competition, which makes selling in the domestic market more profitable than exporting; thus, along with other trade barriers, they impart an anti-export bias, hampering the ability to generate growth through exports. Exports from some developing and least-developed countries are also impeded by domestic supply constraints, especially inefficient basic infrastructure services, which add to the costs of doing business and thereby impair the competitiveness of firms operating in these countries.

(a) Bound tariffs

16. Bindings are a key element of trade liberalization as they reduce the uncertainty concerning trade regimes. This is especially true for tariffs. In addition to achieving higher levels of bindings on industrial products, all Members bound virtually the totality of their tariff lines on agricultural items (WTO definition) as a result of the WTO Agreement on Agriculture. Non-tariff barriers (NTBs) for agricultural products that were previously subject to quotas were "tariffed".<sup>11</sup>

17. Most developed countries have bound close to 100% of their industrial tariff lines (Table 1). Developing countries as a whole increased substantially the share of bound industrial product tariff lines, from 21% to 73%, although there are considerable differences between such Members.<sup>12</sup> In Latin America, Members bound 100% of lines at ceiling levels, and in Central and Eastern Europe, almost all lines are bound. The variation in the level of bindings among Members in Asia is significant. Apart from a few, notably Gabon and South Africa, the scope of bindings by WTO Members in Africa is generally low.

18. Full implementation of Uruguay Round commitments will result in relatively low simple average bound rates for industrial products, although wide differences exist across Members and products. The average for the Quad is around 4.4%. The average for most developing countries is much higher, as much as 50% (in Bangladesh and Cameroon).

---

<sup>10</sup> Dead-weight losses to consumers and producers are only one channel through which trade restrictions may affect net economic welfare; others include rent shifting between countries, rent-seeking activities, terms of trade changes or losses in scale economies, changes in product variety, and reduced diffusion of technologies. See Feenstra (1995), "Estimating the Effects of Trade Policies" in G. Grossman and K. Rogoff, editors, *Handbook of International Economics*, volume III, North Holland, 1553-1595.

<sup>11</sup> One notable initial exception was rice in Japan, although this no longer the case.

<sup>12</sup> WTO (2001), *Overview of Developments in the International Trading Environment, Annual Report by the Director-General*, p. 28.

**Table 1**  
**Scope of bindings, average and bound tariff rates on industrial products for selected WTO Members**  
Per cent and year

	Share of bound lines	Average final bound rate <sup>a</sup>	Average applied tariff rate	Year
North America				
Canada	99.7	5.7	4.2	2002
United States	100.0 <sup>b</sup>	4.0	4.4	2001
Mexico	100.0	34.9	15.6	2001
Latin America				
Argentina	100.0	31.8	13.4	2000
Brazil	100.0	29.6	13.8	2000
Chile	100.0	25.0	9.0	2000
Colombia	100.0	35.4	11.2	2000
Costa Rica	100.0	43.1	4.7	2000
Haiti	87.6	16.9	2.4	2001
Western Europe				
EU (15)	100.0	4.0	4.1	2002
Switzerland	98.6	2.6	2.3	2000
Central and Eastern Europe				
Czech Republic	100.0	4.2	4.3	2001
Slovak Republic	100.0	4.2	4.3	2001
Slovenia	100.0	23.7	9.5	2001
Middle East				
Bahrain	72.6	35.0	7.7	2000
Asia				
Bangladesh	0.9	50.0	21.9	1999/00
Brunei Darussalam	94.3	24.5	3.5	2000
Hong Kong, China	32.6	0.0	0.0	2001
India	68.2	36.2	31.0	2001/02
Japan	98.7	3.8	3.9	2002/03
Korea, Rep. of	90.6	9.4	7.5	2000
Maldives	100.0	38.5	21.1	2002
Malaysia	59.0	14.9	9.9	2001
Pakistan	36.5	36.0	20.1	2001/02
Singapore	63.6	6.3	0.0	2000
Oceania				
Australia	95.5	11.6	4.7	2001/02
Africa				
Cameroon	0.1	50.0	17.6	2000
Gabon	100.0	15.5	17.5	2000
Ghana	1.1	34.3	12.5	2000
Madagascar	18.6	25.5	6.1	2000
Mauritania	31.0	10.5	10.4	2001
Mauritius	4.2	18.6	19.8	2001
Mozambique	0.4	6.1	13.1	2000
South Africa	95.7	18.1	10.9	2002

a Data on current bound rates is often difficult to obtain due to imprecision in Schedules.

b Two lines applying to crude petroleum are unbound.

Note: Calculations are based on tariff schedules of the year mentioned in the sixth column using HS96 nomenclature (except for EU15, Japan and the Maldives where calculations are based on HS2002 nomenclature).

Only fully bound rates have been taken into consideration for calculations.

For countries with non-*ad valorem* rates, AVEs have been used as available. In case of unavailability, the *ad valorem* part is used for compound and alternate rates.

Data in italics are from the Integrated Database (IDB). Methodology in the IDB differs from the one used in the Trade Policy Reviews. Mainly, the IDB computes indicators from tariffs at the HS 6-digit level, while the TPRs do so from national tariff lines, and AVEs and the *ad valorem* component of mixed and compound duties are not taken into account in the averages computed by the IDB.

Source: WTO Secretariat calculations, based on data provided by the Members.

19. For most WTO Members, the average bound rate for agricultural products is higher than for industrial products<sup>13</sup>; the simple average of bound rates for agricultural products is around four times that of industrial products in developed countries, and two to three times higher in developing countries.<sup>14</sup> Peaks in bound tariffs are frequent for more sensitive agricultural product categories.

20. Average bound rates for categories of industrial products vary significantly.<sup>15</sup> For both developed and developing countries, bound rates are highest in textiles and clothing: the Quad average 9% and developed countries as a whole are at 12%; developing and transition economies average 29%. Similar levels are to be found for leather, rubber, footwear and leather products (9% for the Quad, 10% for developed countries, 27% for developing countries).<sup>16</sup> Above-average bound rates are generally also found in fish and fish products, and transport equipment.

(b) Applied MFN tariffs

21. Applied tariffs vary widely across countries. Among the Quad, the average applied MFN rate for all products ranges from 5.4% in the United States to 6.9% in Japan (Table 2). Average applied MFN rates are below 5% in Iceland and Australia. These low averages disguise the much higher rates on agricultural products (except in Australia) and textiles, clothing, and footwear. Average applied MFN rates are zero in Hong Kong, China; Macau, China; and Singapore.

22. Applied MFN tariffs tend to be much higher in developing countries, notably India, Bangladesh, the Maldives, Pakistan and most African countries; for example, the average applied MFN tariffs of India and Bangladesh are around 32% and 22%, respectively (Table 3<sup>17</sup>), while in Cameroon and Gabon the average is just over 18%. One important reason for such rates in these and other Members is the fact that tariffs often serve a dual purpose; they protect domestic industries from foreign competition and they are a major source of tax revenue. It follows that tariff reform can have serious revenue implications in such countries and reductions in average tariffs depend heavily on tax reforms aimed at reducing their reliance on border taxes for revenues.

---

<sup>13</sup> Levels of bound rates for agricultural products are more difficult to analyse than those for industrial products owing to the presence of specific and other non-*ad valorem* duties on certain products. For purposes of calculating average tariffs, these forms of duty must be converted into *ad valorem* equivalents (AVEs), which can vary widely depending on prevailing world and domestic prices of the commodities involved. The prevalence of tariff quotas is also a complicating factor; important issues concern their administrative arrangements, notably the allocation of such quotas.

<sup>14</sup> IMF and World Bank (2001), "Market access for developing countries", p. 18.

<sup>15</sup> WTO (2001), *Overview of Developments in the International Trading Environment, Annual Report of the Director-General 2001*, page 29.

<sup>16</sup> This category of products is defined, in WTO (2001), *op. cit.*, Table 4, page 6, as the aggregation of HS Chapters 40 and 41 (except 4101-03), 4201, 4203-05, Chapter 43 (except 4301), Chapter 64 (except 6405-06), 9605.

<sup>17</sup> The methodology used to construct the tariff indicators found in this and other Tables is described in Michael Daly and Hiroaki Kuwahara, 1998, "The Impact of the Uruguay Round on Tariff and Non-Tariff Trade Barriers in the Quad", *The World Economy* 21(1), pp. 207-234

**Table 2**  
**Structure of MFN tariffs in the "Quad"**  
(Per cent)

	United States			European Union			Japan			Canada		
	1996	2001	U.R. <sup>ab</sup>	1995 <sup>c</sup>	2002	U.R. <sup>ad</sup>	FY1996	FY2002	U.R. <sup>e</sup>	1995 <sup>c</sup>	2002	U.R. <sup>f</sup>
1. Bound tariff lines (% of all tariff lines)	100 <sup>g</sup>	100 <sup>g</sup>	100 <sup>g</sup>	..	100	100	98.6	98.9	98.9	..	99.8	99.7
2. Duty free tariff lines (% of all tariff lines)	18.2	31.5	37.6	9.4	21.5	28.0	35.5	36.7	40.6	18.2	49.0	29.6
3. Non-ad valorem tariffs (% of all tariff lines)	14.1	12.3	10.8	10.2	9.7	10.1	..	7.1	6.3	7.4	3.9	4.2
4. Tariff quotas (% of all tariff lines)	1.9	2.0	1.9	3.3	3.0	3.3	1.7	1.7	1.7	2.2	2.2	2.2
5. Non-ad valorem tariffs with no AVEs (% of all tariff lines)	3.1	0.0	0.2	2.0	1.2	2.3	..	0.7	1.9	1.5	0.3	0.3
6. Simple average bound rate	..	..	..	..	6.5	6.3	10.3	8.5	8.4	..	..	8.4
Agricultural products (HS01-24)	..	..	8.1	..	16.2	16.3	..	26.6	26.5	..	..	23.1
Industrial products (HS25-97)	..	..	4.0	..	3.8	3.6	..	4.1	3.9	..	..	5.8
WTO agricultural products	..	..	8.3	..	16.1	16.3	..	28.9	28.9	..	..	24.4
WTO non-agricultural products	..	..	4.0	..	4.2	4.0	..	3.9	3.8	..	..	5.7
Textile and clothing	..	..	9.0	..	8.4	8.0	9.8	7.1	6.7	..	..	12.2
7. "Nuisance" bound rates (% of all tariff lines) <sup>h</sup>	..	..	6.9	..	12.9	6.4	..	6.7	1.1	..	..	1.0
8. Simple average applied rate	6.4	5.4	4.6	10.2	6.4	6.3	9.0	6.9	8.4	13.2	6.8	8.4
Agricultural products (HS01-24)	10.0	10.3	8.1	23.7	15.9	16.3	..	18.6	26.5	28.6	21.2	23.1
Industrial products (HS25-97)	5.7	4.4	4.0	6.6	3.8	3.6	..	3.9	3.9	10.5	4.2	5.8
WTO agricultural products	10.3	10.6	8.3	24.5	16.1	16.3	..	20.0	28.9	30.3	21.7	24.4
WTO non-agricultural products	5.7	4.4	4.0	6.9	4.1	4.0	..	3.9	3.8	10.4	4.2	5.7
Textile and clothing	11.5	10.0	9.0	10.4	8.4	8.0	8.7	7.0	6.7	18.4	9.9	12.2
9. Domestic tariff "peaks" (% of all tariff lines) <sup>i</sup>	4.0	5.0	7.3	4.0	5.2	5.3	4.1	6.0	3.8	1.4	1.6	1.7
10. International tariff "peaks" (% of all tariff lines) <sup>j</sup>	8.9	6.8	5.2	11.0	7.7	7.5	..	7.6	7.5	17.0	9.8	7.1
11. Overall standard deviation (SD) of tariff rates	13.4	13.0	8.6	16.5	11.3	11.4	40.8	32.6	59.9	30.0	24.4	25.8
12. Coefficient of variation (CV) of tariff rates	2.1	2.4	1.8	1.6	1.8	1.8	..	4.7	7.1	2.3	3.6	3.1
13. "Nuisance" applied rates (% of all tariff lines) <sup>h</sup>	8.9	10.7	6.9	1.1	12.9	6.4	..	6.1	1.1	1.0	2.2	1.0

.. Not available; this occurs mainly for bound rates, which in many such cases are equal to the applied rates.

a Includes ITA.

b US post UR tariff is based on 1998 U.S. tariff schedule. 18 AVEs are missing in 1998 while none are missing in 2002.

c Pre-Uruguay Round tariff.

d EU post UR tariff is based on 1999 EU tariff schedule. 240 AVEs are missing in 1999 while only 129 AVEs are missing in 2002.

e Japan post UR tariff is based on 2002 Japan tariff schedule.

f Based on 2000 tariff schedule.

g Two lines, applying to crude petroleum, are not bound.

h "Nuisance" rates are those greater than zero, but less than or equal to 2%.

i Domestic tariff peaks are defined as those exceeding three times the overall simple average applied rate (indicator 10).

j International tariff peaks are defined as those exceeding 15%.

Note: AVEs have been used as available. In case of unavailability, the ad valorem part is used for compound and alternate rates.

Source: WTO Secretariat calculations, based on data provided by the Members.

23. Whereas in developed countries applied MFN tariffs are generally at, or close to, bound rates, they are often significantly below bound rates in developing countries. This gap is the result of two

factors: the negotiation of ceiling bindings in the GATT 1994, and unilateral reductions in applied tariffs since the WTO came into existence. Such unilateral trade liberalization has been undertaken by a number of Members, including Cameroon and Uganda in Africa, and India and Pakistan in South Asia. Liberalization in Central Europe has also continued at a sustained pace, resulting in generally low applied MFN tariffs. There would appear to have been a pause in the process of tariff reduction in South-East Asia and Latin America in the wake of the 1997-98 financial crisis; however, applied tariffs in these regions are already among the lowest among developing-country Members (some 8% on average in the ASEAN-6 and some 12% in South America), and no major reversals of tariff cuts were observed during the financial crisis.

**Table 3**  
Structure of applied MFN tariffs in selected developing countries  
(Per cent)

	South Africa			Brazil			Bangladesh			India <sup>a</sup>		
	1997	2001	U.R.	1997	2000	U.R.	1994/95	1990/00	U.R. <sup>bc</sup>	1997/98	2001/02	U.R. <sup>b</sup>
1. Bound tariff lines (% of all tariff lines)	..	96.1	96.1	100.0	100.0	100.0	13.2	13.2	13.2	66.9	72.4	72.4
2. Duty free tariff lines (% of all tariff lines)	42.4	44.5	9.9	1.4	1.5	..	3.7	8.4	..	1.4	1.1	..
3. Non-ad valorem tariffs (% of all tariff lines)	25.7	24.6	0.0	0.0	0.0	..	0.1	0.0	..	0.2	5.3	..
4. Tariff quotas (% of all tariff lines)	0.0	0.0	0.0	0.0	0.0	..	0.0	0.0	..	0.0	0.0	..
5. Non-ad valorem tariffs with no AVEs (% of all tariff lines)	25.7	24.6	0.0	0.0	0.0	..	0.1	0.0	..	0.2	5.3	..
6. Simple average bound rate (%)	..	..	20.9	..	..	30.2	188.8	188.5	188.3	..	..	50.6
Agricultural products (HS01-24)	..	..	46.8	..	..	35.9	..	..	195.2	..	..	115.7
Industrial products (HS25-97)	..	..	18.1	..	..	29.5	..	..	151.5	..	..	37.7
WTO agricultural products	..	..	43.5	..	..	35.4	..	..	196.9	..	..	114.7
WTO non-agricultural products	..	..	18.1	..	..	29.6	..	..	50.0	..	..	36.2
Textiles and clothing	..	..	26.8	..	..	34.9	..	..	50.0	..	..	29.8
7. Simple average applied rate (%)	11.5	10.4	n.a.	14.7	13.7	n.a.	34.5	22.2	n.a.	35.3	32.3	n.a.
Agricultural products (HS01-24)	11.4	11.3	n.a.	12.9	12.9	n.a.	36.7	25.1	n.a.	33.8	41.7	n.a.
Industrial products (HS25-97)	11.5	10.3	n.a.	14.9	13.9	n.a.	34.4	21.8	n.a.	35.6	30.8	n.a.
WTO agricultural products	9.4	9.3	n.a.	12.6	12.6	n.a.	..	24.6	n.a.	35.2	40.7	n.a.
WTO non-agricultural products	11.8	10.6	n.a.	14.9	13.8	n.a.	..	21.9	n.a.	35.4	31.0	n.a.
Textiles and clothing	23.1	22.6	n.a.	20.3	20.3	n.a.	..	31.5	n.a.	43.7	31.3	n.a.
8. Domestic tariff "peaks" (% of all tariff lines) <sup>d</sup>	5.2	4.2	2.1	0.5	0.0	0.0	0.1	0.0	..	0.2	1.3	..
9. International tariff "peaks" (% of all tariff lines) <sup>e</sup>	39.2	32.7	50.9	52.0	41.3	97.4	76.8	55.8	..	96.6	93.9	..
10. Overall standard deviation (SD) of tariff rates	12.3	11.6	25.5	7.7	6.7	8.1	17.7	13.2	..	14.5	13.0	..
11. Coefficient of variation (CV) of tariff rates	1.1	1.1	1.2	0.5	0.5	0.3	0.5	0.6	..	0.4	0.4	..
12. "Nuisance" applied rates (% of all tariff lines) <sup>f</sup>	0.1	0.0	0.0	0.0	0.8	0.7	..	0.0	n.a.	0.0	0.0	n.a.

.. Not available.

n.a. Not applicable.

a Tariff lines with two or more different bound rates, and tariff lines that are partially bound have been excluded from the calculation for bindings.

b Bangladesh: based on 1999/00 tariff schedule; India: based on 2001/02 tariff schedule.

c Simple average bound rate for non WTO-agricultural products represent only 0.9% of lines.

d Domestic tariff peaks are defined as those exceeding three times the overall simple average applied rate (indicator 7).

e International tariff peaks are defined as those exceeding 15%.

f "Nuisance" rates are those greater than zero, but less than or equal to 2%.

Note: Calculations exclude specific rates and include the *ad valorem* part of alternate and compound rates.

Source: WTO Secretariat calculations, based on data provided by the Members.

24. The gap between applied and bound rates on industrial products differs among regions.<sup>18</sup> In Latin America, average bound rates are three times higher than applied rates and in South-East Asia

<sup>18</sup> It is difficult to include agricultural tariffs in this analysis because of the specific-duty and tariff-quota aspects of those tariffs.



they are two-and-a-half times higher.<sup>19</sup> These gaps provide ample scope for countries to raise applied tariffs without breaching bindings, thereby imparting a degree of unpredictability to their tariffs. Trade Policy Reviews indicate that, while few and far between, such increases do occur.<sup>20</sup>

25. So-called "nuisance" duties (rates above zero but no more than 2%) cover a significant number of tariff lines; for example, they involve as many as 11% of all tariff lines in the United States and 13% in the EU.

(c) Tariff dispersion and "peaks"

26. The efficiency losses associated with tariffs depend not just on average applied MFN levels, but also on the dispersion in rates across products (Box 1). The higher the dispersion in rates, particularly within groups of similar, and thus highly substitutable, products, the greater the likelihood that consumers' and producers' decisions are distorted by the tariff structure.

