United Nations E/1998/55

Economic and Social Council

Distr.: General
22 May 1998

Original: English

Substantive session of 1998
New York, 6-31 July 1998
Item 2 of the provisional agenda*
Market access: developments since the Uruguay Round, implications, opportunities and challenges, in particular for the developing countries and the least developed among them, in the context of globalization and liberalization

Note by the Secretary-General

The Secretary-General has the honour to submit to the Economic and Social Council the report prepared by the secretariats of the United Nations Conference on Trade and Development (UNCTAD) and the World Trade Organization on market access: developments since the Uruguay Round, implications, opportunities and challenges, in particular for the developing countries and the least developed among them, in the context of globalization and liberalization (see annex).

* E/1998/100.

98-14504 (E) 250698

Annex

Report prepared by the secretariats of the United Nations Conference on Trade and Development (UNCTAD) and the World Trade Organization on market access: developments since the Uruguay Round, implications, opportunities and challenges, in particular for the developing countries and the least developed among them, in the context of globalization and liberalization

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Summary

1. The Uruguay Round of multilateral trade negotiations resulted in significant improvements in conditions, as well as security, of market access. Improved security of market access was achieved through the spread of tariff bindings, particularly by developing countries, and the multilateral trade agreements, which effectively prohibit those non-tariff barriers that cause the greatest threat to the credibility of the multilateral trading system. The General Agreement on Trade in Services (GATS) has introduced a contractual framework for ensuring security of access for trade in services, including for foreign investment and movement of persons and for the negotiation of improvements in such access.

2. Since the establishment of the World Trade Organization, important multilateral negotiations have been concluded that have greatly increased market access for information technology products, basic telecommunication services and financial services. Such liberalization in goods and services sectors demonstrates that the World Trade Organization provides a forum for continuous negotiation of market access improvements. In addition, the dispute settlement mechanism of the World Trade Organization provides effective recourse to countries for defending their market access rights. Such security is not enjoyed by the various developing countries and countries in transition that are not members of the World Trade Organization, including those that are seeking membership in the World Trade Organization.

3. However, significant tariff barriers and high variance, with tariff peaks and escalation, still affect a significant number of products. This reflects the fact that in the Uruguay Round certain countries offered only small tariff reductions or none at all for some sensitive products. Furthermore, the tariffication of quotas and other non-tariff measures in the agricultural sector was reflected in higher tariff peaks, with limited reductions in protection levels. The Uruguay Round negotiations, unlike some earlier negotiating rounds, did not establish specific targets for tariff harmonization.

4. Non-tariff measures continue to affect exports from developing countries. Under existing phase-out programmes in the Agreement on Textiles and Clothing (ATC), many quotas will not have been eliminated before 2005, the end of the 10-year phase-out period envisaged in the ATC.

5. Some national or international product standards are difficult to meet, leading to reduced export opportunities for many developing countries. A coherent approach to this problem would need to promote greater transparency and notification of standards; encourage more active participation of developing countries in setting new international standards; and increase international support for eradicating some of the most serious and long-standing animal and plant diseases in the countries most affected by such problems.

6. Improved market access and increased market penetration have given rise to more intense demands from domestic producers in many countries for “trade remedies” in the form of contingency measures like anti-dumping actions. The most affected sectors include metals, plastics, textiles and clothing, footwear and headwear. Traditionally, a few developed countries have been the major users of such measures, but certain developing countries have begun to use them with greater intensity.

7. During the first half of the 1990s, developing countries (particularly the more advanced ones) achieved impressive export growth in products with middle to high value added and technological content, notably machinery and transport equipment and chemicals. These products face relatively low market access barriers in developed and, to a lesser extent, developing country markets. On the other hand, market access barriers are considerably higher

for products with lower value added and technological content, particularly agricultural products, textiles, clothing, footwear and leather products. These are the main products of export interest for low-income developing countries and the least developed countries. Exports of these products have generally expanded at a lower rate than the corresponding exports of more advanced developing countries.

8. The degree of market access commitments on trade in services varies considerably among sectors and in relation to particular modes of supply. Considerable scope remains for further liberalization in a range of service sectors. Notable progress has been made in the recently concluded negotiations in basic telecommunications and financial services.

9. Improved market access for developing countries' exports to each other's markets has been achieved through regional agreements that have built upon the increase in disciplines and tariff concessions resulting from the Uruguay Round. In many cases, however, the effective incorporation of services into these agreements remains to be achieved. Some developing countries have sought to enhance their access to markets through participation in several such agreements. The large majority of countries are members of at least one regional agreement.