**Box 1: The Advantages of Lower More Uniform Tariffs**

The extent to which the efficient allocation of resources in a country is impaired by its tariff structure depends on both the level of tariffs and the degree of dispersion in these tariff rates. For any given average tariff, the wider the dispersion in nominal rates, the more distorting the tariff structure.<sup>a</sup> Thus, in general, a movement towards a lower and more uniform tariff tends to improve resource allocation and thereby raise economic welfare. High and disparate tariffs foster inefficiency by penalizing efficient activities, including exports; by promoting a high-cost economy, they impair the competitiveness of exporters. Trade taxes on imports are, in effect, shifted onto exports. Reducing tariff dispersion will tend to reduce these adverse effects.

A uniform tariff is more transparent and much easier to administer. It removes many of the incentives for making false customs descriptions and classifications. Moreover, by treating all producers and importers the same, it is likely to reduce lobbying or "rent seeking" pressures on the Government, making it easier to reject pleas for special treatment.

It may be argued that adoption of a low uniform tariff would entail a substantial reduction in government revenue compared with a system that involves high tariffs on consumer and so-called luxury goods. However, there is nothing to prevent the move toward a uniform tariff from being revenue neutral, by choosing the most appropriate tariff rate.

This suggests that uniform tariffs should be a policy goal, even though demand elasticities (a measure of the extent to which demand for a product varies with changes in price) may differ across goods. Although levying higher tariffs on those products with inelastic demand (small responsiveness to price changes) may, in principle, yield the desired amount of tax revenue with the minimum loss of welfare, tariff uniformity remains a desirable policy objective. This is because the application of high tariff rates to products with low demand elasticities is, in practice, a high risk strategy given that empirical measures of elasticities are inevitably imprecise and the consequent potential resource costs of miscalculation. Moreover, to be fully accurate, one should also take account of the degree of substitutability across commodities. Thus, tariff uniformity is a sensible "rule of thumb" on efficiency grounds. It is also desirable on grounds of transparency and administrative simplicity. Furthermore, a uniform tariff would be more equitable than levying higher tariffs on goods for which the demand is relatively inelastic as such goods include basic necessities. In addition, a uniform tariff could pave the way for the eventual adoption of a flat-rate broadly-based consumption tax.

a Strictly speaking, a uniform nominal tariff minimizes the net welfare cost of such protection only if import demand elasticities are uniform across commodities and cross-price effects are negligible (see Panagariya, Arvind, and Rodrik, Dani, 1993, "Political Economy Arguments for a Uniform Tariff", *International Economic Review* 34(3): 685-703).

<sup>19</sup> WTO (2001), *op. cit.* Table II.4, p. 17.

<sup>20</sup> India, for example, raised some tariffs, mainly in agriculture, following the elimination of some 1,400 quantitative restrictions.

27. As MFN tariff rates decline, greater protection to certain sensitive sectors raises dispersion in the tariff. Among the Quad, applied MFN tariffs of three times the average or more continue to protect a number of sectors (Table 2). These "peaks" cover from 1.6% of tariff lines in Canada to between 5% and 6% in the EU, Japan, and the United States and appear to have increased. By and large, applied MFN tariff peaks are concentrated in agriculture and food products, owing partly to "tariffication", and in textiles, clothing, and footwear (Chart 1). Many of these products are of significant export interest to developing countries. The value of Quad imports subject to tariff peaks was nearly US\$93 billion in 1999, of which roughly 60% originated in developing countries.<sup>21</sup> This represents about 5% of total exports by developing countries to the Quad. Exports by LDCs are disproportionately affected by tariff peaks in the Quad; products subject to peaks accounted for between 15% and 30% of these countries' total exports to the United States and Canada. Not surprisingly, tariff peaks applied to non-agricultural products feature prominently in the DDA.<sup>22</sup>

28. In major developing and least-developed countries, tariff peaks tend to be less pervasive, largely due to the higher overall levels of tariff protection in these countries. In Brazil and Bangladesh, for example, the proportion of tariff lines subject to applied MFN tariffs that are three times or more the average are negligible (Table 2). In India and South Africa, the proportions are 1.3% and 4.3%, respectively. While such peaks in these countries do arise in agriculture and food products, textiles, clothing and footwear, they are less pronounced than in the Quad (Chart 2).

(d) Specific tariff rates

29. Tariff peaks are often concealed by specific (and other non-*ad valorem*) rates, which are an important feature of the Quad and some other WTO members' tariff schedules, particularly for agricultural products and especially in the EU and the United States. The peaks will remain even once the Uruguay Round is fully implemented in 2005, partly as a consequence of the "tariffication" of agricultural non-tariff barriers, which were largely converted into specific or mixed duties, rather than into pure *ad valorem* tariffs, and often combined with quotas.

30. The significant use of specific duties is undesirable for many reasons (Box 2). Most importantly, they are intrinsically more opaque than *ad valorem* tariffs, tending to conceal high *ad valorem* equivalents (AVEs). For example, between 94 and 98 of the top 100 tariffs (in AVE terms) in Canada, the EU and Japan involve specific duties; they range from 61% to nearly 210% in the EU, from 47% to roughly 1,739% in Japan, and from 56% to 314% in Canada. In the United States, 84 of the top 100 tariffs involved specific duties whose AVEs ranged from 34 to nearly 253%; however, the top seven rates were *ad valorem*. As a consequence, the simple average of AVEs for specific duties is two to 20 times the simple average of *ad valorem* duties in the Quad.<sup>23</sup> AVE estimates were available for virtually all specific duties for the United States and Canada, but were not available for over 10% of these kinds of duties in the EU and Japan (Table 2).

---

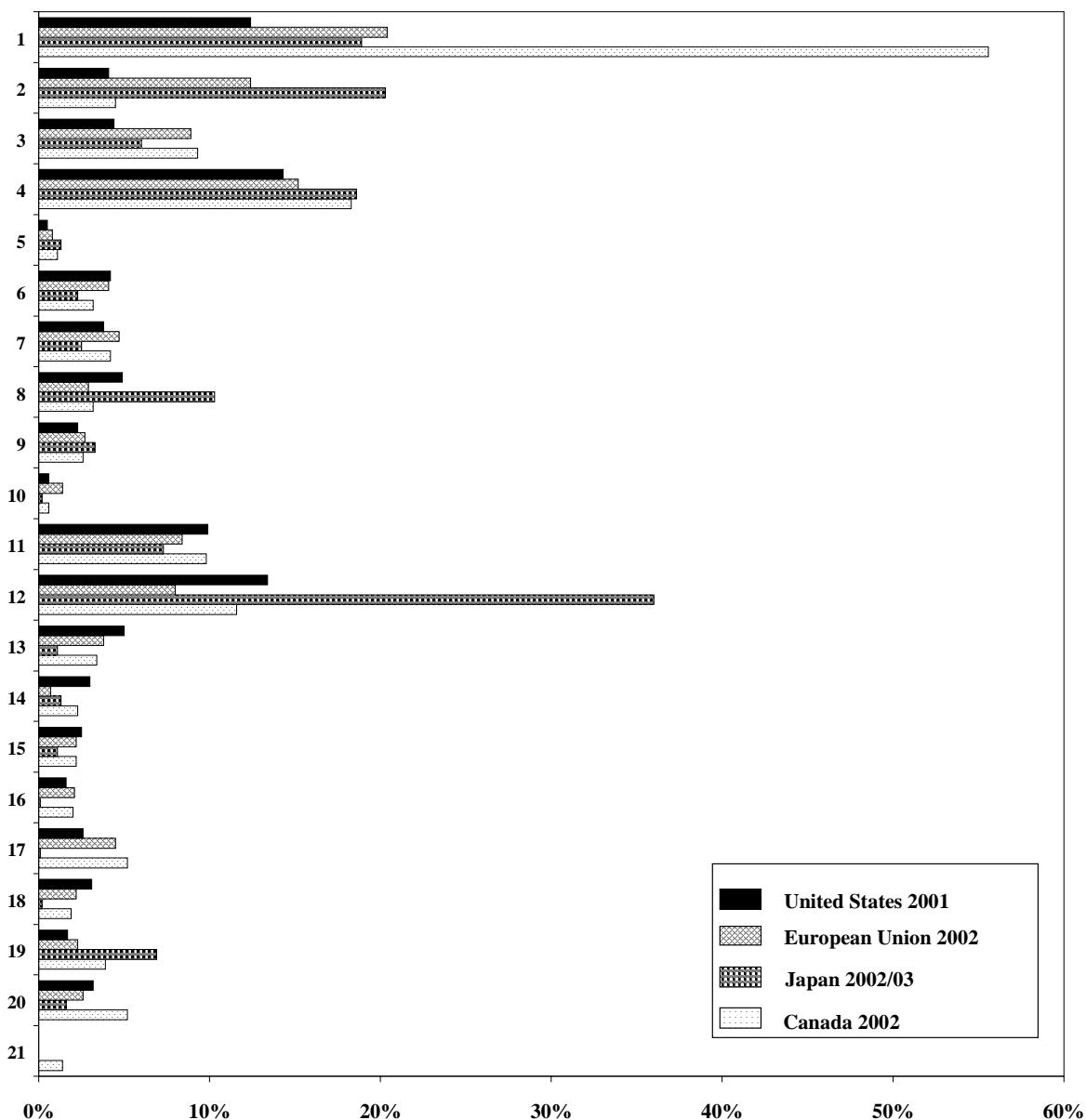
<sup>21</sup> Marcelo Olarreaga and Francis Ng (2002), "Tariff Peaks and Preferences" in B. Hoekman, A. Mattoo and P. English (editors), *Development, Trade and the WTO: A Handbook*, World Bank.

<sup>22</sup> Tariff peaks faced by developing countries have also been the object of liberalization initiatives by the EU ("Everything But Arms") and other Members.

<sup>23</sup> The simple averages of AVEs for specific duties were 11.9% in the United States in 2001 (compared with a simple average of *ad valorem* rates of 4.4%), 29.2% in the EU in 2002 (compared with a simple average of *ad valorem* rates of 4.5%), 44.2% in Japan in 2002/2003 (compared with a simple average of *ad valorem* rates of 4.9%), and 81.4% in the Canada in 2002 (compared with a simple average of *ad valorem* rates of 4.2%).

**Chart 1**  
**Simple average MFN tariff rates by HS section**

HS Section



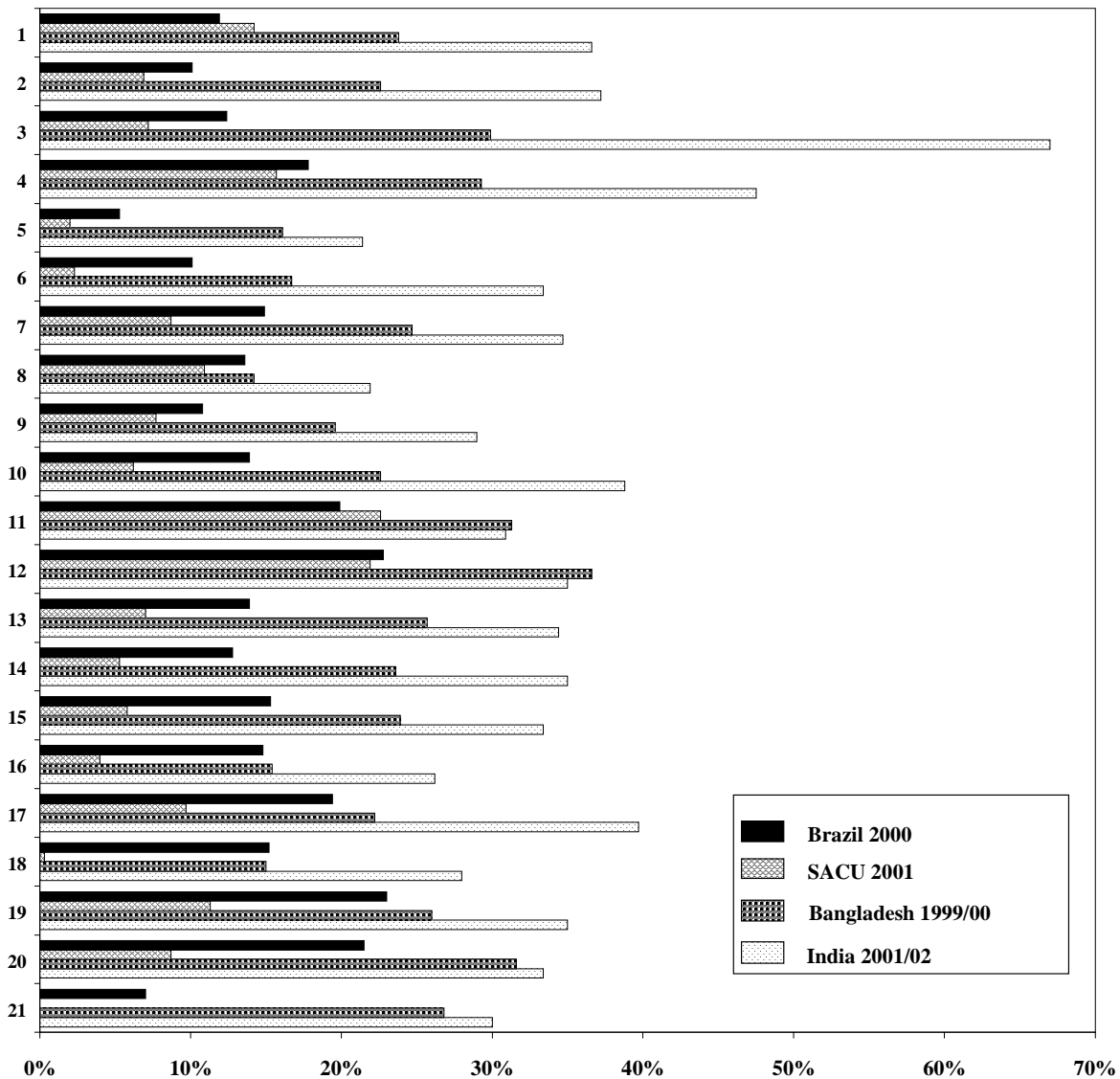
- |                           |                          |                          |                         |
|---------------------------|--------------------------|--------------------------|-------------------------|
| 01 Live animals and prod. | 07 Plastic and rubber    | 13 Articles of stones    | 19 Arms and ammunition  |
| 02 Vegetable products     | 08 Hides and skins       | 14 Precious stones, etc. | 20 Miscellaneous manuf. |
| 03 Fats and oils          | 09 Wood and articles     | 15 Base metals and prod. | 21 Works of art, etc.   |
| 04 Prepared food, etc.    | 10 Pulp, paper, etc.     | 16 Machinery             |                         |
| 05 Mineral products       | 11 Textiles and articles | 17 Transport equipment   |                         |
| 06 Chemical and prod.     | 12 Footwear, headgear    | 18 Precision instruments |                         |

**Note:** Calculations include AVEs as available. In case of unavailability, the *ad valorem* part is used for alternate and compound rates.

**Source:** WTO Secretariat calculations, based on information provided by Members concerned.

**Chart 2**  
**Simple average MFN tariff rates by HS section of selected developing countries**

HS Section



- |                           |                          |                          |                         |
|---------------------------|--------------------------|--------------------------|-------------------------|
| 01 Live animals and prod. | 07 Plastic and rubber    | 13 Articles of stones    | 19 Arms and ammunition  |
| 02 Vegetable products     | 08 Hides and skins       | 14 Precious stones, etc. | 20 Miscellaneous manuf. |
| 03 Fats and oils          | 09 Wood and articles     | 15 Base metals and prod. | 21 Works of art, etc.   |
| 04 Prepared food, etc.    | 10 Pulp, paper, etc.     | 16 Machinery             |                         |
| 05 Mineral products       | 11 Textiles and articles | 17 Transport equipment   |                         |
| 06 Chemical and prod.     | 12 Footwear, headgear    | 18 Precision instruments |                         |

**Note:** Calculations exclude specific duties and include the *ad valorem* part for alternate and compound rates.

**Source:** WTO Secretariat calculations, based on information provided by the Members concerned.

**Box 2: Specific Duties**

The significant use of specific duties is undesirable not just because they are intrinsically more opaque than *ad valorem* tariffs and tend to conceal relatively high *ad valorem* equivalents (AVEs). They also tend to distort domestic production patterns more than *ad valorem* tariffs do because they provide disparate levels of assistance for similar tariff line goods by taxing imports of cheaper products relatively more heavily, thereby encouraging domestic firms to produce less expensive goods for which the level of protection against imports is proportionately greater. To the extent that developing countries are exporters of relatively cheap products falling within the same national tariff line as more expensive products exported by industrialized countries, such duties levied by importing countries tend to impose a heavier burden on the cheaper products; specific duties thus afford higher levels of "real" tariff protection (in *ad valorem* terms) against imports from developing countries than against those from industrialized countries. Moreover, specific duties may also be more regressive than *ad valorem* duties because they impose a heavier burden on cheaper products within the same tariff line.<sup>a</sup> At the same time, specific duties encourage quality upgrading by exporters, which may entail efficiency losses in addition to the conventional dead weight losses associated with tariffs. Furthermore, as AVEs are inversely related to import prices, specific duties progressively cushion domestic producers against competition from lower-priced imports, thereby counteracting cuts in specific duty rates. Consequently, they counteract the relative price effects of exchange rate changes on countries' trade balances. It follows that the use of specific duties can lead to an increase in "real" tariff protection insofar as the prices of traded goods decline.

On the other hand, Governments may prefer to use specific duties because they are relatively simple to administer in instances where value-for-duty cannot be easily observed. They may also reduce pressure to resort to anti-dumping or countervailing (AD/CV) measures for protection because the amounts of duty collected are unaffected by drops in prices for whatever reason. Thus, as import prices fall, the AVEs of specific duties rise, and vice versa, thereby contributing to domestic price stability in the face of "excessive" fluctuations in world prices. In addition, unlike with AD/CV duties, any increases in "real" tariff protection associated with specific duties are on an MFN basis.

a While there is some evidence from the United States that tariffs in general tend to be borne disproportionately by the poor (see Edward Gresser, 2002, "Toughest on the Poor" *Policy Report*, Progressive Policy Institute) and are therefore a regressive form of taxation, this is especially true of specific duties.

(e) Tariff escalation

31. A non-uniform tariff is often used to provide a cascading or escalating degree of tariff protection so as to encourage downstream processing. This may be accomplished by levying relatively low duties on raw materials with progressively higher tariffs applied to products as they undergo further processing. Thus, the level of effective protection increases as goods undergo further processing. By providing greater incentives to downstream products, an escalating tariff risks generating inefficient activities dependent upon such assistance. What may be mild escalation in nominal tariff terms can provide very high effective (net) assistance to downstream activities.<sup>24</sup>

32. Tariff escalation (often reflecting tariff peaks) is a feature of industrial-product tariffs in many WTO Members. In developed countries, it is present in the same sectors that are affected by peaks, most notably textiles and clothing, leather and footwear products (Appendix Table A1). Despite significant efforts by developing countries to achieve more uniform tariff regimes, peaks and escalation are in evidence, in many cases on the same categories of products as in developed countries (Appendix Table A2).<sup>25</sup>

<sup>24</sup> For example, a firm facing an average tariff of 10% on its imported inputs and producing an output protected by a 50% tariff would receive a rate of effective protection anywhere from 50% to over 500%, according to the amount of value added.