10. The Generalized System of Preferences (GSP) remains a major instrument for further liberalizing market access of developing countries. However, preferential benefits have been further eroded as a result of most-favoured nation (MFN) tariff reductions and liberalization within regional trading arrangements. In addition, certain developing countries benefit from special preferential arrangements such as the Lomé Convention and the Caribbean Basin Initiative (CBI).

11. There remains substantial scope for further multilateral trade liberalization. World Trade Organization members are committed to new negotiations on agriculture and services by the year 2000. A decision would be required to extend these negotiations to other areas such as industrial tariffs, although sectoral initiatives may also originate in other forums. The present report clearly demonstrates that tariffs and other traditional barriers to market access remain an issue in a wide range of sectors, many of which are of particular export interest to developing countries, including the least developed countries.

I. Market access liberalization in the 1990s

A. Market access achieved in the Uruguay Round

12. The trade liberalization agreed to in the Uruguay Round of multilateral trade negotiations is to be implemented in stages. This includes staged reductions for industrial tariffs; a phase-out over 10 years of the quotas imposed under the Multi-Fibre Arrangement (MFA) on textile and clothing exports from developing countries; the reduction of tariffs resulting from the tariffication of various non-tariff measures affecting agricultural trade, as well as of other agricultural tariffs, over six years; and improved market access for a range of service sectors. These measures imply significant changes in the export conditions faced by developing countries.

13. An important feature of the tariff commitments made by developed countries is a substantial rise in bound duty-free treatment. Duty-free treatment will cover almost 40 per cent of imports of the United States of America and 38 per cent of imports of the European Union (EU), and in the case of Japan 71 per cent of imports will be duty-free. The share of developed-country imports of industrial products that are not bound has fallen from 5 to 1 per cent. There has also been a dramatic increase in the coverage of tariff bindings in

developing country markets from 13 to 61 per cent of industrial imports. However, as discussed below, certain peak tariffs and tariff escalation remain.

14. The security of access to markets was considerably improved by the negotiation of the multilateral trade agreements (MTAs). The Agreement on Agriculture largely eliminates non-tariff measures (NTMs) in that sector, while the Agreement on Safeguards prohibits voluntary export restraints and other "grey area" measures. Other MTAs have increased disciplines over the use of non-tariff and contingency measures, while the dispute settlement mechanism facilitates action to prevent the resort to protective measures inconsistent with the rules.

B. Multilateral liberalization since Marrakesh

15. World Trade Organization[1] members have been implementing and making use of the Uruguay Round results, recognizing that the credibility of the World Trade Organization rule-based trading system and of any future trade initiatives that it engenders depends very much on faithful implementation. Implementation of liberalization commitments has been generally satisfactory with respect to market access in industrial products, trade in services and the reform programme in agriculture.

16. World Trade Organization members have also undertaken new market access commitments so as to maintain the momentum towards freer multilateral trade. A number of unfinished negotiations in the "built-in agenda" of the Uruguay Round have been completed. The World Trade Organization agreement on basic telecommunications took effect on 5 February 1998 following the successful conclusion of negotiations in February 1997, with 69 countries agreeing to wide-ranging liberalization measures; the World Trade Organization agreement on financial services is expected to enter into force on 1 March 1999 following the successful conclusion of negotiations in December 1997, with 70 countries agreeing to open up their financial services sector encompassing banking, insurance, securities and financial information; and some additional commitments have been received with respect to movement of persons. In addition, the participating World Trade Organization members agreed to resume negotiations on maritime transport services, which were suspended in July 1996, at the time of the next round of comprehensive negotiations on trade in services, mandated to begin in the year 2000. At about the same date, a new round of negotiations to continue the reform process in agriculture is also mandated to commence with a view to further strengthening the liberalization of this sector.

17. World Trade Organization members have, moreover, taken a number of initiatives geared to furthering multilateral trade liberalization beyond what was achieved in the Uruguay Round. Concretely, during the first World Trade Organization Ministerial Conference in Singapore in December 1996, several members agreed to liberalize trade in information technology products. Some three months later, on 26 March 1997, the information technology agreement was approved by 40 World Trade Organization members for implementation, with tariff reductions scheduled to start in July 1997 and to result in the total elimination of all duties on semiconductors, computers, software and telecommunication equipment by the year 2000. The same Ministerial Conference also agreed to explore – and members have proceeded to do so – the interrelationship between trade and investment and between trade and competition policy, as well as to examine transparency in government procurement and trade facilitation. The Second World Trade Organization Ministerial Conference is to take place in Geneva (Switzerland) in May 1998. It should be recalled that the Ministerial Conference is a regular event that takes place at least once every two years; it is an integral part of efforts to improve the functioning and strengthening of the multilateral trading framework.

C. Liberalization measures by developing countries

18. Developing countries continued their trade policy reforms after the conclusion of the Uruguay Round, including in the context of regional groupings. Many developing countries have reduced their tariffs, liberalized various import and exchange-rate restrictions and reduced the scope of State trading. Major trade liberalization programmes comprising tariff reductions on a broad scale and the progressive removal of quantitative restrictions and licences are in progress in Bangladesh, China, Egypt and India. Moreover, major tariff reduction schemes are, for instance, being implemented by Honduras, India, Indonesia, Kenya, Panama, Malaysia and the Philippines. Several developing countries such as the Republic of Korea participated in the removal of tariffs on information technology products. Furthermore, exchange permits have been abolished by Ethiopia and Bangladesh. Privatization has further progressed in a great number of countries, including Brazil.

19. Moreover, developing countries have removed barriers to trade through their many regional trade agreements (RTAs). The freeing-up of trade by RTAs has been significant in Latin America and the Caribbean and in South-East Asia, and it is picking up in other subregions of Asia, Oceania and Africa, particularly Eastern and Southern Africa. Where RTA liberalization has been substantial, it has been accompanied by significant growth in intra-RTA trade as well as extra-RTA trade. Growth in the latter indicates that the recent RTA liberalization is open and supportive of wider multilateral trade, as it has resulted in trade creation both for RTA members and for third countries. The reduction and elimination of customs duties have been the primary method of RTA trade liberalization. Some RTAs have identified major non-tariff barriers to regional trade and started to eliminate some of them and coordinate and harmonize others, along with other trade policy measures. The market-opening efforts have focused on trade in goods, though some RTAs have started to draft or implement recently adopted programmes for the liberalization of trade in services. At the same time, most RTAs, including those that have advanced the farthest in tangible trade liberalization, have also encountered new challenges which need to be addressed so as to lock in the process of opening up the regional economy and deriving the anticipated benefits.

20. In the African region, major stimulus has been provided by the Common Market for Eastern and Southern Africa (COMESA). The bulk of the 19 members' reciprocal trade had been substantially liberalized by the end of 1997. Six members had reduced the tariffs on goods originating in and traded among them by 80 per cent; another seven had reduced tariffs by 60 or 70 per cent; while a few countries have yet to publish the preferential rates. Full (100 per cent) tariff reduction is scheduled to be attained by October 2000. Agreement has been reached on implementing a common external tariff (CET) by the year 2004, with rates of zero, 5, 15 and 30 per cent on capital goods, raw materials, intermediate goods and final goods, respectively. COMESA trade liberalization is being strengthened by the CBI (Cross-Border Initiative). Participating COMESA countries (Burundi, the Comoros, Kenya, Madagascar, Malawi, Seychelles, Swaziland, Uganda, the United Republic of Tanzania, Zambia and Zimbabwe) accorded 90 per cent tariff preference on origin-qualifying products by October 1997, with 100 per cent preference envisaged for October 1998. CBI is a fast-track option to COMESA liberalization.

21. Most other African RTAs are in the initial stages of designing, redesigning and approving internal trade liberalization programmes. However, some have, for various reasons, experienced delays and some setbacks in the implementation of agreed tariff reductions. The liberalization of trade within these RTAs has thus been minimal.

22. The Latin America and Caribbean region has of late experienced important advances in RTA trade liberalization. In mid-1993 in Central America, a customs union came into effect for El Salvador, Guatemala, Honduras and Nicaragua. It is based on a CET with a ceiling of 15 per cent applicable to 95 per cent of items subject to tariff, together with a free trade regime for around 1,500 products.

23. In January 1995, the Southern Cone Common Market (MERCOSUR) countries effected a customs union with duty-free intra-trade for most goods and a CET with duty rates ranging from zero to 20 per cent that apply to about 90 per cent of tariff lines. The internal tariff liberalization had involved an initial 47 per cent reduction in each member country in 1991, followed by linear automatic reductions of 7 per cent every six months until zero tariff was attained on 31 December 1994. The few exceptions to free trade will be eliminated by the year 2000 and the exceptions to CET integrated into it by the year 2006. Non-tariff barriers have been identified and a programme negotiated to eliminate some of them and harmonize others covering plant and animal health, technical standards, environmental protection and security. An agreement on trade in services is being negotiated.