<sup>25</sup> B. Hoekman, F. Ng, M. Olarreaga (2000), *Tariff Peaks in the Quad and Developing Countries' Exports*, World Bank.

33. Tariff escalation is a potential impediment to the efficient allocation of resources in countries whose tariffs are structured in this way. It also constitutes a major obstacle to local processing of domestic primary products (stage 1) as well as of semi-finished goods (stage 2) in the exporting country; thus, it may impede the industrialization of developing and least-developed countries.

(f) GSP and similar preferences for developing and least-developed countries

34. Applied tariffs may be lower than MFN rates in consequence of non-reciprocal preferences granted to developing countries under the Generalized System of Preferences (GSP) and supplementary preferences for LDCs. Under GSP, developed countries discriminate in favour of developing ones by granting them non-reciprocal tariff reductions below MFN rates. This exception to MFN treatment was introduced through a ten-year waiver in 1971 and given legal status through the Enabling Clause in 1979. Many developing countries consider the GSP an important instrument for ensuring their "special and differential treatment" within the multilateral trading system through improved access to developed countries' markets. Such preferences are seen as enhancing the ability of developing countries' exporters to compete with those of developed countries in developed countries' markets.

35. The GSP may not be as advantageous to developing countries as it appears.<sup>26</sup> First, such preferences are seldom generalized; they frequently exclude precisely those products (e.g. textiles, clothing and footwear) in which developing countries have a comparative advantage, and moreover, where their exports tend to face tariff peaks in major markets. Further, a developing country may be "graduated" out of a preference for a product just as it begins to achieve significant success in an export market, thereby discouraging efforts to expand exports.<sup>27</sup> In addition, conditions may be attached to these preferences in order to obtain concessions from developing countries; these concessions may be in non-trade areas.<sup>28</sup> Preferences can be withdrawn, thus leading to uncertainty. Exporting countries are required to satisfy certain "rules of origin"; these usually involve a minimum amount of value added, which can be a deterrent to small countries with limited technological capacity. Also, rules of origin often require beneficiaries to use inputs produced in the country granting the preference, with potential adverse effects on their exporters' competitiveness.<sup>29</sup> Finally, given that the value of GSP preferences tends to be eroded by negotiated multilateral reductions in MFN rates, they can provide the wrong signal to exporters in developing countries regarding their long-term comparative advantage and might even deter developing countries from agreeing to reductions in MFN rates. It follows that developing countries need to anticipate the erosion of the value of GSP preferences.

(g) Bilateral and regional preferences

36. Tariff preferences may also be granted to partners in bilateral or regional trade agreements; indeed, the increase in the number of such agreements in recent years looks set to further erode the scope of application of MFN tariffs (Section D).

37. Another development that tends to undermine the MFN principle is the manner in which safeguards may be implemented. For example, major traders have managed to negotiate exclusions from recent tariffs imposed by the United States on certain steel products. Such exclusions were reportedly granted overwhelmingly to steel producers in the European Union and Japan, who had

---

<sup>26</sup> See Arvind Panagariya, "Is this free meal worth having?" *The Economic Times*, 19 June 2002.

<sup>27</sup> For example, the United States imposes a US\$100 million limit on exports per tariff line.

<sup>28</sup> In some instances, the EU explicitly links its granting of preferences in addition to those provided by the GSP to beneficiary countries' adherence to labour and environmental standards (see for example, WTO, 2000, *Trade Policy Review – European Union*, Vol. I). Likewise, U.S. trade laws allow the President to use GSP to promote labour standards and intellectual property rights.

<sup>29</sup> Such sourcing may not be the cheapest available, thus raising the production costs of exporters and affording protection to preference-granting producers of fabric and yarn.

threatened to retaliate by raising duties on other goods.<sup>30</sup> Thus, these tariffs may be borne disproportionately by smaller traders, including developing countries, with less negotiating power.

## 2. Market access remains an issue in textiles and clothing

38. Under the WTO Agreement on Textiles and Clothing (ATC) three successive stages are defined for integration of textiles and clothing products into the rules of GATT 1994. The first two stages (1995-1997 and 1998-2001) have been completed, and the final stage (2002-2004) is currently being implemented. Members were required to integrate a minimum percentage of their total volume of imports of textiles and clothing in 1990 covered by the ATC (16%, 17% and 18%, respectively at the beginning of each of the three stages). Members were free to choose the products they wished to integrate but had to include products from each of the four main groups (tops and yarns, fabrics, made-up textile products and clothing). In addition, market access had to be improved for products remaining under quota by increases in the quota growth rates by at least 16%, 25% and 27%, respectively in the three stages.

39. All countries that undertook the ATC integration programmes have met the minimum requirements, while those countries applying quotas under the ATC (Canada, the European Union, Norway and the United States) have also met the growth-rate increase requirements. However, with the exception of Norway, which phased out all its restrictions between 1996 and 2001, the overall elimination of restrictions has been modest.<sup>31</sup> With the implementation of stage 3 (1 January 2002), at least 51% of the total volume of the respective Members' 1990 imports of products falling under the ATC have been integrated. At the end of the transitional period on 31 December 2004, all remaining products will have to be integrated, all restrictions removed, and the Agreement will stand terminated.

40. The WTO's Textiles Monitoring Body, in its report on implementation in the second stage, confirmed the observation made in the first stage that products selected for integration had been concentrated in the lower value-added range. Integration in the third stage would seem not to alter this observation significantly, probably implying that the value of products integrated during the three stages would be lower than in volume terms.<sup>32</sup> The concentration on low value products would also tend to imply that there is escalation in non-tariff protection (greater protection given to higher value-added products); as in the case of tariff escalation (section 1(e) above), this would suggest that such protection impedes developing countries in their efforts to move their production into higher value-added products.

41. In the second major review of the implementation of the ATC conducted by the Committee on Trade in Goods (CTG), developing countries argued that there had not been meaningful progress

---

<sup>30</sup> "U.S. Eases Tariffs Amid Intense Pressure" *Wall Street Journal*, August 23-25, p. A.3.

<sup>31</sup> In the first stage, Canada integrated one product category subject to restrictions (work gloves); none of the products integrated by the EU and the United States were subject to restrictions. In the second stage, Canada integrated two product categories subject to restrictions although in the case of one of these categories (tailored collar shirts) Canada had stopped enforcing the restrictions in the previous year. In the case of the EU, 12 of the categories being integrated were subject to restrictions while in the integration programme of the U.S. 24 categories or parts of categories were under restriction. Such restrictions were eliminated on 1 January 1998. In the third stage, for Canada three categories and two sub-categories subject to restrictions were integrated; in some other product categories the restrictions were only partly eliminated as non-integrated parts of categories remained under restriction. For the EU, 11 categories subject to restrictions were integrated and the restrictions removed. In the United States part or all of the 38 categories subject to restrictions were integrated. Norway chose to remove all 54 restrictions by applying ATC Article 2:15, which provides for the advanced removal of quotas independent of the integration of the products concerned, in four steps between 1995 and 2000 (WTO document G/L/459, 31 July 2001).

<sup>32</sup> The share of clothing products integrated in each of the three stages was: Canada 7%, 8.8% and 3.83%; the EU 2%, 12% and 6.22%; Norway 1%, 17% and 7.5%; and the U.S. 13%, 11.6% and 2.55% (WTO document G/L/459, 31 July 2001).

towards the phasing out of the quota system and that the increases in the quota growth rates had not provided significant improvements in market access. They argued that although the minimum 51% integration requirement had been met, only about 20% of imports under specific-quota restrictions had been liberalized by the EU and the United States at the beginning of the third stage. They also raised a number of other concerns with the implementation of the ATC and with the application of other WTO Agreements to textiles trade. Taking all of these concerns together, the developing countries were of the opinion that their balance of rights and obligations in the ATC had been impaired. The developed, restraining Members considered that they had fully met their ATC obligations and that the implementation process was fully on track.<sup>33</sup>

42. At the Doha Ministerial Conference, in the discussion on implementation-related issues, Members reiterated their commitment to full implementation of the ATC and agreed that provisions in the ATC for the early integration of products and elimination of quotas should be effectively utilized; that for two years following full integration Members would exercise restraint in the use of anti-dumping measures against textiles and clothing exports previously subject to quotas; and that Members would notify any changes in their rules of origin for any products under the ATC to the Committee on Rules of Origin. Members also requested the Council for Trade in Goods to examine and make recommendations to the General Council by 31 July 2002 for appropriate action concerning two proposals relating to the calculation of quota levels for the remaining period of the ATC.<sup>34</sup> In view of the fundamental differences between the developing, exporting countries and the developed importing countries, the examination of these two proposals did not lead to agreed recommendations by the CTG to the General Council.

43. Protection of the textiles and clothing sector through tariff and non-tariff barriers is common across several countries. Those Members that had notified quantitative restrictions maintained on textiles and clothing for reasons other than the ATC, have been removing them. Import restrictions notified by Members to the WTO Committee on Balance-of-Payments Restrictions are being gradually phased out: Pakistan notified completion of its phase-out of restrictions by June 2002<sup>35</sup>; India removed its remaining restrictions on 1 April 2001; and Bangladesh has notified a plan to phase out restrictions on a number of textiles and clothing items by 1 January 2005.<sup>36</sup>

44. As non-tariff barriers decline, however, they reveal relatively high tariff peaks, particularly in textiles and clothing. For the Quad (except Japan), for example, average tariffs for textiles and clothing products are considerably higher than the overall simple average (Table 1). Tariffs on textiles and clothing are even higher in major developing countries (Table 2); in major textiles and clothing exporting countries, such as Bangladesh and India, tariffs on textiles and clothing imports are over 30%.<sup>37</sup> For some countries (notably South Africa and, to a lesser extent, Japan), tariffs on textiles and clothing tend to have a larger share of specific duty elements (including compound and alternate rates) than other products; the specific duties generally are not included in the tariff calculations and it is likely that their use would increase the overall average further.<sup>38</sup> Thus while non-tariff barriers are expected to be phased out by 1 January 2005, tariff peaks and escalation in this sector will most likely continue to be barriers to market access.

---

<sup>33</sup> WTO document G/L/556, 26 July 2002.

<sup>34</sup> Paragraphs 4.4 and 4.5 of the Decision on Implementation Related Issues and Concerns (WTO document, WT/MIN(01)/17, 20 November 2001).

<sup>35</sup> WTO document WT/BOP/N/59, 17 December 2001.

<sup>36</sup> WTO document WT/BOP/N/54, 15 December 2000.

<sup>37</sup> The simple average tariff for 1999/2000 for Bangladesh was 31.5% and in 2001/02 31.3% for India. Other textiles and clothing exporters with high (above 20%) average tariffs on textiles and clothing include Pakistan (26.4% in 2001), Thailand (24.7% in 1999), and Mexico (24% in 2001).

<sup>38</sup> The percentage of *ad valorem* tariff rates in textiles and clothing tend to vary considerably. For the Quad countries they are: 99.8% for the European Union; 98.8% for Canada; 92% for the United States; and 88% for Japan. In South Africa and India the percentage of *ad valorem* rates is considerably lower (22.8% for South Africa and 67.3% for India).



45. There have been four disputes involving safeguard measures taken under the ATC and a further 20 disputes, relating to textiles and clothing along with other products, claiming violations of certain provisions of the ATC and/or other Agreements.

### 3. Subsidization still an important trade distortion, especially in agriculture

46. Although there is no global accounting available on the use of subsidies (including tax relief), a number of factors, ranging from fiscal consolidation in major economies to private-sector-oriented structural reforms in developing countries, have contributed to restraining the use of subsidies in the manufacturing and services sectors.<sup>39</sup> The disciplines on trade-distorting subsidies contained in the WTO Agreement on Agriculture (AA) have also capped support to this sector; nonetheless, support for agriculture remains high, particularly in many of the major industrialized countries, and continues to have a considerable impact on agricultural markets.<sup>40</sup>

47. Total support to agriculture by OECD countries is estimated to have decreased slightly in 2001 to US\$311 billion from US\$321 billion in the previous year.<sup>41</sup> Such support was the equivalent of 1.3% of GDP in the OECD area, compared with an annual average of 2.3% in the peak 1986-88 period, when the Uruguay Round negotiations were under way (Table 4). In the Republic of Korea, Norway, and Switzerland, total support to agriculture is close to, or exceeds, the sector's contribution to GDP.

**Table 4**  
Selected indicators of support to agriculture in OECD countries, 2001

	Agriculture's	TSE (% share of GDP)	Percentage			Producer NPC	Consumer NPC
	share of GDP (%)		PSE (%)	MPS + OP <sup>a</sup> (%)	IS <sup>a</sup> (%)		
Australia	3.3	0.3	4	3	66	1.00	1.00
Canada	2.2	0.7	17	53	9	1.11	1.15
Czech Republic	3.6	1.2	17	41	19	1.06	1.06
European Union	2.1	1.4	35	62	6	1.33	1.41
Hungary	3.7	1.4	12	30	56	1.01	1.00
Iceland	9.6	1.6	59	74	10	2.11	1.68
Japan	1.1	1.4	59	93	5	2.36	2.12
Korea	4.9	4.7	64	93	3	2.64	2.47
Mexico	5.5	1.3	19	67	12	1.17	1.21
New Zealand	7.2	0.3	1	60	40	1.00	1.02
Norway	1.5	1.4	67	56	22	2.27	1.94
Poland	4.1	1.0	10	70	27	1.07	1.07
Slovak Republic	3.6	0.9	11	..	..	1.01	1.01
Switzerland	1.2	1.9	69	59	5	2.39	2.33
Turkey	14.1	4.3	15	81	9	1.15	1.16
United States	1.4	0.9	21	55	15	1.15	1.13
OECD Average	..	1.3	31	69	8	1.31	1.37

.. Not available.

a Percentage share of PSE.

Note: TSE = total support estimate; PSE = producer support estimate; MPS = market price support; OP = payments based on output; IS = Payments based on input use; NPC = nominal protection coefficient.

Source: OECD 2002, *Agricultural Policies in OECD Countries – Monitoring and Evaluation*.

<sup>39</sup> All WTO Members are required to notify their subsidy programmes to trading partners. For notifications on subsidies under Article XVI:1 of GATT 1994 and Article 25 of the Subsidies Agreement, see document series WT/G/SCM/N/; and for notifications on agricultural support measures under the Agreement on Agriculture, see document series WT/G/AG/N. Comparisons are difficult to make regarding the actual amounts of subsidy involved.

<sup>40</sup> OECD (2002), *OECD Agricultural Outlook, 2002-2007 – Highlights*, Paris, p. 5.

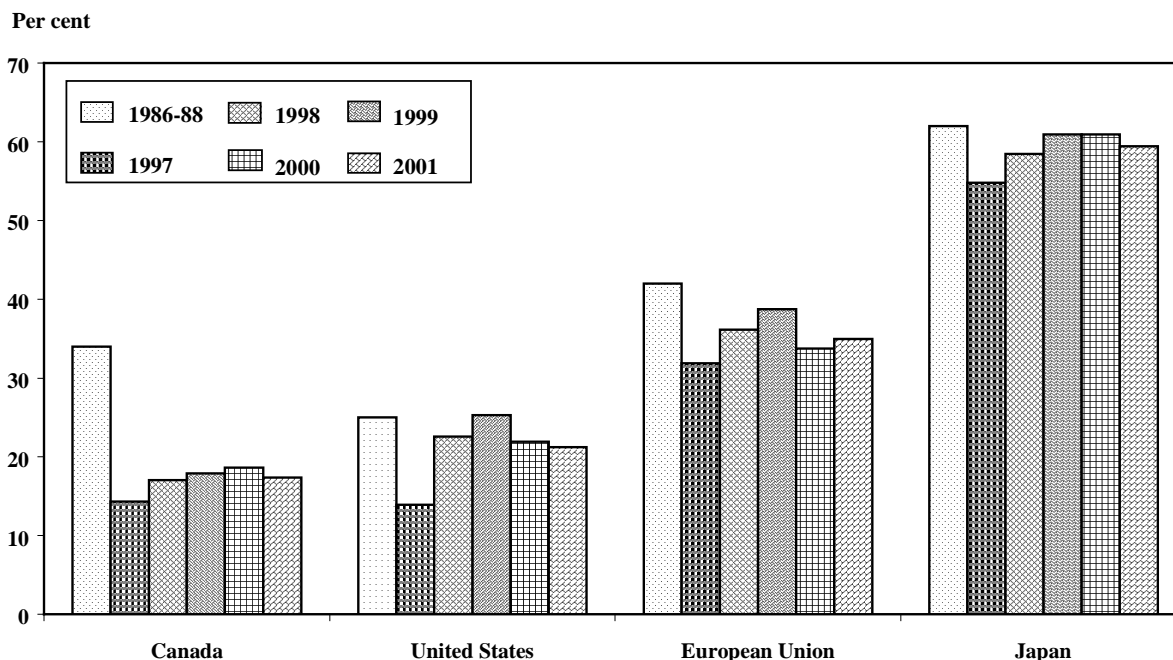
<sup>41</sup> OECD (2002), *Agricultural Policies in OECD Countries – Monitoring and Evaluation*, Paris, p. 9.

48. Support, as measured by the producer support estimate (PSE), granted to agricultural producers in the OECD area declined from US\$242 billion in 2000 to US\$231 billion in 2001; that is, from 32% to 31% of total farm receipts, compared with 38% in 1986-88. The largest share in the OECD area is accounted for by the European Union (40%), followed by the United States (21%), Japan (20%), the Republic of Korea (7%), and Mexico (3%). An exception to the overall drop in support in the Quad between 2000 and 2001 was the EU, whose PSE seemingly rose slightly from 34% to 35% (Chart 3); i.e. for every euro an EU farmer earned in 2001, 35 cents came from support measures. The corresponding PSEs for Japan, the United States, and Canada were 59%, 21% and 17%. For all four Quad members, support in 2001 was considerably higher than in 1997. Support levels in 2001 were the lowest in New Zealand (1%) and Australia (4%) and highest, along with Japan, in Iceland, Norway, and Switzerland (around or over 60%). As in 2000, the slight decrease in such support mainly reflects an increase in world prices (and hence a reduction in the gap between domestic and world prices), causing a fall in price support.<sup>42</sup>

49. Despite some shift away from market price support (MPS) and output payments (OP), these remain the dominant forms of support in most OECD countries, together accounting for 69% of support to producers.<sup>43</sup> Although down from 82% in 1986-88, the proportion of such support remains high; it distorts production and trade, thereby contributing to over-production in the OECD area to the detriment of both those OECD Members where support is relatively low and of non-OECD countries.

50. As reflected in the producer nominal protection coefficient (NPC), the prices received by OECD farmers, were on average 31% above world prices in 2001 (compared with 58% in 1986-88), thereby shielding farmers in many countries from world market signals. At the same time, the prices paid by consumers (consumer NPC) in 2001 were on average 37% higher than world prices.