24. Also in January 1995, the Treaty of the Group of Three (Colombia, Mexico, Venezuela) took effect with the aim of setting up a free trade area by the year 2005. Colombia and Venezuela have engaged in free trade since end-1991 within the Andean Community; trade with Mexico will be liberalized through a programme of automatic tariff reductions of 10 per cent per annum.

25. In March 1995, the Andean Community formed a customs union with the adoption by three of its members (Colombia, Ecuador, Venezuela) of a CET applying to 95 per cent of items subjected to customs duties and having five tariff brackets with a ceiling of 20 per cent. The other two members (Bolivia and Peru) apply their own national tariffs, and four members (Bolivia, Colombia, Ecuador and Venezuela) have already been engaged in free trade for most of their mutual trade since 1991.

26. By mid-1995, the Caribbean Community (CARICOM) countries had largely eliminated tariffs and non-tariff barriers to reciprocal trade. In addition, a revised CET is applicable in nearly all CARICOM countries, with the level between 5 and 20 per cent for industrial goods and 40 per cent for agricultural products. In 1998, the CET rates are to be further reduced to a maximum of 20 per cent.

27. In 1996 and 1997, more initiatives were taken to consolidate RTA trade liberalization. In June 1996, MERCOSUR countries signed an agreement with Chile to set up a free trade area by the year 2006. A similar agreement was also signed with Bolivia in December 1996. In April 1998, MERCOSUR countries and the Andean Community concluded a framework agreement that aims at the creation of a free trade area.

28. In Asia and Oceania, the Association of Southeast Asian Nations (ASEAN) is the only RTA that has achieved significant progress in terms of scope, coverage and implementation. In January 1992, the ASEAN Free Trade Area (AFTA) took effect, and the implementation of its mechanism, the Common Effective Preferential Tariff (CEPT), started in January 1994. Originally scheduled to be completed by 1 January 2008, the target date for fully fledged free trade was brought forward to 1 January 2003. By then, more than 95 per cent of all tariff lines will be incorporated into the CEPT scheme, and the average CEPT tariff for ASEAN would fall to 2.55 per cent, as compared with about 12.76 per cent in 1993. The Lao People's Democratic Republic and Myanmar, which became members of ASEAN in July 1997, agreed to implement their CEPT commitments from 1 January 1998 and complete them in 10 years. Progress in the elimination of non-tariff barriers included the removal of all customs surcharges on products in the CEPT scheme by the end of 1996 and the identification of 20

priority product groups for which harmonized technical standards would be developed and adopted by the year 2000.

29. Trade liberalization in other RTAs in Asia and Oceania has been stagnant or limited in terms of margins of preferences, product coverage and membership.

30. Several new regional and cross-regional trade and investment liberalization initiatives are being developed that would provide impetus to the consolidation of existing agreements and revive progress where it has been moribund. Some such initiatives include the anticipated conclusion of the second round of negotiations under the GSTP (Global System of Trade Preferences among Developing Countries); trade liberalization activities of the Summit Level Group of Developing Countries (G-15); and a proposed economic community of Middle East and North African countries and related activities. The last-mentioned concept, along with other initiatives like a regional bank for cooperation and development, was launched at the first Middle East and North Africa Economic Summit in Casablanca in 1994 and sustained by subsequent annual summits in Amman (Jordan) in 1995, Cairo (Egypt) in 1996 and Doha (Qatar) in 1997. The summit has become an annual event, supported by an executive secretariat that has been set up in Rabat (Morocco).

D. Liberalization within "mixed" trade agreements

31. Liberalization has also been taking place within the context of "mixed" trade arrangements between developing and developed countries at cross-regional, regional and bilateral levels. In the Americas, the North American Free Trade Area (NAFTA) , involving Canada, Mexico and the United States, entered into force in January 1994. It entailed the immediate elimination of tariffs on most goods. The remaining goods would have their tariffs gradually reduced over 5-10 years or, for sensitive products, over 15 years. NAFTA also encompasses the liberalization of trade in services, mainly through the mutual provision of national treatment for service providers, although some sectors are temporarily excluded. In addition, Canada and Chile signed a free trade agreement in November 1996 with the aim of facilitating the latter's eventual accession to NAFTA. Furthermore, Canada, the United States and 32 other countries in the hemisphere agreed during a summit meeting in December 1994 to create a free trade area for the Americas (FTAA) by the year 2005. Preparatory negotiations among the 34 countries culminated in the official launching of the negotiations by the second summit meeting in Santiago (Chile) in April 1998.

32. EU, in addition to the consolidation of its internal integration, is engaged on several fronts in the construction of free trade agreements with individual countries and groups of countries. Under its Europe Agreements, EU is progressively establishing free trade with certain countries in Central and Eastern Europe so that, *inter alia*, all quota restrictions applied to these countries will have disappeared at the end of 1998. Similar agreements are being applied with respect to the Baltic States (Estonia, Latvia, Lithuania) and Cyprus. Under the Euro-Mediterranean association initiative, EU proposes to progressively achieve free trade with individual Middle East and North African countries of the Mediterranean basin. EU already has an agreement with MERCOSUR on closer cooperation, including the possibility of mutual free trade. Furthermore, negotiations are currently under way for a South Africa-EU free trade area. Also, the preparatory process leading to the negotiation between EU and the African, Caribbean and Pacific Group of States (ACP Group) of a successor to the Fourth Lomé Convention has entertained proposals that include the formation of free trade areas. The idea of a transatlantic free trade agreement between EU and the United States has also been advanced, though it is still in its infancy.

33. The Asia Pacific Economic Cooperation (APEC) process started in 1989 and has made considerable progress towards its objective of voluntarily removing barriers to trade in goods and services and investment among economies of the Pacific basin, which also contributes to strengthening multilateral liberalization. In 1994, APEC members agreed to attain this objective by the year 2010 for developed economies and 2020 for developing economies. APEC members have since been working on various instruments to liberalize trade and investment, including via individual action plans, joint action plans and early voluntary sectoral liberalization in selected sectors agreed jointly.

34. Likewise, a process of trade and investment liberalization may be developed by the newly created (March 1996) Indian Ocean Rim Association for Regional Cooperation. It involves 14 countries on three continents, namely Australia, India, Indonesia, Kenya, Madagascar, Malaysia, Mauritius, Mozambique, Oman, Singapore, South Africa, Sri Lanka, the United Republic of Tanzania and Yemen.

II. Post-Uruguay Round tariffs on developing country exports

A. Tariff liberalization

35. In the Uruguay Round, many developing and other countries bound their MFN rates at higher levels than applied tariffs, and bound rates thus often do not reflect actual trading conditions. Likewise, the large majority of developing countries make use of GSP for access to developed-country markets.[2] For the present discussion, the lower of the bound post-Uruguay Round (UR) rate and the applied rate (1997) was selected, except where the access conditions facing developing countries are examined, in which case the lowest of the post-UR MFN rate, the applied rate and the GSP rate (1997-1999) was chosen.

36. Post-UR MFN tariffs of the countries of the Quadrilateral Group of Industrialized Economies, or Quad Group (Canada, EU, Japan and the United States), will range between 3.7 per cent in the United States and 7.1 per cent in Canada when the negotiated reductions are fully phased in (see table 1). These averages conceal wide disparities between individual products and industries. Tariffs will no longer be applied to one third of the tariff universe by the Quad countries. Half of these duty-free products comprise machinery, electrical equipment, vehicles, metal products, chemicals and so on. The other half include mainly fuels, minerals, wood, other basic commodities and intermediate inputs required by industry, as well as certain tropical and fishery products of substantial export interest to a wide range of developing countries.

37. On the other hand, a number of MFN tariffs remain at high levels. Some 14 per cent of all MFN rates in the Quad countries (or 5,000 out of some 36,000 tariff lines in all four tariff schedules) exceed 12 per cent. These nominal rates can imply effective protection rates of up to 40 per cent of domestic value added. In particular, agricultural tariffs are a multiple of the overall tariff averages (see table 1). Many high agricultural tariffs resulted principally from tariffication, whereby tariffs replaced quantitative restrictions, levies and other non-tariff measures. Whereas industrial tariffs (excluding petroleum and mineral products) are, on average, much lower than those in agriculture, high duties apply to imports of textiles, clothing, footwear and leather goods.

Table 1
Average post-Uruguay Round MFN tariffs for selected countries
(Percentage)

	United States	*EU*	*Japan*	*Canada*	*Republic of Korea*	*Malaysia*	*China*	*Brazil*
Average MFN rate: all products	3.7	5.3	4.3	7.1	7.9	8.8	23.7	12.3
Agriculture	4.9	14.5	16.1	12.4	18.1	9.4	37.4	10.3
Industry	3.7	4.0	0.8	4.5	6.4	9.0	22.1	13.0
Share of 0 duties	33	26	67	51	9	55	2	7
Share of MFN tariff peaks	10	18	10	10	8	31	72	60

38. Tariffs in Brazil, the Republic of Korea and Malaysia average between 8 and 12 per cent. China's applied rates averaged 24 per cent in 1997; its tariffs will be reduced and quantitative restrictions will be progressively removed in the context of its negotiation of accession into the World Trade Organization. When UR commitments have been phased in, imports will be free of duty for half of Malaysian imports and for 7-9 per cent of all products in Brazil and the Republic of Korea.