**Chart 3**  
**Trends in Producer Support Estimates (PSE) in the Quad, 1986-2001**



Source : OECD, *Agricultural Policies in OECD Countries - Monitoring and Evaluation* (various issues).

<sup>42</sup> OECD (2002), *Agricultural Policies in OECD Countries – Monitoring and Evaluation*, Paris, p. 9.

<sup>43</sup> If input subsidies (IS) are added to market price support and output payments, the corresponding share was 78%, down from 91% in 1986-88.

51. Farm support is often defended on the grounds that it protects small farms and traditional rural life. However, under the CAP, 70% of support (that is, payments to producers plus market price support) is allocated to the largest 25% of the EU's farms<sup>44</sup>; in the United States, Canada and Japan, the corresponding amounts of support allocated to the largest 25% of farms are 89%, 75% and 68%.

52. Although the declining trends in support for agriculture, together with the shift towards less-distortive measures, have the potential to put less pressure on the environment and to be more effective in supporting farm incomes and in achieving other policy goals, the continued dominance of the most distortive forms of support means that farmers in many OECD countries remain largely insulated from world market signals. They also constrain agricultural growth and development opportunities in non-OECD countries. Members recognized these problems in the Doha Declaration by placing the needs and interests of developing countries at the heart of their Work Programme. Given the slow and variable pace of the implementation of agricultural policy reform agreed by OECD Members, greater efforts are needed. As stressed by the OECD, "(T)he challenge is to further reduce support, ensure well functioning markets, implement better-targeted measures that are less production and trade distorting, and effectively address both domestic and international goals."<sup>45</sup>

53. Some countries are not waiting for multilateral negotiations at the WTO but are moving unilaterally to further reform agricultural policies. In the EU, the Commission has recently proposed a plan to continue overhauling the Common Agricultural Policy (CAP).<sup>46</sup> Although the total EU farm budget would remain at €40 billion<sup>47</sup>, the plan would, *inter alia*, reduce the extent to which support is linked to production and instead peg support to environmental and food safety standards. In addition to preparing the way for negotiations at the WTO, this plan may be driven in part by the need to lower the cost of integrating new members into the EU. The extent to which the Commission's plan will be adopted by Member States remains to be seen. India, faced with the burgeoning costs associated with the accumulation of grain stocks that greatly exceed food security needs, has also started to take steps to reduce such stocks; India is also gradually reducing other input subsidies, such as those for fertilizers.<sup>48</sup>

54. By contrast, in the United States, where the sector is more market-oriented than in many other OECD countries, the Farm Security and Rural Investment Act of 2002 raised agricultural subsidies substantially<sup>49</sup>; it is the most generous farm subsidy package in U.S. history. For the time being, the Act deviates from a six-year experiment with more market-oriented agricultural policies; several of the subsidies contained in the bill would provide incentives to boost production. This is particularly true of "counter-cyclical payments", under which growers of wheat, corn, rice, soyabeans, and cotton will be guaranteed a certain price irrespective of market conditions, thereby distorting both production and trade; in the event that prices fall further, such subsidies will rise accordingly, although a "circuit breaker" built into the legislation is designed to keep spending within the WTO ceiling.

55. The agreement reached in Doha in late 2001 provided a fresh impetus to the negotiations on agriculture that began more than two years ago in accordance with Article 20 of the WTO Agreement on Agriculture. The DDA provides the opportunity to deepen agricultural reform and further liberalize trade. The success of these negotiations depends heavily on the willingness of major OECD

---

<sup>44</sup> Farms are classified according to the size of their gross sales (for more details, see OECD, 2002, "Farm household income issues in OECD countries: a synthesis report," AGR/CA/APM(2002)FINAL, Paris).

<sup>45</sup> OECD (2002), *Agricultural Policies in OECD Countries – Monitoring and Evaluation*, Paris, p. 10.

<sup>46</sup> Although the CAP is often defended on the ground that it protects small farms and traditional rural life, 80% of its subsidies are reportedly allocated to the largest 20% of the EU's farms.

<sup>47</sup> This figure does not take into account indirect subsidies, such as price support and tax breaks for farmers; according to the OECD, total support to producers in 2001 was €104 billion.

<sup>48</sup> WTO (2002), *Trade Policy Review – India*, 2002, p. x.

<sup>49</sup> Under this new legislation, which replaced the FAIR Act of 1996, federal spending on farm programmes will increase by US\$82.6 billion over the next 10 years, on top of some US\$100 billion Congress was already set to give farmers, thus exacerbating the rising fiscal deficit.

countries to undertake such reforms and trade liberalization. Under the Agreement on Agriculture, Members are committed to limit and reduce the volume and value of export subsidies; the use of new export subsidies is prohibited.<sup>50</sup> These commitments primarily constrain developed countries, and notably the EU, which accounts for about 90% of export subsidies granted by OECD countries. According to the OECD, the total value of export subsidies on agricultural products decreased in 2000, mainly due to a fall in the value of subsidies granted by the EU (owing to the lower gap between domestic and international prices). Still, the levels of export subsidies at the end of the Uruguay Round implementation period will be close to US\$13 billion, allowing Members significant use of these subsidies, if they so wish.<sup>51</sup>

56. According to the IMF, removal of agricultural support (tariffs and subsidies) as part of a comprehensive effort to lower trade barriers would raise global economic welfare by US\$128 billion annually, the bulk of which appears to be due to the removal of tariffs.<sup>52</sup> While nearly US\$98 billion of this welfare gain would accrue to industrial countries, through more efficient production and lower food prices for many consumers, the benefits to developing countries would also be substantial, at some US\$30 billion. These gains are particularly large for food-exporting regions, including sub-Saharan Africa, where many of the world's poorest live. Although a few poor countries that are significant food importers may be harmed by such liberalization, their losses, as well as those of a small number of richer countries are dwarfed by the welfare gains to industrial countries. This suggests that it will be important to consider providing assistance to poor countries that may lose.

57. Subsidies are used in sectors other than agriculture. Their use is by no means confined to the two largest WTO Member economies – the EU and the United States – but their impact on conditions of competition in world markets tends to be significant. Statistics produced by the European Commission, which monitors state aid in the EU, show a continuous decline since 1995.<sup>53</sup> No similar overall assessment is available for the United States for aid provided at the federal, state or local government levels, but there is no reason to believe that the trend is rising.<sup>54</sup> Subsidies tend to be narrowly targeted on specific sectors, certain types of business (e.g. small and medium-sized enterprises), disadvantaged regions or certain objectives (e.g. technological development, environmental protection). Subsidy practices on both sides of the Atlantic have proved to be a persistent source of disputes in the WTO.

#### **4. The use of trade defence measures on a rising trend**

58. Trade defence measures such as anti-dumping, countervailing and safeguards are permitted under the relevant WTO Agreements, subject to certain prescribed rules. The number of investigations initiated, especially of alleged dumping, has risen significantly since 1995. This raises concerns about the appropriate use of the provisions, which were put into place to protect countries

---

<sup>50</sup> Commitments include the reduction of subsidized exports by 21% over six years from the entry into force of the WTO (14% over ten years for developing countries) and the reduction of the value of export subsidies by 36% (24% over ten years for developing countries).

<sup>51</sup> 70% to the European Union. See WTO (2001), *Market Access: Unfinished Business*, Geneva, Table III.10, p. 61.

<sup>52</sup> This US\$128 billion relates only to static gains; dynamic gains (from higher investment and faster productivity growth) may well be several times larger. IMF, *2002 World Economic Outlook*, p. 85.

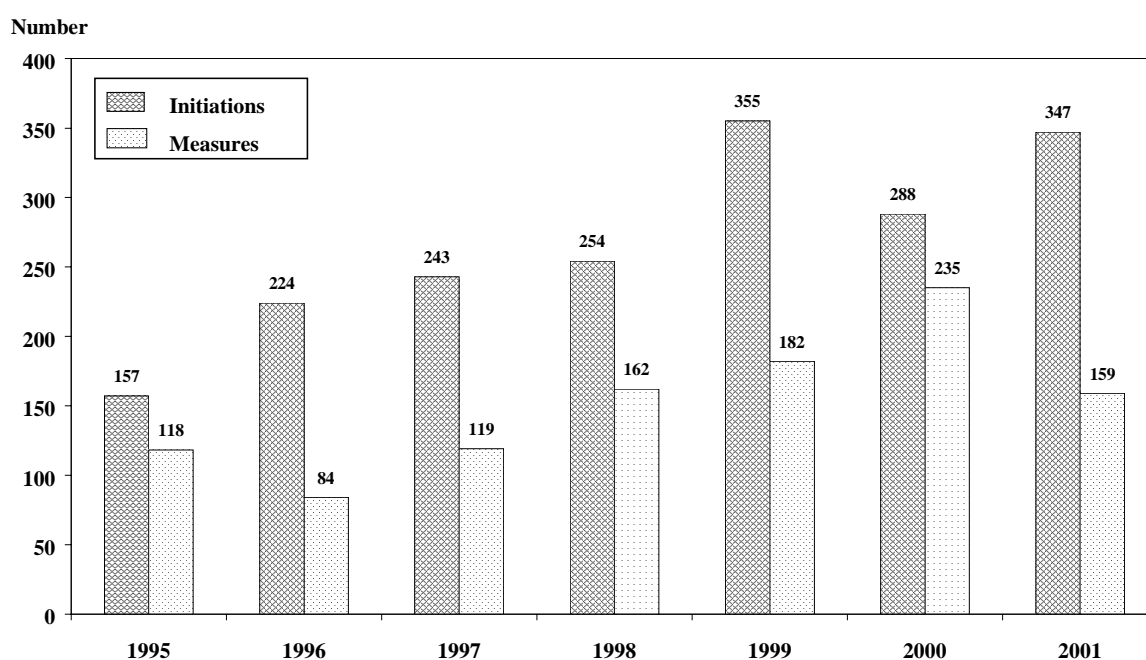
<sup>53</sup> European Commission (2001), *Eighth Survey on State Aid, Brussels*, p. 9; and European Commission (2002), *Ninth Survey on State Aid, Brussels*, p. 21. State aid to the manufacturing sector in the Community was reduced by a third between 1995 and 1999, the latest year for which statistics are available.

<sup>54</sup> According to WTO (2001), *Trade Policy Review – United States*, estimated U.S. outlays in support of commerce and business for 1999, amounted to US\$28 billion, and credit programmes slightly exceeded US\$2 billion. By comparison, tax expenditures were US\$6.8 billion in the international business sector, US\$2.4 billion for space and technology companies, US\$3.2 billion in the energy sector, and US\$1.7 billion for natural resources and the environment; the largest single business tax expenditure (accelerated depreciation of assets) was estimated at US\$32 billion in lost revenue in that year (1999).

from unfair trade arising from "dumping" or from the use of subsidies; their use is viewed by some as a non-tariff barrier to trade. A number of Members have also voiced concerns about the improper use of these procedures as a pretext to protect domestic producers of like products.<sup>55</sup> A significant percentage of all cases brought to the WTO's dispute settlement body continue to involve the use of anti-dumping measures.<sup>56</sup>

59. The number of initiations of anti-dumping investigations notified by Members to the WTO rose steadily from 157 in 1995 to a peak of 355 in 1999; after falling to 288 in 2000, there appears to have been an increase again in 2001, to 347 (Chart 4). This rising trend is partly due to the increase in the number of Members reporting, from 18 in 1995 to 25 in 2001. The number of new measures imposed, as reported by Members, was 235 in 2000 and 159 in 2001.<sup>57</sup>

**Chart 4**  
**Anti-dumping: initiations of investigations and measures, 1995-2001**



Source: WTO Secretariat.

60. The sectors in which most initiations have occurred recently are: base metals and articles thereof (38% of initiations in 2001); chemicals (17%); and plastic and rubber articles (14.4%) (Chart 5). In particular, there has been a surge in the number of anti-dumping investigations in base metals, rising from 43 initiations in 1995 to 132 in 2001; around 85% of investigations initiated in this category were targeted at steel products (around one third of all anti-dumping investigations since 1995 have been on steel products). Steel has been the subject of frequent calls by industry to

<sup>55</sup> The issue of appropriate use was mentioned for example, by several Members at the Trade Policy Review of India, which, in 2001, had become the largest initiator of anti-dumping investigations. Several Members have also called for a review of procedures used to initiate anti-dumping and other trade defence measures. Such a review, with respect to anti-dumping and countervailing measures, is now under way in the context of current negotiations; its aim is to clarify and improve disciplines while preserving the basic concepts, principles and effectiveness of the Agreements and their instruments and objectives, and taking into account the needs of developing and least-developed Members.

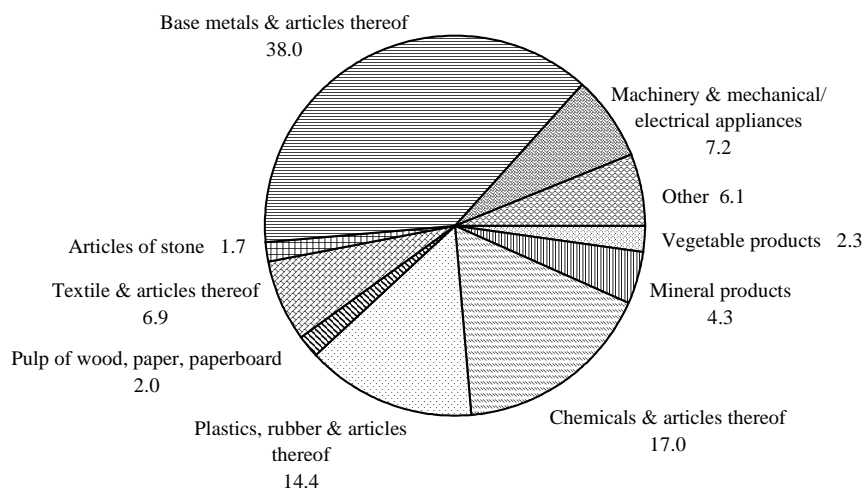
<sup>56</sup> As of July 2002 there had been 39 requests for consultations involving anti-dumping measures.

<sup>57</sup> The total number of measures in force as of 30 June 2002 was 1,189.

investigate dumping by cheaper producers in the face of oversupply in the world. Members most frequently subject to the initiation of anti-dumping investigations are developing and transition economies. These investigations are most often initiated by other developing countries.

**Chart 5**  
**Anti-dumping initiations by sector, 2001**

Per cent



Source: WTO Secretariat.

61. The leading four initiators of anti-dumping provisions in 2001 were: the United States (76), India (75), the European Community (29), and Argentina (26). Those most often subject to the investigations were: China (53), Chinese Taipei and the Republic of Korea (19 each), and Indonesia and Thailand (16 each). Overall, since 1995, the largest users have been the United States (257), India (248), the European Community (247), and Argentina (166), while the countries or separate customs territories most affected have been China (261), the Republic of Korea (139), United States (103), and Chinese Taipei (96).

62. It is estimated that around half of all anti-dumping investigations are terminated without imposition of final measures. New measures imposed and notified by Members to the WTO have, as in the case of initiations, also shown a tendency to increase since 1995, although in 2001 the reported 159 newly imposed measures was down from the 235 reported in 2000. The most measures in 2001 were imposed by India (38), the United States (33), Canada (19), Argentina (15), and Brazil and the European Community (13 each). The top four users in terms of measures imposed since 1995 have been the United States (169), India (156), the European Community (146), and Argentina (96).

63. Members tend to use countervailing measures more sparingly than anti-dumping measures. In 2001, 27 initiations were reported by Members. The main users were the United States (18), followed by the European Community (6); the investigations were largely targeted at India (8).

64. Members are also resorting more frequently to safeguard measures now than a few years ago. In 2002 (up to 28 October 2002) Members notified initiation of 30 safeguard investigations. This compares to 14 in 2001, and 26 and 15 in 2000 and 1999, respectively. The number of definitive safeguard measures has also risen steadily from 6 each in 1999 and 2000 to 9 and 10 in 2001 and 2002, respectively.

## 5. Technical regulations and sanitary measures also increasingly used by developing countries

65. Under the WTO Agreements on Technical Barriers to Trade (TBT) and Sanitary and Phytosanitary (SPS) Measures, Members may require imports to meet certain national standards dealing with, *inter alia*, technical, health and safety, sanitary and phytosanitary, and environmental requirements. In some cases the regulations are associated with international agreements or protocols, such as a ban on trade in endangered species under the CITES Convention or on ozone-depleting substances under the Montreal Protocol on Substances that Deplete the Ozone Layer. In others the restrictions are subject to national requirements and imports may enter the country subject to presentation of health or conformity assessment certificates. Several recent studies suggest that the removal of SPS regulations could generate welfare gains to consumers as well as net gains to society (if consumers compensated those producers adversely affected by the removal of such measures).<sup>58</sup>

66. Since the entry into force of the WTO, the number of technical regulations notified by developing-country Members has grown steadily, although the overall number of notifications has declined since 1999 when 669 regulations were notified; 538 were notified in 2001. In 2001 the EU, along with its Member States notified the largest number of regulations (110), followed by Thailand (75). Developing countries are also becoming frequent users of SPS measures, mainly for food-safety reasons. In 2001 the United States notified the largest number of SPS measures (155), followed by Thailand (52), and the EU (36); comparable figures for 2002 (up to June) were 237, 60, and 56, respectively.

67. Members, especially developing countries, have frequently expressed concern about the possible use of these measures to reduce market access. In this regard, efforts by the Director-General to increase developing countries' participation in standard-setting bodies were commended in the Ministerial Declaration on Implementation Related Issues and Concerns at the Doha Ministerial Conference; the Declaration also, *inter alia*, urged Members to provide technical and financial assistance to ease implementation issues faced by least-developed country Members of the WTO. In this context, the WTO and World Bank are establishing the Standards and Trade Development Faculty, which – in cooperation with other organizations – will help developing countries to shape and implement international standards on food safety, and plant and animal health.

68. Complaints regarding SPS or TBT measures maintained by Members have also been rising. As of July 2002, there were 21 complaints concerning SPS measures and 25 concerning TBT provisions.

### C. MARKET ACCESS FOR SERVICES

69. Services is the largest and most rapidly expanding sector in most economies, accounting for well over 60% of world GDP.<sup>59</sup> Moreover, as noted before, trade in services has grown more rapidly than merchandise trade since 1985, with developing countries increasing their share during this period.<sup>60</sup> While some services sectors, in particular international finance and maritime transport, have been largely open as the natural complements to merchandise trade, other major sectors have undergone fundamental technical and regulatory changes in recent decades which have dramatically increased their "tradability". Commercialization and the reduction, or elimination, of existing barriers

---

<sup>58</sup> OECD, "A Synthesis of Empirical Studies of SPS Regulations and a Proposal for Future work" (COM/AGR/TD/WP(2002)72, 27 August 2002).

<sup>59</sup> WTO (2001), *Market Access: Unfinished Business*, Special Study 6 (Section IV: Services), WTO, Geneva. The contribution of services to GDP in individual countries varies widely, from under 30% to over 80%.