39. Following the conclusion of the Uruguay Round, developed countries revised their GSP schemes. Major common features were a substantial extension of product coverage for all GSP recipients, as well as additional improvements in favour of the least developed countries. Furthermore, some countries changed important provisions of their GSP schemes. Thus, EU replaced GSP ceilings for sensitive products by graduated tariff margins, which resulted in many cases in significant increases in GSP tariffs. In certain markets, many agricultural and food industry products and textiles and clothing are excluded from the GSP or subject to ceilings. Some advanced developing countries have been graduated from the GSP schemes of the United States and EU, and others have been suspended for reasons of labour standards and so on. An increasing number of products exported by particular countries are excluded, as they are deemed to be competitive. GSP benefits have been gradually eroded as a result of consecutive rounds of multilateral trade negotiations, and they have been further reduced following the expansion of preferential trading arrangements among major trading partners.

40. Nonetheless, the GSP remains a valuable tool for promoting developing-country exports. When the GSP is taken into account, average tariffs amount to 2.4 per cent in the United States, 3 per cent in Japan, 4 per cent in EU and 5 per cent in Canada. As compared with MFN rates, the frequency of zero duties rises by one half in Canada and two thirds in EU and Japan, and doubles in the United States. Duty-free imports account for about half of all products in EU and Canada and for two thirds in Japan and the United States.

B. Tariff peaks[3]

41. Low average duties resulting from the Uruguay Round and GSP revisions have led to a widespread belief that tariffs are no longer a problem for trade of developing countries. However, the analysis here shows that problems of high tariffs are still prevalent in certain sectors. Even after all concessions are fully implemented, frequent tariff peaks and significant tariff escalation will continue to provide high import protection and affect crucial exports of developing countries. This protection is reinforced by numerous quantitative restrictions which continue, several years after the conclusion of the Uruguay Round, to constrain textiles and clothing exports to major developed countries.

42. Both frequency and levels of tariff peak rates remain a matter of concern. Over 10 per cent of the tariff universe of the Quad countries, corresponding to an aggregate 4,000 tariff lines, will continue to exceed 12 per cent *ad valorem* (table 2). All four countries maintain high variance in tariff rates. One fifth of the peak tariffs of the United States, one quarter of those of EU and Japan, and about one tenth of those of Canada exceed 30 per cent. In the four developing countries selected, tariff peaks are more frequent but reach less extreme rates than in the major developed countries.

43. In respect of the main sectors, peak tariffs affect both agricultural and industrial products significantly. Agricultural peaks are important in all developed countries, the Republic of Korea and China. Their proportion is relatively low in Brazil and Malaysia. Industrial peaks are most frequent in the United States and Canada, where they concern 10 per cent and 7 per cent of the sector respectively, and occur more generally in the aforementioned developing countries except for the Republic of Korea. In Japan, industrial peak tariffs remain concentrated in the leather and shoes sector. Tariffs approach but rarely exceed 12 per cent for EU industries, once the GSP is taken into account.

Table 2

Frequency of post-UR tariff peaks (applied rates above 12 per cent) by product group

(Percentage of tariff lines within each sector)

Product group	*United States*	*EU*	*Japan*	*Canada*	*Republic of Korea*	*Malaysia*	*China*	*Brazil*
MFN PEAKS, ALL PRODUCTS	10	18	12	15	8	31	72	60
PEAKS: MFN AND GSP RATES: ALL	9	12	10	11	[a]	[a]	[a]	[a]
AGRICULTURE	19	48	42	15	52	23	37	29
Meat	8	62	41	14	58	0	86	8
Fish, crustaceans	0	37	3	0	65	24	85	0
Dairy products	55	84	87	70	93	0	94	84
Fruit, vegetables	12	34	19	8	98	21	99	0
Cereals, flour	0	72	61	26	6	0	78	14
Vegetable oils	6	10	13	9	33	6	73	4
Canned meat, fish	4	56	32	14	100	51	100	100
Sugar, cocoa products	29	79	73	12	2	34	100	94
Canned fruit, vegetables	17	80	63	24	99	49	100	100
Other food industry	33	59	81	18	10	45	100	97
Beverages and tobacco	18	37	48	16	86	78	97	93
OTHER AGRICULTURE	1	14	5	2	14	3	65	2
INDUSTRY	7	1	2	10	0	32	72	65
Leather and leather products	12	0	22	4	0	28	93	33
Textiles	21	1	1	45	0	65	95	89
Clothing	44	0	0	93	0	96	100	100
Footwear	42	0	71	67	0	83	100	100
Glass products and so on	10	0	0	5	0	61	94	53
Vehicles	4	8	0	1	0	66	86	98

[a] Not applicable as the countries concerned do not grant GSP.

44. The problem of peak tariffs arises mainly in the following sectors:

(a) Major agricultural food and commodities: Agricultural staple foods are subject to the highest frequencies of tariff peaks: in EU, they affect between roughly 40 and 85 per cent of all meat, fish, cereal and dairy products and in Japan between 40 and 90 per cent (see table 2). Tariffication has resulted in extremely high rates which reach, for example, above 200 per cent for bovine meat in EU and for chicken meat in Canada, as well as for certain cheese imports (table 3). Rice tariffs attain 70 per cent in EU and up to 550 per cent in Japan, while sugar tariffs range from 40 to 100 per cent in all Quad Group countries. United States cotton duties of about 80 per cent can be complemented by additional duties in case of low import prices. The tariff quotas established for such products are often subject to peak duties and additional specifications or advantage traditional suppliers. In addition to high tariff protection, developing-country exports are subject to strict sanitary or phytosanitary standards. Such measures particularly affect fish, meat, groundnut products, cereals, tomatoes and other fruit and vegetables originating from certain countries or country groups;

(b) Fruit, vegetables, fish: Some tariff peaks in these sectors are among the highest in the major importing markets; for example, they attain 180 per cent for bananas above quotas in EU and 115 per cent in Malaysia; 460 per cent for dried beans and 640 per cent for dried peas in Japan; and 550 per cent and 132 per cent for shelled groundnuts in Japan and the United States respectively. Peak tariffs between 12 and 30 per cent are frequent for oranges, pineapples, apples and tomatoes, as well as for tuna and sardines;

(c) Food industry: Such exports frequently confront high tariffs in most of their major markets. This is particularly critical, as the food industry sector is also commonly considered to provide a major potential for export diversification in developing countries. Tariff peaks extend beyond the first processing stages to the industry as a whole and affect a large variety of products. They encompass about one fifth of all canned food, sugar and other food industry products in Canada and the United States, about one half in Malaysia and the Republic of Korea, about three quarters in EU and Japan, and virtually all food industry products in Brazil and China. Many peak rates lie at about 30 per cent for fruit juices, prepared fruit, canned meat and sugar confectionery, among other products. Particularly high rates affect, for example, sweetened cocoa powder in the United States (about 50 per cent); peanut butter and roasted groundnuts in the United States (130 per cent); orange, pineapple and grape juices in EU (46-215 per cent) and China (55 per cent); and coffee and tea extracts in Japan (130 and 180 per cent), the United States (27 and 90 per cent) and China (90 per cent). Certain beverages and tobacco products are also subject to high duties, such as cigarettes in EU (60 per cent) and smoking and other tobacco in the United States (310-350 per cent). High fiscal duties apply more generally to alcoholic beverages and tobacco in Malaysia (95-350 per cent) and China (45-70 per cent);

(d) Textiles and clothing: The industries of the United States, EU and Canada will continue to enjoy a double protection from high tariffs and stringent quantitative restrictions on imports from developing countries for some time to come. Even when all quota restrictions are removed in the year 2005, these industries will continue to benefit from high tariff protection. EU's GSP rates for clothing amount generally to 11.9 per cent. The United States excludes most textiles and clothing products from its GSP scheme, and its MFN tariffs range between 14 and 32 per cent for most synthetic, woolen and cotton clothing. Canada applies MFN rates of about 18 per cent (see table 4). Japan's GSP rates range between 6 and 11 per cent. Clothing tariffs are generally at the level of 8 per cent in the Republic of Korea and 20 per cent in Brazil and Malaysia; these countries do not apply MFA quotas. China's tariffs range between 35 and 45 per cent;

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Table 3 goes here

(e) Footwear, leather and leather goods: Developing countries continue to face extremely high tariff barriers. In the absence of the GSP, MFN tariffs reach 38-58 per cent for certain sports, rubber, plastic and textile shoes in the United States, and 16-20 per cent for all footwear in Canada. EU tariffs on footwear are generally at 11.9 per cent for GSP imports and 17 per cent for shoe imports from the major suppliers excluded from the GSP. Japanese tariffs reach 30 per cent for leather; its tariff for leather shoes is equivalent to 160 per cent for a pair priced at $25; GSP access within a stringent ceiling is rapidly exhausted. Apart from the Republic of Korea (generally 8 per cent), the developing countries maintain high duties on footwear and leather products as well (generally 20 per cent in Brazil, 30 per cent in Malaysia and 40-60 per cent in China);

(f) Automobiles, other transport equipment, electronics: Relatively high MFN peak tariffs are applied to major exporters of certain technologically advanced products. Most developing countries apply high tariffs for cars which rise above 100 per cent. EU, the United States and Canada protect such products as trucks, buses and ships with MFN rates of between 16 and 25 per cent. MFN tariffs are frequently also high on television receivers and tubes, video recorders and watches. The major developing-country exporters are frequently excluded from the GSP.