<sup>60</sup> World Bank (2002), *Global Economic Prospects and the Developing Countries, 2002*, Chapter 3: Trade in Services: Using Openness to Grow, World Bank, Washington DC. [Online]. Available at: <http://www.worldbank.org/prospects/gep2002/toc.htm>, [13 August 2002].

to entry have transformed policy regimes across many countries and sectors. The emergence of the Internet has helped to create a range of new, internationally tradeable products from e-banking to telehealth and distance learning, and to remove distance-related barriers to trade for suppliers and users in remote locations (such as software development, consultancy and advisory services). A growing number of services previously subject to monopoly are gradually being exposed to competition; telecommunication and other infrastructural services, not least road transport and banking, are cases in point. Reforms in such sectors have introduced greater efficiency not only in the supply of the products concerned, but generated economy-wide productivity gains as many services are inputs for other goods and services.<sup>61</sup>

70. Frequently, Members have liberalized services more rapidly than their commitments in the WTO under the General Agreement on Trade in Services (GATS); Trade Policy Reviews conducted since 1995, for example, show numerous examples of unilateral liberalization that go well beyond commitments made under the GATS. With the possible exception of financial and telecommunication services, which have been subject to extended negotiations, the vast majority of current commitments reflect market conditions at the time of entry into force of the GATS in 1995. They thus tend to be more restrictive than current regimes.

71. All WTO Members are legally committed to submit a Schedule of Specific Commitments under the GATS. The Schedule specifies the sectors in which the Member undertakes market access and national treatment obligations, and any relevant qualifications ("limitations"), with regard to four modes of supply that are covered by the Agreement: cross-border supply (Mode 1); consumption abroad (Mode 2); commercial presence (Mode 3); and presence of natural persons (Mode 4). From the perspective of foreign suppliers, specific commitments - comparable to tariff bindings under the GATT - guarantee minimum conditions of market entry and participation in the sectors and modes concerned. However, there is no common blueprint across Members. While all services, except air traffic and directly related services are covered by the Agreement, Members are free to select the sectors, in which they bind market access and national treatment. Reflecting the flexibility of the GATS, the number of sectors committed to varies widely (Table 5). Such variations may be attributable to many factors, including differences in economic development, policy orientation, or institutional conditions among Members.

**Table 5**  
**Specific Commitments by Groups of Members, November 2002**

Members	Average number of commitments per Member	Range (Lowest/highest number of commitments per Member)
Least developed Members	19	1 – 109
Developing & transition Members	50	1 – 143
- Transition Members only	101	57 – 143
Developed Members	107	97 – 115
Accessions since 1995	103	36 – 143

Note: Total number of sectors: ~160

Source: WTO Secretariat.

72. While the classification list used by most Members for scheduling their commitments under the GATS comprises some 160 sectors, the number actually scheduled ranges from one to over 140. The spread is particularly large among developing and transition economies. Governments acceding to the WTO in recent years scheduled significantly more commitments than initial Members at comparable levels of national income.

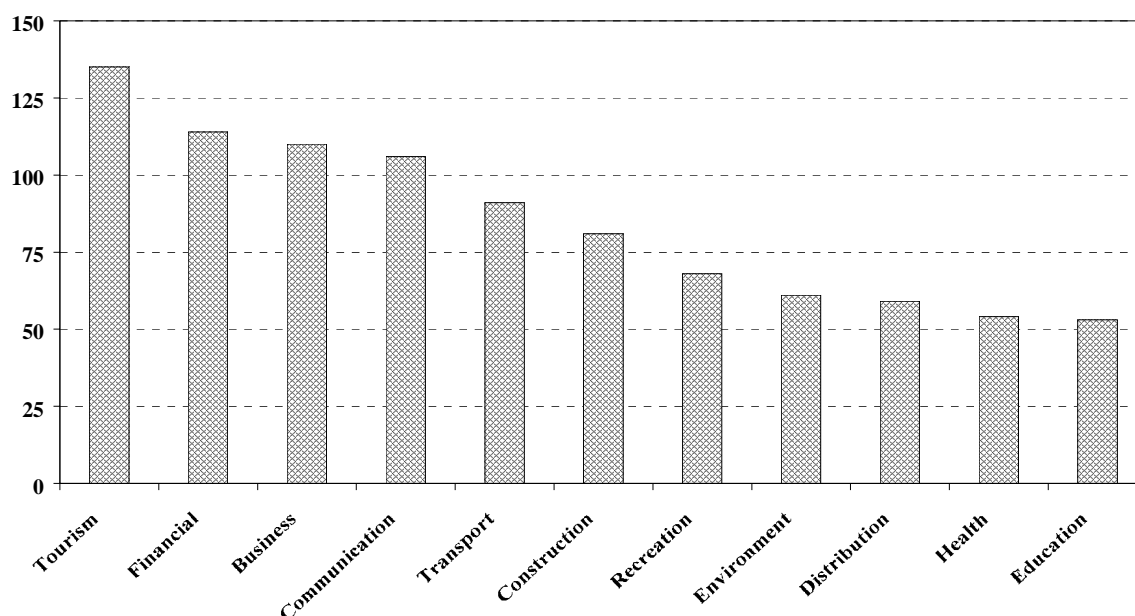
<sup>61</sup> Inefficient services that are an input into other economic activities often raise the cost of production for those economic activities, thereby reducing their competitiveness.



73. The variation in the number of commitments across Members is reflected in a similar variation across sectors. The largest number of commitments were made in tourism-related services, where some 130 Members scheduled at least one of four sub-sectors<sup>62</sup>, followed by financial services, a broad range of business services, communication and transport services (Chart 6). Fewer commitments have been made in social services, such as health and education. With the exception of tourism, which has traditionally been open in most countries, the sectoral pattern of commitments thus shows a strong focus on basic infrastructural services. This may reflect, to a certain extent, negotiating efforts by potential exporters, but also the interest of "importing" countries in upgrading their domestic resource base and attracting internationally available technologies and skills in sectors perceived to be of core developmental importance.

**Chart 6**  
**Sectoral pattern of current commitments (February 2002)**

Number of members



**Note:** The 160-odd sectors that are contained in the classification list generally used for scheduling purposes under the GATS fall under the above 11 categories plus one residual groups of "other services".

*Source:* WTO Secretariat.

74. The liberalization of services has often been accompanied by increased, rather than decreased, regulation.<sup>63</sup> The GATS makes a clear distinction between domestic regulation and trade liberalization. While recognizing the continued right (and, possibly, the need) of Members to enforce domestic policy objectives through regulation, the GATS calls for progressive liberalization.

75. Effective regulation – or re-regulation – can be a pre-condition for liberalization to produce the expected economic and social policy gains. The opening of hitherto restricted markets may need to be accompanied by new licensing mechanisms and public service obligations for quality and

<sup>62</sup> The four sub-sectors are: hotels and restaurants; travel agencies and tour operators; tourist guides; and other.

<sup>63</sup> The need for regulation of services markets is discussed, inter alia, in a recent joint study by the WHO and the WTO Secretariat (WHO/WTO, 2002, *WTO Agreements and Public Health: A Joint Study by the WHO and the WTO Secretariat*, p. 121).

social/regional policy reasons. Recent Trade Policy Reviews show that the opening of the financial services sector to competition has been accompanied by stricter prudential regulations and disclosure requirements for banks, while liberalization of telecommunication services normally went hand in hand with new competition rules and regulatory principles, and the creation of implementing agencies.<sup>64</sup>

76. Regulations that are not intended to be restrictive in nature may, nevertheless, restrict trade. Such effects may not always be justified by a prevailing policy objective, but simply reflect excessive and/or inefficient regulatory intervention ("over-regulation"). Because of the impact of domestic regulations on trade in services, the Council for Trade in Services has been mandated under Article VI:4 of the GATS to develop necessary disciplines to prevent domestic regulations (qualification requirements and procedures, technical standards, and licensing requirements) from constituting unnecessary barriers to trade. The Working Party on Domestic Regulation (WPDR) has been established for that purpose. The Guidelines and Procedures for the services negotiations, approved by the Council for Trade in Services in March 2001 and confirmed in the Doha Ministerial Declaration, envisage that these negotiations be completed prior to the conclusion of the current negotiations on specific commitments (also Section (E)).

#### D. REGIONAL TRADE AGREEMENTS<sup>65</sup>

77. As of June 2002, only four WTO Members – Japan; Hong Kong, China; Macau, China; and Mongolia – were not party to a regional trade agreement (RTA). The surge in RTAs has continued unabated since the early 1990s (Chart 7). Some 250 RTAs have been notified to the GATT/WTO up to June 2002, of which 129 were notified after January 1995. Over 170 RTAs are currently in force;<sup>66</sup> an additional 70 are estimated to be operational although not yet notified. By the end of 2005, if RTAs reportedly planned or already under negotiation are concluded, the total number of RTAs in force might well approach 300.<sup>67</sup>

78. The rapid growth in regional trade initiatives began a decade or so ago and seems to have developed into a headlong race: virtually every WTO Member is today engaging further on the RTA track as part of its trade strategy, increasingly for defensive reasons, to protect market access. Along the lines of the trend observed in Europe and, now, in the Americas, a pattern of bilateral, plurilateral (sometimes continent-wide) trade agreements is emerging, including in the Asia-Pacific where traditionally the emphasis has been on multilateral liberalization. Cross-regional initiatives among geographically non-contiguous countries are also multiplying as most of the major players at the regional level are increasingly looking beyond their regional borders for partners in selective (most often bilateral) preferential trade agreements.<sup>68</sup>

---

<sup>64</sup> The study, for example, noted that a lack of appropriate government regulation may result in foreign investment being concentrated in the provision of health services to the wealthy; there is also concern that the treatment of foreign patients in developing countries could divert precious resources away from the domestic market and that the shortage of health personnel experienced in several countries could be exacerbated by the "brain drain" associated with the movement of personnel to high-income regions of the world (WHO/WTO, 2002, *WTO Agreements and Public Health: A Joint Study by the WHO and the WTO Secretariat*, pp. 112-113).

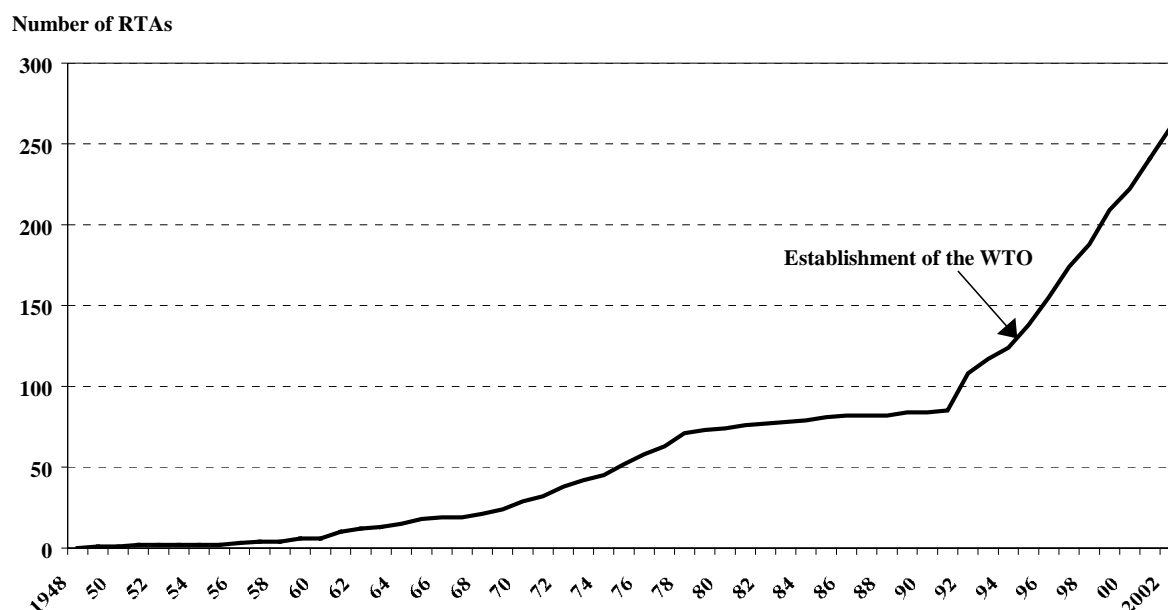
<sup>65</sup> "Regional" trade agreements (or RTAs), even when they link only two and/or geographically distant countries, are intergovernmental treaties through which signatories agree to more advantageous conditions, in the conduct of their mutual trade relations, than those applied to other, non-signatory, WTO partners.

<sup>66</sup> Included in these statistics are notifications made under GATT Article XXIV, GATS Article V, and the Enabling Clause, including accessions to existing RTAs.

<sup>67</sup> Not every RTA under negotiation will automatically increase the number of RTAs in force, given that some will supersede or expand existing RTAs.

<sup>68</sup> The EU and EFTA are leading this trend, however, other regions, in particular countries in North and Latin America are following suit.

**Chart 7**  
**Evolution of Regional Trade Agreements in the world, 1948-2002**



Source: WTO Secretariat.

79. These developments point to the unequivocal reality of RTAs as a major force in present and future global trade relations, as well as to the emergence of a multi-tiered global trading system with a variety of less than global, and potentially contradictory, trade initiatives pursued in parallel to multilateral efforts. Members are becoming entangled in diverse and relatively complex RTA policy regimes to govern their trade relations. The proliferation of RTAs, especially as their scope broadens to include policy areas not regulated multilaterally, increases the risks of inconsistencies in the rules and procedures among RTAs themselves, and between RTAs and the multilateral framework. This is likely to give rise to regulatory confusion, distortion of regional markets, and severe implementation problems, especially where there are overlapping RTAs.

### 1. RTAs: a note of caution

80. RTAs can complement the multilateral trading system, help to build and strengthen it. But by their very nature RTAs are discriminatory; they are a departure from the MFN principle, a cornerstone of the multilateral trading system. Their effects on global trade liberalization and economic growth are not clear given that the regional economic impact of RTAs is *ex ante* inherently ambiguous.<sup>69</sup> Though RTAs are designed to the advantage of signatory countries, expected benefits may be undercut if distortions in resource allocation, as well as trade and investment diversion, potentially present in any RTA process, are not minimized, if not eliminated altogether. An RTA's net economic impact will certainly depend on its own architecture and the choice of its major internal parameters (in particular, the depth of trade liberalization and sectoral coverage). Concurrent MFN trade liberalization by RTA parties, either unilaterally or in the context of multilateral trade negotiations, can play an important role in defusing potential distortions, both at the regional and at the global level.

<sup>69</sup> Numerous analyses of the economic effects of specific RTAs, undertaken in recent years, show mixed results. See OECD (2001), *Regional Integration: Observed Trade and Other Economic Effects*, Working Party of the Trade Committee, TD/TC/WP(2001)19/Rev.1, for an extensive summary of the empirical evidence on the trade effects of RTAs, which also suggests that the impact on economic growth is quite small.

81. The increase in RTAs, coupled with the preference shown for concluding bilateral free-trade agreements<sup>70</sup>, has produced the phenomenon of overlapping membership. Because each RTA will tend to develop its own mini-trade regime, the coexistence in a single country of differing trade rules applying to different RTA partners has become a frequent feature. This can hamper trade flows merely by the costs involved for traders in meeting multiple sets of trade rules.<sup>71</sup>

82. The risk of lack of uniformity between different RTA regimes is compounded by the increasingly wide-ranging configuration of RTAs. Modern RTAs, and not exclusively those linking the most developed economies, tend to go far beyond tariff-cutting exercises. They provide for increasingly complex regulations governing intra-trade (e.g. with respect to standards, safeguard provisions, customs administration, etc.) and they often also provide for a preferential regulatory framework for mutual services trade. The most sophisticated RTAs go beyond traditional trade policy mechanisms, to include regional rules on investment, competition, environment and labour. The emergence of RTA families is in part a corollary to those trends, triggered by the need for consolidation and rationalization of RTAs.

83. RTA origin regulations illustrate the point. Rules of origin are an essential element of all RTAs except fully implemented customs unions. Since the WTO Agreements contain no provision on preferential rules of origin<sup>72</sup>, origin regimes among RTAs tend to differ widely.<sup>73</sup> As a result, the coexistence of different origin rules in a single country has become a frequent feature. The vast majority of RTAs in force, as well as those currently under negotiation, include origin requirements where product-specific rules of origin are often supplemented by other provisions that can either add to or diminish their flexibility. RTA origin regulations are usually more stringent than MFN rules of origin, the more so for products for which the margin of preference between the MFN and the preferential tariff is larger. This can alter substantially the level and effective structure of the preferences established, and may result in an inefficient allocation of resources among the preference-receiving trading partners<sup>74</sup>, as well as increasing the possibility of trade (or investment) diversion.<sup>75</sup>

84. The proliferation of RTAs appears to be increasingly linked to motivations other than traditional economic integration within a geographic region. A kind of "regionalism" *à la carte*, based on the selective choice of trading partners and sectors to be liberalized, has generated the use of a range of bilateral agreements to forge strategic trade relationships at preferential terms with important markets, wherever these are situated. This new "regionalism" shows signs of having developed a "band-wagon" effect, with RTAs being seen as necessary – defensive action – to protect market access: countries come under increasing pressure to play down MFN and negotiate preferential agreements to prevent discrimination in their trade relations. There is the possibility of (an eventual) mosaic of conditions for the conduct of trade, to the possible detriment of clarity and uniformity of global trade rules.

---

<sup>70</sup> The most common type of RTA is the free-trade agreement, often requiring a lesser degree of commitment to economic integration and faster to conclude than a customs union. By the same token, bilateral agreements are much simpler to negotiate and implement than plurilateral agreements.

<sup>71</sup> For example, differing (and sometimes conflicting) tariff schedules and preferential rules of origin can raise transaction costs for exporters and importers.

<sup>72</sup> With the exception of a "Common Declaration with Regard to Preferential Rules of Origin" in Annex II to the Agreement on Rules of Origin.

<sup>73</sup> The lack of uniformity among preferential rules of origin régimes is demonstrated in a recent study by the Secretariat. See WT/REG/W/45, *Rules of Origin Régimes in Regional Trade Agreements*.

<sup>74</sup> In an extreme scenario, costs incurred for a final product to be granted originating status in an RTA market could surpass the benefits derived from the use of the preference. Origin rules would then have an effect similar to that of a trade barrier protecting domestic production of final goods.

<sup>75</sup> The increasing importance of rules of origin may eventually lead producers to consider them as a factor of production *per se*, to be considered in the same manner as the availability and cost of inputs, labour costs, infrastructure, etc. In that sense, rules of origin can influence investment decisions, both with respect to input sourcing and location of production, and thus reinforce investment diversion.

85. Middle- and lower-income developing economies are particularly vulnerable to these pressures because of their relatively small domestic market and the need for market access to larger markets. At the same time, the paradigm attaching a significant development dimension to regional integration initiatives among developing countries is changing tacks. Most developing countries participate in RTAs, though the approach differs from one region to another<sup>76</sup>; they account for between 30-40% of all RTAs estimated to be currently in force. Traditionally, developing countries concluded RTAs almost exclusively among themselves, and such agreements were seen as part of a staged approach to global specialization and competition. A shift is under way towards the conclusion of reciprocal RTAs between developed and developing countries.<sup>77</sup> This will undoubtedly over stretch developing countries' limited administrative capacities to administer a multi-tiered trade regime, and place them at a considerable disadvantage when negotiating the terms of an RTA with powerful "hubs".<sup>78</sup>

## 2. A multilateral treaty with regional exceptions: a need for synergies

86. The WTO recognizes that regional trade integration initiatives can be instrumental, alongside multilateral efforts, in furthering the development of world trade and balanced international trade relations. Members are essentially directed, when concluding RTAs, to promote deep intra-regional trade liberalization and facilitation, while preserving the value of multilateral liberalization and rule making. This principle is enshrined in the provisions of GATT Article XXIV for the formation of customs unions and free-trade areas (trade in goods), and in GATS Article V for agreements in the area of trade in services.<sup>79</sup>

87. Today's regional landscape, however, does not always appear to be in line with the spirit of those provisions. For example, with respect to scope, coverage, and depth of liberalization, the spectrum of RTAs varies widely. A recent study by the Secretariat<sup>80</sup> shows that the growing network of RTAs, while effective in reducing, in most cases eliminating existing tariffs on industrial products<sup>81</sup>, has not done the same for agricultural goods. A few RTAs have eliminated all duties on agricultural goods, but in general, agricultural trade, even on a preferential basis, remains subject to exceptions.<sup>82</sup> Average agricultural preferential tariffs remain high and concessions granted by RTA partners tend to be parsimonious in nature. Nor have RTAs, for the most part, removed tariff peaks on agricultural products. The use of the positive-list approach in granting concessions on agricultural products in the majority of RTAs<sup>83</sup>, limits the scope of potential concessions. This failure to use the selective and less risky environment of an RTA to confront long-standing distortions, particularly in

---

<sup>76</sup> The ambitious regional initiatives typical of the African continent are in stark contrast to the limited objectives set forth by the countries of East and Southeast Asia. Most of the regional initiatives among African countries are aimed at establishing customs unions or common markets, grouping a large number of countries and over long transition periods, often 20-30 years. Countries in East and Southeast Asia have instead opted for speedy and looser forms of integration like FTAs.

<sup>77</sup> This is the case for the Euro-Mediterranean agreements concluded between the EU and the countries of North Africa, which replace the earlier non-reciprocal RTAs which were signed in the 1970s. Also, the post-Cotonou EU-ACP agreements should be negotiated on the basis of reciprocity regarding market access.

<sup>78</sup> Economic and political bargaining power, and the negotiating resources and capabilities are, other than rules, certain to dominate the process of drafting the agreement.

<sup>79</sup> A 1979 Decision of the GATT Council, known as the Enabling Clause, governs preferential arrangements among developing countries (trade in goods only).

<sup>80</sup> *Coverage, Liberalization and Transitional Provisions in RTAs*, WTO document WT/REG/W/46.

<sup>81</sup> Bearing in mind that MFN tariffs on such products, especially as applied by industrialized countries, were already at low levels.

<sup>82</sup> Broad duty-free product coverage in RTAs tends to be the exception rather than the rule, since the domestic forces that resist trade liberalization at the multilateral level are just as likely to resist it at the regional level.

<sup>83</sup> Contrary to the practice generally adopted vis-à-vis tariffs on industrial goods, where a negative list approach is the norm.

agricultural trade, may cement domestic constituencies' resistance to change and undermine the willingness to deal with such issues on a multilateral basis. This is truly a lost opportunity.

88. The WTO Membership may not be adequately equipped for the challenges arising from the proliferation of RTAs and their implications for the functioning of the rules-based multilateral trading system. The WTO surveillance mechanism for the formation of RTAs is, to a large extent, non-operational. Indeed, the Committee on Regional Trade Agreements (CRTA)<sup>84</sup> has failed so far in its task of verifying the compliance of notified RTAs with WTO provisions, due to various political and legal difficulties mainly inherited from the GATT years. As of June 2002, the Committee had 22 RTAs under active consideration ("factual examination"), and 27 on the waiting list. "Factual examination" had been completed for 106 RTAs, whose draft examination reports were in various stages of consultation. No examination report has been finalized since 1995 because of lack of consensus. One problem derives from the possible links between CRTA-consistency judgement and the dispute-settlement process. In addition, there are long-standing controversies about the interpretation of the WTO provisions against which RTAs are assessed, and institutional problems arising either from the absence of WTO rules (e.g. on preferential rules of origin), or from discrepancies between WTO rules and those contained in some RTAs.

89. Against this background, WTO Members, meeting at the Fourth Ministerial Conference in Doha, while recognizing that RTAs can play an important role in promoting trade liberalization and in fostering economic development, also stressed the need for a harmonious relationship between the multilateral and regional processes. On this basis, Ministers agreed to launch negotiations aimed at clarifying and improving the disciplines and procedures under the existing WTO provisions applying to RTAs, while taking due account of the developmental aspects of these agreements.

90. It is premature to consider whether these negotiations will result in a redrafting of the WTO-RTA relationship or to a piecemeal re-interpretation and clarification of existing rules. What is certain, however, is that powerful synergies can be generated when RTA regimes are fully in line with WTO rules and when trade liberalization advances smoothly on both the regional and multilateral fronts. It is therefore crucial to enhance prospects for a harmonious and effective global trade liberalization through renewed and sustained efforts in the DDA, while redefining and rebalancing the relationship between regional trade initiatives and the WTO framework.

## E. THE DOHA DEVELOPMENT AGENDA AND ITS IMPLEMENTATION

### 1. Ministerial Declaration places emphasis on trade and development

91. With the successful conclusion of the Fourth WTO Ministerial Meeting at Doha, Qatar, in November 2001, Ministers launched the Doha Development Agenda (DDA). The Ministerial Declaration along with a separate Declaration on the TRIPS Agreement and Public Health, and a separate decision on Implementation Issues, gives high priority to development and, in particular, to the integration of LDCs in the multilateral trading system. Trade negotiations under the DDA are supervised by a Trade Negotiations Committee (TNC) under the General Council; most, (with the exception of improvements and clarifications to the Dispute Settlement Understanding and on a multilateral register for geographical indications) are to be completed by 1 January 2005.<sup>85</sup> Progress in the negotiations and implementation issues is to be reviewed at the Fifth Ministerial Conference to be held in Cancun, Mexico, in September 2003.

---

<sup>84</sup> The CRTA was established in 1996, in particular (a) to oversee, under a single framework, all regional trade agreements, and (b) to consider the implications of such agreements and regional initiatives for the multilateral trading system and the relationship between them.

<sup>85</sup> Paragraphs 45-48 of the Ministerial Declaration (WTO document WT/MIN(01)/DEC/1, 20 November 2001).

92. The Declaration recognized the role of international trade in promoting economic development and in reducing poverty. Increased benefits from integration in the multilateral trading system would therefore result from further trade liberalization leading to improved market access, strengthened and improved rules and from technical assistance to enhance the institutional capacity of developing countries to implement WTO Agreements and negotiate new ones. In order to achieve this, the Declaration calls for increased technical assistance by the WTO, in cooperation with other multilateral agencies and Members. The Declaration also calls for flexibility on the part of Members to improve market access for developing and LDCs.

93. The TNC will have held five meetings in 2002; it is chaired by the Director General of the WTO, in an *ex officio* capacity. Negotiations are being conducted in new groups for market access and WTO rules (anti-dumping, subsidies, and regional trade agreements) and in Special Sessions of existing bodies for agriculture, services, geographical indications, dispute settlement, and the environment (section (4) below).

## **2. Implementation-related issues are also addressed**

94. In Doha, Ministers expressed their determination to address implementation-related issues and concerns raised by many Members. In addition to taking action to address certain implementation concerns immediately, Ministers in their Decision on Implementation (WT/MIN(01)17) mandated specific action to a number of WTO bodies by way of concrete follow-up.

95. Under these specific mandates, a number of WTO bodies were directed to report to the General Council at various dates in 2002, while the others will report as part of their annual reporting function to the General Council in December. As part of this follow-up, the General Council in July considered and took action as appropriate on reports from the Council for Trade in Goods, the Special Session of the Committee on Trade and Development, and the Subsidies Committee. In October, the Agriculture Committee reported on its follow-up to certain recommendations submitted to Ministers at Doha. In December, the General Council will consider mandated reports from the Committees on Anti-Dumping Practices, Customs Valuation and Market Access.

96. Ministers at Doha further instructed that the remaining outstanding issues not specifically addressed in their Implementation Decision, as compiled in Job(01)/152/Rev.1, be addressed as provided for in paragraph 12 of the Ministerial Declaration, either directly under the specific negotiating mandates provided for in the Declaration, or in the relevant Councils and Committees, which will report to the TNC by the end of 2002. Work under this mandate is currently being taken up in the relevant bodies. Finally, Ministers also requested that the Director-General, consistent with the Ministerial Declaration, ensure that WTO technical assistance be focused, on a priority basis, to assist developing countries to implement WTO obligations as well as increasing their capacity to participate more effectively in future multilateral trade negotiations.

## **3. A new framework for technical cooperation**

97. The technical cooperation and assistance activities of the WTO, provided principally by the Technical Cooperation Division and Training Institute, in close cooperation with other Divisions, are a key means to integrating developing and transition economy Members into the multilateral trading system. Technical cooperation activities include regular trade policy courses, and technical assistance through seminars and workshops in various sites. The main objective of these activities is to enhance the institutional capacity of developing-country governments to implement existing WTO Agreements and negotiate further rules-strengthening and improved market-access conditions.

98. As the developing and LDC Membership of the WTO increases, so do demands on the work programme, including technical cooperation. In particular, while the focus of the WTO's technical cooperation has been to help Members meet their commitments, the broader link between trade

liberalization and development has not been made explicit, until recently, in WTO technical assistance activities. Thus, in 2001, in an attempt to meet the needs of its diversified Membership, the WTO developed a new strategy for technical cooperation.<sup>86</sup> While the regular technical assistance activities are to be continued, the assistance will be broadened to integrate trade policies into the mainstream of Members' overall economic and social development strategies, including through the Integrated Framework (IF) and the Joint Integrated Technical Assistance Programme (JITAP) (below). This so-called "mainstreaming" of trade policies could also usefully emphasise the importance of unilateral, as well as multilateral, liberalization in ensuring a coherent and effective development strategy. Indeed, Members should be made aware that it may be in their national interest to liberalize policies unilaterally (taking external constraints into account), not just in areas covered by WTO Agreements but also in fields beyond the purview of these Agreements and current negotiations, a point often emphasized in Trade Policy Reviews.

99. The Secretariat has also, as mandated by the Doha Ministerial Declaration, increased its contact with other multilateral agencies in order to pool complementary resources in providing such assistance; formal agreements, in addition to the IF and JITAP, have been signed with the International Monetary Fund (IMF), the International Telecommunications Union (ITU), the World Bank and the World Intellectual Property Organization (WIPO) and informal contacts have been built with other agencies.<sup>87</sup> Assistance to "mainstream" trade policies and priorities would also be made more effective through improved coordination, both within the WTO Secretariat -- e.g. between technical cooperation, accessions, trade policy reviews and training activities -- and with other agencies and bilateral donors.

100. The WTO's training programme is being expanded to accommodate the needs of Members. In June 2001, the Secretariat's Training Division was reconstituted as the WTO Training Institute. Additional funding has enabled the Institute to expand its core activity, the trade policy courses, from three to six annually; training has also been expanded to include short-term trade policy courses, distance-learning services, and cooperation with universities and other institutions in developing curricula on WTO and trade-related issues. The Institute held two three-month trade policy courses outside Geneva, in Nairobi, Kenya and Casablanca, Morocco, for the first time, in 2002.<sup>88</sup>

101. To ensure that the assistance provided by the Secretariat is effective, the auditing and monitoring of WTO technical assistance activities has been strengthened through the establishment of a Technical Cooperation Audit Unit.<sup>89</sup>

(a) Trade-related capacity development in LDCs

102. One of the main needs identified at the Doha Ministerial was that of integrating LDCs into the multilateral trading system.<sup>90</sup> Currently 30 LDCs (out of 49 designated by the United Nations) are Members of the WTO<sup>91</sup>, and nine are seeking to accede.<sup>92</sup> LDC participation in international trade

---

<sup>86</sup> WTO document WT/COMTD/W/90.

<sup>87</sup> The latest developments can be found in WTO document WT/COMTD/W/102, 16 July 2002.

<sup>88</sup> Further details are available in WTO document WT/COMTD/W/89/Rev.1, 14 January 2002, and in WTO Training Institute, *WTO Trade Policy Courses: A Proposal for Expansion*.

<sup>89</sup> The first report of the Unit is contained in WTO document WT/COMTD/W/97, 11 April 2002.

<sup>90</sup> The needs, interests and concerns of LDCs were explicitly recognized in paragraphs 2-3, 9, 15-16, 21-22, 24-28, 32-33, 36, 38-39, 42-44 and 50 of the Ministerial Declaration.

<sup>91</sup> Angola, Bangladesh, Benin, Burkina Faso, Burundi, Central African Republic, Chad, Djibouti, Gambia, Guinea, Guinea Bissau, Haiti, Lesotho, Madagascar, Malawi, Maldives, Mali, Mauritania, Mozambique, Myanmar, Niger, Rwanda, Sierra Leone, Senegal, Solomon Islands, Tanzania, Togo, Uganda, Zaire and Zambia (WT/COMTD/LDC/W/26, 8 May 2002).

<sup>92</sup> They are: Bhutan, Cambodia, Cap Verde, Lao People's Democratic Republic, Nepal, Samoa, Sudan, Vanuatu and Yemen; Ethiopia and Sao Tome and Principe are observers to the WTO (WT/COMTD/LDC/W/26, 8 May 2002).



remains low; their share in world merchandise trade, after declining from 0.9% to 0.5% between 1980 and 1994, rose slightly in 2001, to 0.6%.<sup>93</sup> Their trade in services accounts for around 0.4% of world trade.<sup>94</sup> LDCs continue to be highly dependent on a narrow range of commodity exports<sup>95</sup>, whose prices show wide annual fluctuations and have been declining in real terms over the long run<sup>96</sup>, and which face barriers to access in many markets.

103. The special needs and constraints of the least-developed countries were acknowledged by the WTO in its Plan of Action for LDCs at the First WTO Ministerial Meeting in 1996. In addition to technical cooperation activities carried out in the context of an annual plan, recent WTO efforts include the creation in October 2001 of an Advisory Centre on WTO Law to assist developing-country and LDC Members in their utilization of the WTO's dispute settlement mechanism.

104. The WTO also works with other multilateral agencies to provide trade-related technical assistance to LDCs. These include the Integrated Framework (IF), implemented jointly by the IMF, ITC, UNCTAD, UNDP, World Bank, and the WTO; and the Joint Integrated Technical Assistance Programme (JITAP), implemented by the International Trade Centre (ITC), the WTO, and UNCTAD. The JITAP was launched in May 1996 and has been operational since 1998. Its objective was to build institutional capacity in lesser-developed countries to help understand and implement the WTO Agreements; the countries initially selected were Benin, Burkina Faso, Côte d'Ivoire, Ghana, Kenya, Tanzania, Tunisia, and Uganda. Following a mid-term review, it is expected that the JITAP will be extended to a further 10-15 countries. The WTO Reference Centre Programme was also established in 1997 in the context of the JITAP. The Programme provides links between lesser-developed Members and the WTO through a network of computerized information centres, enabling access to WTO documents and activities.

105. The IF was established in 1997; its role, reaffirmed by Ministers at Doha, was redefined in 2001 to "mainstream" international trade policy and priorities in the overall sustainable development and poverty reduction goals of LDCs.<sup>97</sup> The diagnostic trade integration study (DTIS) and Action Plan developed as a result of the IF exercise is an input to the IMF/World Bank poverty reduction strategy papers (PRSPs), which is being implemented through a pilot scheme for Cambodia, Madagascar, and Mauritania, and is being extended to an additional 11 countries.<sup>98</sup>

106. The WTO's Trade Policy Reviews (TPRs) of LDCs are also a de facto input into the IF process. The Trade Policy Review Mechanism (TPRM), established under Annex 3 of the WTO Agreement, aims to enhance transparency in, and understanding of, the trade policies and practices of WTO Members. On the suggestion of the Membership, reviews of LDCs have become more

---

<sup>93</sup> Based on WTO Secretariat data.

<sup>94</sup> WTO document WT/COMTD/LDC/W/26, 8 May 2002.

<sup>95</sup> It is estimated that for all 49 least-developed countries, export concentration in a few agricultural cash crops (including cotton, palm oil, sugar, coffee cocoa beans, tea, spices, nuts), fish products and raw materials (petroleum and precious and semi-precious gems) has remained unchanged over the last 20 years (the share of the three leading export products in total merchandise trade of the LDCs was 76% in 1997-1999, compared to 78% in 1981-83), although there are considerable variations from country to country. In some cases, for example, Bangladesh and the Lao People's Republic, there has been some diversification into manufacturing activities, mainly textiles and clothing, which nevertheless face relatively high barriers to trade (UNCTAD, 2002, *The Least-developed Countries Report 2002: Escaping the Poverty Trap*, Part II, Chapter 3, UNCTAD, Geneva).

<sup>96</sup> UNCTAD for example, in its *Least-developed Countries Report*, estimates that there has been a long term downward trend in real non-fuel commodity prices since 1960 (UNCTAD, 2002, *The Least-developed Countries Report 2002: Escaping the Poverty Trap*, UNCTAD, Geneva. See in particular, Chapter 4, "Commodity Export Dependence, the International Poverty Trap and New Vulnerabilities").

<sup>97</sup> WTO document WT/COMTD/W/90, 21 September 2001.

<sup>98</sup> Burundi, Djibouti, Eritrea, Ethiopia, Guinea, Lesotho, Malawi, Mali, Nepal, Senegal, and Yemen.

frequent.<sup>99</sup> By the end of 2002, 19 reviews of LDCs will have been completed by the TPRB<sup>100</sup>; a further six are planned for 2003.<sup>101</sup>

107. In addition to enhancing transparency, the TPRs of LDCs have increasingly performed a technical assistance role. By throwing light on the nature, rationale, and economic impact of trade and trade-related policies, they provide the basis for WTO Members' collective evaluation of LDCs' policies in the TPRB. In doing so, they identify, *inter alia*, protectionist policies and measures of LDCs that tend to hamper rather than foster their own economic and social development. TPRs are undertaken against the background of a Member's wider economic and development needs; their main and unique contribution has been to place trade and trade-related policies in the much wider context of LDCs' macroeconomic and structural policies, showing how trade and other policies can be mutually reinforcing in fostering economic development. In some cases, these reviews have facilitated interaction and coordination between diverse government agencies and thus helped to improve the coherence of various trade and other policies. At the same time, the review helps each LDC (as it does for all Members) to identify shortcomings (including inconsistencies) in their own policies. The Report also helps to pinpoint specific areas of trade policy where further technical assistance may be necessary.

108. Since 2000, there has been a more systematic response to the technical assistance needs of LDCs in the trade policy reports, with a section on technical assistance needs and priorities, as identified in cooperation with the Member under review. In some cases the reviews, for example, those of Lesotho, Malawi, Madagascar, Mauritania and Senegal, provide a direct input into the DTIS of the IF. The review process also includes a three- to four-day seminar on the WTO, in particular, the trade policy review exercise and on the relationship between trade, growth, poverty alleviation, and governance. Seminars were held in Haiti, Malawi, Mauritania, and Uganda in 2001, and in Burundi, Lesotho, the Maldives Mauritania and Senegal (for the members from WAEMU) in 2002. The seminars and sections on technical assistance in the Secretariat Reports are carried out in close cooperation with the WTO's Technical Cooperation Division.

109. A number of other activities specifically aimed at improving LDCs' understanding of, and participation in, the WTO are also carried out by the Secretariat. These include Geneva Week, a week of briefings for officials of Members that do not have representation in Geneva; to date four Geneva Weeks have been organized, the dates for Geneva Weeks in 2002 coinciding with meetings of the TNC. The Secretariat also provides assistance to non-resident LDCs through other forms of collaboration.<sup>102</sup> To help countries in negotiations, the Secretariat is developing a "Toolkit for Negotiators", to consist of three modules based on simulations of negotiations, and a database allowing a comparative analysis of negotiating proposals and trade and tariff information.<sup>103</sup> Since the

---

<sup>99</sup> The Trade Policy Review Body's Report to the Singapore Ministerial Meeting suggested for example that greater attention be paid to the coverage of LDCs in the annual TPR programme (WTO document WT/MIN(99)/2). This was reaffirmed by a mandated appraisal of the TPRM conducted in 1999.

<sup>100</sup> The LDCs reviewed are: Bangladesh (twice), Benin, Burkina Faso, Guinea, Lesotho, Madagascar, Malawi, Mali, Mauritania, Mozambique, Senegal, the Solomon Islands, Tanzania, Togo, Uganda (twice) and Zambia (twice).

<sup>101</sup> Burundi, Haiti, Lesotho, Maldives, Niger and Senegal.

<sup>102</sup> These include an extended trade policy course sponsored by the Commonwealth Secretariat; and WTO trade policy courses in the Pacific region through collaboration with the Pacific Forum Secretariat. In addition, the WTO works closely with the Swiss sponsored Agency for International Trade Information and Cooperation (WTO document WT/COMTD/LDC/W/26, 8 May 2002).

<sup>103</sup> WTO document WT/COMTD/LDC/W/26, 8 May 2002. Details of specific activities connected with the development of the tool kit are provided in the Annual Technical Assistance Plan (WTO document WT/COMTD/W/95/Rev.3).

Doha Ministerial Conference, it has been agreed to establish a trade-related technical assistance database in cooperation with the Organization for Economic Cooperation and Development.<sup>104</sup>

(b) Improving market access

110. In addition to the number of initiatives taken to improve market access for LDCs, following the High-Level Meeting on LDCs held in 1997, further measures were announced in 2001/02. These include the EU's Everything but Arms Amendment Act, applicable as of March 2001. A recent study by the WTO suggests that market access for LDCs has improved.<sup>105</sup> However, certain measures could still be taken by both industrialized and developing countries to further improve market-access opportunities for LDCs. These include further reductions in preferential tariffs and a reduction of tariff peaks and non-tariff barriers: the simple average tariff in 2001 on LDC exports in their 30 main markets was 7.1%; these tariffs are considerably higher in developing countries, 14.3% compared with 2.5% and 3.1% in industrialized and transition economies.<sup>106</sup>

111. Non-tariff measures such as quantitative restrictions, import prohibitions and licensing, tariff quotas, and state trading have also been identified as serious impediments to market access, as were technical standards, sanitary and phytosanitary measures, and rules of origin.<sup>107</sup>

#### 4. Status of negotiations

112. The DDA negotiations are being conducted under a Trade Negotiations Committee (TNC). The TNC has adopted a structure for negotiations to be carried out in special groups; the Chairperson of each group reports on a regular basis to the TNC. The negotiating groups are organized as follows:

- agriculture and services negotiations, which are the most advanced, are being pursued in Special Sessions of the Committee on Agriculture and the Council for Trade in Services, respectively;
- market-access negotiations for non-agricultural products are conducted in a newly established body, the Negotiating Group on Market Access;
- negotiations on the establishment of a multilateral system of notification and registration of geographical indications for wines and spirits under the TRIPS Agreement are taking place in Special Sessions of the TRIPS Council (other issues in paragraphs 18 and 19 to be discussed in regular sessions of the TRIPS Council);
- negotiations on WTO Rules are taking place in a new Negotiating Group on Rules;
- negotiations on improvements and clarifications to the Dispute Settlement Understanding are taking place in Special Sessions of the Dispute Settlement Body; and
- negotiations on trade and environment are being conducted in Special Sessions of the Committee on Trade and Environment.

---

<sup>104</sup> Press/275, WTO Press Release [Online]. Available at: <http://if.wto.org> [15 July 2002].

<sup>105</sup> For example, following the High Level Meeting on Integrated Initiatives for Least-developed Countries' Trade Development, held in October 1997, several Members offered or improved their market-access offers for LDCs (see for example, WTO document WT/LDC/HL/M/1, 26 November 1997).

<sup>106</sup> WTO document WT/LDC/SWG/IF/14, 5 April 2001.

<sup>107</sup> WTO document WT/LDC/SWG/IF/14, 5 April 2001.

113. Negotiations on outstanding implementation issues are taking place in the relevant bodies in accordance with the Ministerial Declaration and the Decision on Implementation-Related Issues and Concerns.<sup>108</sup>

114. Mandated negotiations on agriculture commenced in early 2000. In accordance with the timelines set in the DDA, the Committee on Agriculture adopted in Special Session in March 2002 a programme of work designed to establish modalities for further commitments in the areas of market access, export competition and domestic support by the end of March 2003.<sup>109</sup> On the basis of these modalities, participants are to submit their comprehensive draft Schedules of Concessions and commitments by no later than the Fifth Ministerial Conference, in September 2003.

115. Negotiations on services, which also commenced in early 2000 are well advanced. They aim to achieve progressively higher levels of liberalization in trade in services while striving to increase participation by developing countries. The Services Council adopted guidelines and procedures in March 2001 that, *inter alia*, aim to complete negotiations on domestic regulations (Article VI:4), government procurement (Article XIII), and subsidies (Article XV) before the conclusion of negotiations on specific commitments<sup>110</sup>; the deadline for completion of negotiations on emergency safeguards (Article X), originally scheduled for 15 March 2002 has been extended to 15 March 2004.<sup>111</sup> The Ministerial Declaration at Doha reaffirmed the Guidelines and Procedures adopted in March 2001 and also called for Members to submit their initial requests for specific commitments by 30 June 2002, to be followed by a submission of initial offers by 31 March 2003.<sup>112</sup>

116. Since 1 January 2000, over 50 Members have submitted negotiating proposals, individually or in groups, in Special Sessions of the Council for Trade in Services. Such proposals normally explain negotiating objectives, perceived trade barriers and other concerns, as well envisaged solutions in individual areas of interest. Many proposals may have been intended to foreshadow the requests that were circulated, or are to be circulated, to individual trading partners. Two points need to be highlighted. First, the majority of proposals has originated from, or been endorsed by, developing and transition economies, testifying to the broad participation of WTO Members in these negotiations. Second, the sector focus of the proposals largely corresponds to the pattern of existing commitments complemented by a number of cross-sectoral proposals and seven submissions concerning mode 4, where currently scheduled levels of access are particularly restrictive (Chart 8). This suggests that even in sectors like telecommunications and financial services, where commitments are broader and deeper than in most other areas, there is strong continued momentum for liberalization. The only major area that has not attracted any proposal to date is hospital and social services.

117. These proposals are not legally or politically binding; they are statements of negotiating interest. Members remain completely free to select the areas (sectors and modes) in which they request new or improved commitments from trading partners and which they will include in their initial offers that are to be circulated by end-March 2003.

---

<sup>108</sup> WTO document TN/C/1, 4 February 2002.

<sup>109</sup> WTO document TN/AG/1, 9 April 2002.

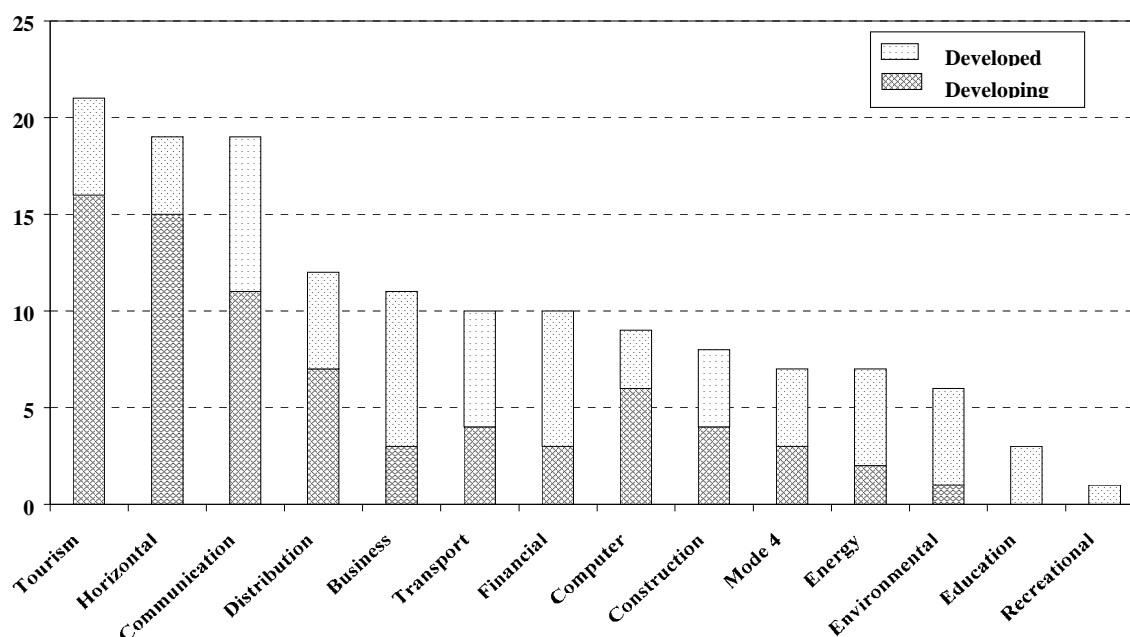
<sup>110</sup> WTO document S/L/93, 29 March 2001.

<sup>111</sup> WTO document TN/S/1, 11 April 2002.

<sup>112</sup> Paragraph 15 of the Ministerial Declaration.

**Chart 8**  
**Sectoral focus of negotiating proposals (February 2002)**

Number of members



Source: WTO Secretariat.

## 5. Accessions<sup>113</sup>

118. With the accession of China and Chinese Taipei on 11 December 2001 and 1 January 2002, respectively, the Membership of the WTO has grown to 144.<sup>114</sup> Twelve LDCs have become WTO Members, since its entry into force, under procedures other than Article XII.<sup>115</sup>

119. The success of accession procedures established under the WTO as well as the perceived benefits of its rules-based trading environment, has led an additional 28 countries to seek membership. These are: Algeria, Andorra, Armenia, Azerbaijan, Bahamas, Belarus, Bhutan, Bosnia-Herzegovina, Cambodia, Cape Verde, Kazakhstan, Lao People's Democratic Republic, Lebanon, Former Yugoslav Republic of Macedonia (which signed the documents for its accession to the WTO on 15 October 2002), Nepal, Russian Federation, Samoa, Saudi Arabia, Seychelles, Sudan, Tajikistan, Tonga, Ukraine, Uzbekistan, Vanuatu, Viet Nam, Yemen and the Federal Republic of Yugoslavia. In addition, requests for accession by Iran, Syria and Libya have been circulated to Members.

120. Accession to the WTO remains a major challenge, particularly for the LDCs. All acceding governments are required to put into place the relevant WTO-compatible legislation and enforcement mechanisms to ensure that they comply with the WTO Agreements. A lack of the necessary infrastructure, legislative and enforcement mechanisms and trained personnel has hampered the

<sup>113</sup> Unless otherwise indicated, based on *Current Accessions: Summary of State of Play in Working Parties*, A Background note by the Secretariat, Job No. 4903, 3 July 2002.

<sup>114</sup> There have been 16 accessions to the WTO since its formation. The others are: Ecuador and Bulgaria in 1996; Mongolia and Panama in 1997; the Kyrgyz Republic in 1998; Latvia and Estonia in 1999; Albania, Croatia, Georgia, Jordan and Oman in 2000; and Lithuania and Moldova in 2001.

<sup>115</sup> Angola, Benin, Burkina Faso, Burundi, Central African Republic, Chad, Democratic Republic of the Congo, the Gambia, Haiti, Niger, Rwanda, and the Solomon Islands (WTO document WT/INF/43, 23 January 2002).

accession of LDCs to the WTO. Most of the nine LDC applicants for accession remain in the initial stages of the process and more is required to assist them in capacity building to complete the accessions process.<sup>116</sup> The urgency of addressing this problem was stressed again in the Ministerial Declaration adopted at Doha in November 2001.<sup>117</sup> Facilitation of accession of LDCs has been taken up in the Sub-Committee on LDCs, and has been addressed in a focused manner in the WTO Technical Cooperation programme. In this context, the Seminar on Accessions held in July 2002 is particularly relevant as it was considered useful and timely by Members and acceding governments.

121. A number of steps have been taken to make the process of accession as transparent, predictable, and clear-cut as possible, although the process depends upon negotiations between Members and the acceding countries. In addition, the number of Working-Party meetings has been reduced to two or three, and there is an increased emphasis on approving a complete accession package rather than piecemeal negotiations. The Secretariat is also authorized to facilitate negotiations on terms of entry and market access.

## **6. The number of disputes continues to grow**

122. The Dispute Settlement Understanding (DSU) was established as a means to enforce WTO rules and disciplines. It is meant to encourage countries to use formal dispute settlement as a last resort, once consultations and negotiations in the WTO Committees had been exhausted. The number of cases brought to panels has, however, continued to rise since the establishment of the WTO, raising questions about the efficient functioning of the rules-based trading system. On 13 July 2001, the Director-General issued a communication concerning Article 5 of the Dispute Settlement Understanding (DSU).<sup>118</sup> Article 5 provides for the use of good offices, conciliation and mediation; it has not been used since the inception of the WTO. The communication sets forth procedures by which the provisions of Article 5.6 can be made operational in order that Members may be afforded every opportunity to settle their disputes through negotiations whenever possible. While Members have in general complied with rulings, there have been a few recent cases where the Dispute Settlement Body (DSB) has authorized retaliation by Members because of non-compliance with panel rulings (below).<sup>119</sup>

123. Since 1995, the number of requests for consultation filed under the Dispute Settlement Understanding (DSU) has grown significantly, to 261, as of 10 July 2002, involving 212 distinct matters. The largest number of complaints have involved the United States (81), followed by the European Communities and its Member States (62); these are also the two largest complainants, with 71 and 57 requests, respectively. Other major complainants have been Canada (21 requests), Brazil (19), India (15), and Japan (11). The involvement of developing countries as complainants has grown, with around 93 of the 261 cases involving developing countries. The main areas of complaint are subsidies (43 requests), dumping (39), licensing (28), and safeguard measures (27).

124. Formal consultations under the DSU were initiated for a significant number of disputes. Many of these disputes, however, did not reach the stage of a formal panel. As a general matter, when

---

<sup>116</sup> There are currently nine acceding least-developed countries: Bhutan, Cambodia, Cape Verde, Lao People's Democratic Republic, Nepal, Samoa, Sudan, and Yemen; the final Working Party on the accession of Vanuatu was held on 29 October 2001, although it is not yet clear whether negotiations are concluded.

<sup>117</sup> Paragraph 9 of the Ministerial Declaration states that accession of LDCs remains a priority for the WTO Membership; paragraph 42 calls for this to be reflected in the Secretariat's annual technical assistance plan.

<sup>118</sup> WTO document WT/DSB/25, 17 July 2001.

<sup>119</sup> Under Article 22 of the Understanding on Rules and Procedures Governing the Settlement of Disputes, temporary compensation and suspension of concessions or other obligations may be authorized by the DSB if its recommendations and rulings are not implemented within the reasonable period of time. The Article, however, stresses that neither compensation nor suspension of concessions or obligations is preferred to full implementation.

consultations in the WTO do not resolve the matter and a panel is established, the matter usually goes beyond the initial panel stage to the appeal stage. When Parties cannot agree on the period of implementation, arbitration (21.3 DSU) is required to determine the reasonable period of time for implementation of the panel and Appellate Body rulings. Since the inception of the WTO, most panel and Appellate Body rulings have been implemented by Members. In recent years, however, there has been a greater number of cases for which Members' compliance with the rulings have been contested pursuant to Article 21.5 of the DSU (the Compliance Review Procedure). If compliance is not achieved, the complaining party is authorized by the DSB to retaliate. Recourse to retaliation under the DSU (suspension of concessions and obligations) has been authorized in five cases since the entry into force of the WTO:

- in the case of the EU's ban on meat and meat products, both the United States and Canada were authorized to take retaliatory action<sup>120</sup>;
- in the ruling on the EU's regime for the importation, sale and distribution of bananas the United States and Ecuador were authorized to take retaliatory action<sup>121</sup>;
- in the matter of Brazil's financing for exports of aircraft, Canada was allowed to retaliate up to a value of Can\$344.2 million<sup>122</sup>; and
- in the case of the United States' so-called Foreign Sales Corporations (FSC), the EU was authorized to impose a record US\$4 billion of sanctions on U.S. exports.

125. In January 2002 the European Communities requested arbitration on the amount of countermeasures and suspension of concessions with regards to the ruling on the United States' tax treatment for "Foreign Sales Corporations".<sup>123</sup> Although no new cases of retaliation have been authorized since the end of 2000<sup>124</sup>, other than a decision to lift restrictions by the United States and Honduras in light of a change in the EU policy on banana imports, the remaining restrictions authorized by the DSB are still in place. In another significant dispute the European Communities, joined by seven other Members, initiated dispute settlement procedures against the United States with respect to the latter's safeguard actions on steel products, which were imposed on 7 March 2002. In addition, in response to the U.S. action, the European Communities took its own safeguard action on steel products, which was, in turn challenged by the United States under the DSU procedures on 30 May 2002.

126. While WTO Members are fully entitled to the use of the dispute-settlement mechanism, including possible retaliation authorized by the DSB, the economic and systemic implications of such retaliation is of concern. Rather than creating trade, which is the main objective of the multilateral

---

<sup>120</sup> The United States was authorized to suspend application of tariff concessions and related obligations under GATT 1994 of a maximum amount of US\$116.8 million per year (WTO document WT/DS26/21, 15 July 1999); Canada was similarly authorized to take action of up to Can\$11.3 million (WT/DS48/19, 15 July 1999).

<sup>121</sup> The United States was authorized to suspend applications of tariff concessions and related obligations under GATT 1994 to the European Union and its member states of up to US\$191.4 million per year (WTO document WT/DS27/49, 9 April 1999); Ecuador was authorized to suspend TRIPS obligations of up to US\$201.6 million (WTO document WT/DS/ARB/ECU, 24 March 2000).

<sup>122</sup> WTO document WT/DS46/26, 22 January 2001.

<sup>123</sup> WTO document WT/DSB/M/118, 18 February 2002. Canada and India participated as third parties in the case.

<sup>124</sup> Arbitration on the level of nullification (retaliation) has concluded in two other cases: Brazil–Export Financing for Aircraft–Recourse to Arbitration by Brazil under Article 22.6 of the DSU and Article 4.11 of the SCM Agreement (WTO document WT/DS46/ARB, 28 August 2000) and United States–Section 110(5) of the US Copyright Act–Recourse to Arbitration under Article 25 of the DSU (WTO document WT/DS160/ARB/25/1, 9 November 2001). However, the complainants in these cases have yet to request the DSB to authorize the suspension of concessions.

trading system, retaliation tends to curtail trade and thus economic growth among the countries involved in the dispute.<sup>125</sup> Moreover, small economies may be particularly vulnerable because any retaliatory action on their part will have little impact on their trading partners and may, in fact, be economically counterproductive for the Member taking the action; an alternative may be to authorize compensation rather than the suspension of concessions and obligations. Finally, retaliation as enshrined in the Dispute Settlement Understanding is to be considered as a last resort; its increased use is surely damaging to the credibility and stability of the rules based multilateral trading system.

## 7. Intellectual Property Rights

### (a) The Ministerial Declaration on the TRIPS Agreement and Public Health

127. The Ministerial Declaration on the TRIPS Agreement and Public Health arose in great part from proposals submitted mainly by developing countries in the run-up to the Ministerial Conference held in Doha. The proposals aimed to seek clarification on the ability of countries to take action to protect public health and on the meaning and interpretation of specific provisions in the TRIPS Agreement. The Declaration thus, *inter alia*, recognized the rights of Members to use flexibilities provided in the Agreement and to take measures to protect public health. The flexibilities provided under the TRIPS Agreement include the right to grant compulsory licences and freedom to determine the circumstances under which these licences may be granted; the right to determine what constitutes a national emergency; and the right to determine what action to take in the case of exhaustion of intellectual property rights (e.g. by permitting parallel imports).

128. To implement the Declaration, certain concrete steps were agreed. Under the TRIPS Agreement, the transition period granted to developed, developing and transition economies, and least-developed countries was one, five and 11 years, respectively, following the entry into force of the WTO.<sup>126</sup> At Doha, it was agreed that the transition period for least-developed countries with regard to pharmaceutical products would be extended by a further 10 years (to 1 January 2016).<sup>127</sup>

129. The Declaration also noted that "Members with insufficient or no manufacturing capacities in the pharmaceuticals sector could face difficulties in making effective use of compulsory licensing under the TRIPS Agreement" and instructed the TRIPS Council to find an expeditious solution to this problem and report to the General Council before the end of 2002. This issue is currently before the TRIPS Council and a number of papers suggesting possible solutions have been submitted by Members; the Council has also requested the Secretariat to prepare background documentation on e.g. existing patents on the diseases referred to in the Declaration (HIV/AIDS, malaria, tuberculosis) and the existence of manufacturing capacity.

### (b) Geographical indications

130. The Ministerial Declaration at Doha set a deadline for concluding negotiations on the establishment of a multilateral system of notification and registration of geographical indications for wines and spirits by the Fifth Session of the Ministerial Conference to be held at the end of 2003 in

---

<sup>125</sup> The consequence of retaliation through higher tariffs for example, is to raise domestic prices of the targeted goods, which affects consumers and other industrial users, thus having widespread implications far beyond the industry being targeted.

<sup>126</sup> Special transition rules apply where a developing country did not provide (in 1995) a product patent for certain technologies; in such cases, the transition period for introduction of such protection can be extended to 2005 although certain conditions apply (Article 70.9 of the TRIPS Agreement).

<sup>127</sup> This extension was approved by the TRIPS Council on 27 June 2002. The TRIPS Council also decided to recommend to the General Council the adoption of a waiver for least-developed countries from the exclusive marketing rights provisions of Article 70.9 of the TRIPS Agreement, also until 2006. This waiver was adopted by the General Council on 8 July 2002 (Press/301, 28 June 2002. [Online]. Available at: <http://www.wto.org>).



Mexico. The Trade Negotiations Committee agreed that the negotiations on such registration would take place in Special Sessions of the TRIPS Council. Accordingly, the first Special Session took place in March 2002 and proposed that work take place in two phases: phase one would aim to table existing and new proposals by September 2002, followed by circulation of a text as a common negotiating basis by the end of 2002 or early 2003 to begin the second phase of final negotiations.

131. The issue of geographical indications is currently also being taken up under two different contexts. The Council is examining the possibility of extending the additional protection granted to wines and spirits under Article 23 of the TRIPS Agreement to geographical indications for other products granted lower minimum protection under Article 22; and it is reviewing the section on geographical indications.

132. Furthermore, the Council extended the period for non-violation type complaints which under the TRIPS Agreement could not be brought to Dispute Settlement until 2000, so that the issue can be examined further in the TRIPS Council and at the next Ministerial Conference at the end of 2003.

133. Other issues that are to be examined by the Council include a review of the provisions regarding biotechnological inventions; the relationship between the TRIPS Agreement and the Convention on Biological Diversity; and traditional knowledge and folklore. Ministers also asked industrialized country Members to submit before the end of 2002 detailed reports on the functioning of incentives provided under Article 66.2 on promoting technology transfer to LDCs.<sup>128</sup>

---

<sup>128</sup> The information provided is to be updated annually and is to be reviewed by the TRIPS Council (Paragraph 11.2 of the Decision on Implementation Related Issues and Concerns, WTO document, WT/MIN(01)/17).



APPENDIX TABLES

**Table A.1**  
**Tariff escalation in the "Quad" by 2-digit ISIC industry**

		United States 2001	Canada 2002	EU (15) 2002	Japan 2002/03
Food beverages and tobacco	First stage of processing	3.2	7.9	12.4	25.4
	Semi-processed	9.0	6.8	19.1	30.3
	Fully processed	13.1	34.3	18.8	22.6
Textiles and leather	First stage of processing	2.2	1.0	0.9	9.8
	Semi-processed	9.8	7.0	6.7	6.8
	Fully processed	10.3	13.5	9.7	12.0
Wood and furniture	First stage of processing	0.1	0.0	0.0	0.0
	Semi-processed	2.2	2.1	3.0	4.3
	Fully processed	2.3	5.2	2.1	2.0
Paper, printing and publishing	First stage of processing	0.0	0.0	0.0	0.0
	Semi-processed	0.6	0.4	2.1	0.6
	Fully processed	0.9	1.0	1.5	0.3
Chemicals	First stage of processing	2.0	1.5	1.7	2.5
	Semi-processed	4.6	2.9	4.5	2.8
	Fully processed	4.1	4.7	3.8	2.0
Non-metallic mineral products	First stage of processing	0.0	0.0	0.0	0.0
	Semi-processed	2.3	0.7	2.9	1.5
	Fully processed	5.4	3.8	4.0	1.1
Basic metal	First stage of processing	0.3	0.0	0.0	0.4
	Semi-processed	2.1	0.9	1.9	1.1
	Fully processed	2.5	3.0	0.0	3.0
Fabricated metal products and machinery	Semi-processed	2.7	1.3	2.0	1.6
	Fully processed	2.2	2.6	2.5	0.3
Other	First stage of processing	1.6	1.2	1.2	0.2
	Semi-processed	0.6	0.0	1.8	0.1
	Fully processed	3.5	4.8	2.9	2.7
All sectors	First stage of processing	2.2	3.9	7.3	14.6
	Semi-processed	5.2	3.9	4.9	4.9
	Fully processed	5.7	8.9	7.0	7.8

Note: For countries with non-*ad valorem* rates AVEs have been used as available. In case of unavailability, the *ad valorem* part is used for compound and alternate rates.

Source: WTO Secretariat calculations, based on data provided by the Members.

Table A.2  
Tariff escalation by 2-digit ISIC industry

Country/year	Stage of process <sup>a</sup>	Food, beverages & tobacco	Textiles & leather	Wood & furniture	Paper, printing & publishing	Chemicals	Non-metallic mineral products	Basic metals	Fabricated metal products & machinery	Other	All sectors
<b>North America</b>											
United States 2001	1	3.2	2.2	0.1	0.0	2.0	0.0	0.3	n.a.	1.6	2.2
	2	9.0	9.8	2.2	0.6	4.6	2.3	2.1	2.7	0.6	5.2
	3	13.1	10.3	2.3	0.9	4.1	5.4	2.5	2.2	3.5	5.7
Canada 2002	1	7.9	1.0	0.0	0.0	1.5	0.0	0.0	n.a.	1.2	3.9
	2	6.8	7.0	2.1	0.4	2.9	0.7	0.9	1.3	0.0	3.9
	3	34.3	13.5	5.2	1.0	4.7	3.8	3.0	2.6	4.8	8.9
Mexico 2001	1	22.2	12.7	13.0	4.8	12.5	8.0	10.1	n.a.	14.2	15.1
	2	27.1	17.9	18.6	13.3	11.3	17.7	12.9	13.7	13.0	13.2
	3	34.5	31.4	21.9	14.9	13.5	18.3	23.0	15.4	20.8	18.5
<b>Latin America</b>											
Argentina 2000	1	9.5	11.4	5.0	6.6	9.2	9.0	5.2	n.a.	11.6	9.3
	2	14.1	18.8	9.9	14.6	10.1	10.3	13.2	16.7	14.2	12.0
	3	16.5	22.4	17.9	15.2	12.1	14.2	19.0	14.1	20.4	15.0
Brazil 2000	1	9.5	10.6	5.0	6.6	9.6	9.0	5.2	n.a.	11.6	9.3
	2	14.0	18.7	9.9	14.4	10.1	10.3	12.9	16.7	14.2	11.9
	3	16.3	22.2	17.7	14.9	12.0	14.3	19.0	15.6	20.3	15.8
Costa Rica 2000	1	10.2	2.9	6.6	1.7	2.5	6.0	1.9	n.a.	8.4	5.2
	2	12.7	8.5	8.2	3.8	2.2	3.1	3.0	2.5	3.0	3.3
	3	19.8	12.9	12.8	8.9	6.1	8.2	1.0	4.2	9.5	7.2
Guatemala 2001	1	9.8	1.9	0.0	0.0	2.8	5.0	0.0	n.a.	8.8	5.6
	2	10.4	14.3	7.0	3.4	1.3	2.3	2.0	1.7	1.3	5.1
	3	12.9	18.9	12.5	7.7	6.4	7.2	0.0	4.0	9.4	8.1
Haiti 2001	1	2.7	3.0	0.0	2.1	0.2	15.0	0.0	n.a.	8.7	2.3
	2	4.9	4.7	0.0	0.5	0.5	1.3	1.3	0.8	0.0	2.0
	3	6.7	5.1	5.3	1.5	3.2	5.1	0.0	1.6	4.4	3.2
<b>Western Europe</b>											
EU15 2002	1	12.4	0.9	0.0	0.0	1.7	0.0	0.0	n.a.	1.2	7.3
	2	19.1	6.7	3.0	2.1	4.5	2.9	1.9	2.0	1.8	4.9
	3	18.8	9.7	2.1	1.5	3.8	4.0	0.0	2.5	2.9	7.0
Switzerland 2000	1	8.2	2.9	2.4	1.4	0.9	0.0	0.4	n.a.	2.0	4.4
	2	27.7	5.7	2.4	6.2	0.9	2.9	1.8	1.5	3.7	4.0
	3	37.0	6.3	2.3	4.1	2.4	2.7	1.4	1.1	2.1	8.5
<b>Eastern Europe</b>											
Czech Republic 2001	1	0.9	0.2	0.6	0.0	1.9	0.0	0.3	n.a.	0.4	0.9
	2	17.6	4.6	2.7	7.6	3.8	8.2	3.8	2.3	8.7	4.7
	3	16.3	8.4	5.6	6.4	4.0	6.5	2.6	0.0	4.8	7.4
Slovak Republic 2001	1	0.9	0.2	0.6	0.0	1.9	0.0	0.3	n.a.	0.4	0.9
	2	17.6	4.6	2.7	7.6	3.8	8.2	3.8	2.3	8.7	4.9
	3	16.3	8.4	5.6	6.4	4.0	6.5	2.6	0.0	4.8	7.4
Slovenia 2001	1	4.3	1.8	1.2	0.4	3.9	0.0	0.1	n.a.	6.2	3.5
	2	16.2	9.6	4.6	8.7	7.7	5.4	6.9	6.8	10.0	8.3
	3	20.0	16.4	14.2	13.6	8.8	9.9	5.0	9.9	13.5	13.1

Table A.2 (cont'd)

Country/year	Stage of process <sup>a</sup>	Food, beverages & tobacco	Textiles & leather	Wood & furniture	Paper, printing & publishing	Chemicals	Non-metallic mineral products	Basic metals	Fabricated metal products & machinery	Other	All sectors
<b>Middle East</b>											
Bahrain	1	4.8	9.5	7.0	5.0	6.4	10.0	5.0	n.a.	8.9	6.2
2000	2	2.8	10.0	5.2	5.2	5.3	5.1	5.0	5.0	5.0	6.2
	3	11.4	8.7	8.8	7.3	7.0	7.1	5.0	9.3	7.8	9.0
<b>East Asia</b>											
Brunei Darussalam	1	0.0	0.3	12.0	0.0	0.0	0.0	0.0	n.a.	1.2	0.3
2000	2	0.0	0.1	19.4	0.0	0.1	0.0	0.0	0.0	0.0	0.4
	3	0.0	1.5	3.6	0.0	2.8	0.9	0.0	8.8	2.7	5.2
Hong Kong, China	1	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
2002	2	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
	3	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Japan	1	25.4	9.8	0.0	0.0	2.5	0.0	0.4	n.a.	0.2	14.6
2002/03	2	20.3	6.8	4.3	0.6	2.8	1.5	1.1	1.6	0.1	4.9
	3	22.6	12.0	2.0	0.3	2.0	1.1	3.0	0.3	2.7	7.8
Korea, Rep. Of	1	62.5	5.2	4.4	1.8	6.6	5.0	1.7	n.a.	5.9	29.0
2000	2	99.3	8.8	5.9	7.8	8.0	7.5	6.0	8.0	8.0	10.9
	3	36.2	11.4	6.4	5.4	7.5	7.9	8.0	6.4	7.8	10.7
Malaysia	1	1.4	0.3	12.0	0.0	7.6	0.0	0.3	n.a.	0.0	3.0
2001	2	5.3	13.4	2.2	6.4	7.1	22.0	9.3	3.3	7.5	7.7
	3	4.5	17.0	13.4	15.0	7.5	19.9	18.8	16.9	11.2	13.6
Singapore	1	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
1999	2	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
	3	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
<b>South Asia</b>											
Bangladesh	1	19.0	16.2	6.0	0.0	11.9	25.0	5.7	n.a.	25.1	14.2
2000	2	24.8	26.5	16.0	25.5	16.2	29.7	19.2	27.1	25.0	20.7
	3	29.5	36.3	30.2	28.1	24.4	25.2	25.0	18.5	32.3	24.1
Pakistan	1	12.1	10.1	8.0	6.1	13.2	5.0	14.7	n.a.	14.7	11.8
2001	2	19.2	23.7	19.1	24.0	13.9	23.8	15.4	21.7	25.0	17.5
	3	29.9	29.2	28.4	23.5	21.1	25.6	30.0	21.2	22.0	23.6
India	1	36.4	25.1	17.0	7.1	25.4	35.0	23.8	n.a.	35.0	28.1
2001/02	2	36.6	28.5	31.1	34.7	33.6	34.1	33.0	21.7	35.0	32.3
	3	48.3	34.2	34.8	29.4	33.2	34.1	35.0	29.2	33.5	33.0
<b>Oceania</b>											
Australia	1	0.3	0.0	2.0	0.0	1.7	0.0	0.3	n.a.	0.3	0.7
2001/02	2	0.4	9.8	3.9	3.9	1.7	1.9	3.0	2.1	4.2	4.1
	3	2.2	14.5	3.9	3.4	3.4	4.0	0.0	3.4	3.0	5.1
<b>Africa</b>											
Gabon	1	23.1	11.6	22.0	10.0	9.8	30.0	10.0	n.a.	23.3	16.2
2000	2	22.8	18.1	29.7	11.0	10.3	21.6	14.4	9.2	7.5	14.6
	3	25.8	27.9	27.4	18.2	17.0	22.8	30.0	159.0	27.0	20.2
Ghana	1	15.8	15.1	16.0	12.2	10.2	15.0	15.6	n.a.	21.3	14.4
2000	2	18.8	16.6	19.6	19.3	10.8	11.3	11.0	11.7	20.0	13.1
	3	23.8	29.9	24.6	16.9	22.5	14.6	20.0	7.6	18.4	15.5

Table A.2 (cont'd)

Country/year	Stage of process <sup>a</sup>	Food, beverages & tobacco	Textiles & leather	Wood & furniture	Paper, printing & publishing	Chemicals	Non-metallic mineral products	Basic metals	Fabricated metal products & machinery	Other	All sectors
Madagascar 2000	1	4.6	0.3	0.0	0.0	0.0	5.0	0.0	n.a.	4.8	2.2
	2	6.5	13.8	2.2	1.5	0.2	5.0	1.8	4.2	1.0	4.9
	3	6.9	16.0	6.8	3.8	5.1	5.7	5.0	5.6	5.6	7.3
Mauritania 2001	1	16.2	2.6	0.0	0.0	2.7	20.0	5.5	n.a.	10.6	8.3
	2	10.9	12.6	9.3	6.9	4.6	9.7	8.3	7.5	5.0	8
	3	14.5	18.3	17.5	11.7	11.5	14.8	20.0	9.0	18.1	12.3
Mauritius 2001	1	10.5	6.3	0.0	0.0	2.0	0.0	0.0	n.a.	16.7	6.4
	2	18.9	0.8	1.8	0.0	3.8	5.9	12.3	0.0	7.5	5.5
	3	29.4	64.7	54.7	43.4	32.2	29.5	80.0	17.6	33.8	30.4
Mozambique 2000	1	22.3	3.8	2.5	7.5	3.4	7.5	2.5	n.a.	13.8	11.3
	2	17.7	21.4	7.5	10.3	3.8	7.3	5.6	7.5	23.1	9.5
	3	23.9	27.4	21.4	18.3	15.2	11.5	30.0	10.7	25.9	16.6
South Africa 2001	1	10.5	5.4	0.0	0.0	3.6	0.0	0.0	n.a.	3.5	5.6
	2	10.3	20.7	4.9	7.7	3.1	4.9	3.3	2.6	4.5	11.6
	3	15.3	29.1	15.7	8.0	7.7	6.8	0.0	5.2	7.2	10.5
Zambia 2002	1	19.3	14.6	21.0	5.0	6.5	25.0	2.8	n.a.	18.1	13.7
	2	19.1	14.0	22.8	10.0	6.0	13.1	7.1	18.3	12.5	8.8
	3	20.7	24.1	23.3	18.1	15.8	14.3	15.0	12.7	20.0	16.5

n.a. Not applicable.

a 1 = First stage of processing; 2 = Semi-processed; 3 = Fully processed.

Note: For countries with non-*ad valorem* rates AVEs have been used as available. In case of unavailability, the *ad valorem* part is used for compound and alternate rates.

Source: WTO Secretariat calculations, based on data provided by the Members.