C. Market access for least developed countries

45. The most important result of the Uruguay Round for least developed countries has consisted in duty-free MFN treatment for many tropical products. Furthermore, the revised GSP schemes involve substantial additional advantages for least developed countries. The latter now obtain duty-free access to Quad Group countries for those products that are covered by their respective GSP schemes, and since the GSP revisions, this applies to a much larger product range. Thus, Canada extended duty-free access under its GSP scheme to about 200 new products. In 1997, the United States extended duty-free access to about 1,800 new products for least developed countries. These products encompass several industrial and agricultural items, including imports within tariff quotas, and often provide substantial price advantages in favour of least developed countries. Japan had already exempted virtually all industrial imports from least developed countries from tariffs and GSP ceilings. EU improved preferential market access for many sensitive products under the Lomé Convention in favour of members of the ACP Group, which includes 39 least developed countries. In March 1998, EU extended most of these Lomé preferences to the other least developed countries.[4]

46. However, this does not mean that market access problems for least developed countries have disappeared. In spite of special GSP treatment, a considerable number of significant tariffs, including high peak tariffs, will continue to apply to some of their most important export products in all major markets. Major lacunae in the liberalization of least developed country imports include generally high tariffs on many sensitive agricultural products, agricultural imports above tariff quotas and several food industry products; GSP exclusions and peak MFN duties on most textiles, clothing, leather products and shoes in Canada and the United States; and the exclusion of certain least developed countries from general, special or GSP benefits by some countries (for example, the special United States provisions for least developed countries apply only to 34 of the 48 least developed countries), as well as continued application by Canada and the United States of MFA quotas on clothing and textile imports from several Asian least developed countries.[5]

Table 4 goes here

Table 4 goes here

47. In summary, industrial imports from least developed countries are almost fully liberalized in EU and Japan. In the United States, a substantially larger number of least developed country products now enjoy duty-free treatment, but their major and often only industrial exports – that is to say, textiles, clothing, footwear and leather products – remain excluded from GSP and special least developed country provisions and hence are subject to MFN tariffs of up to 30 per cent. United States imports from African and Pacific least developed countries are free of MFA quotas on textiles and clothing, but such quotas still apply to most Asian least developed countries. Canada continues to apply MFN duties of up to 18-20 per cent to most finished textiles, clothing and footwear imports from least developed countries, as well as MFA quota restrictions on imports from several Asian least developed countries.

48. In the agricultural sector, numerous peak tariffs remain applicable to least developed countries in all major markets. The GSP scheme of the United States provides duty-free access for many agricultural exports from designated least developed countries, including imports within tariff quotas, whereas many tariffs on exports above quotas reach peak levels. Canadian imports of agricultural products within quotas from least developed countries are duty-free. Japan grants duty-free treatment to least developed countries for a wide range of agricultural and food industry products, but least developed countries continue to face MFN peak rates for, *inter alia*, beef, meat products, sugar, sugar products, and various fruits and fruit juices.

49. EU applies extensive preferences to agricultural imports from ACP countries but, even after their improvement, many peak rates remain in effect for major food products, in particular for imports beyond tariff quotas and ceilings: for example, bovine, sheep and goat meat; meat products; major cereals, such as rice and wheat; and several fruit, vegetable and food industry products. Furthermore, ACP preferences are limited to a 16 per cent reduction of the MFN rate for sugar and its products (leaving the ACP rate at about 60 per cent), various canned meat products and dairy products. Imports from Asian least developed countries will not benefit from ACP preferences for products subject to quotas.

50. The First World Trade Organization Ministerial Conference in December 1996 adopted a Plan of Action for the Least Developed Countries.[6] In that Plan, developed countries and developing countries on an autonomous basis agreed to explore the possibilities of granting preferential duty-free access for the exports of least developed countries. Subsequently, at the High-level Meeting on Integrated Initiatives for Least Developed Countries' Trade Development, in October 1997, the following developing countries declared their intention to introduce preferential or duty-free entry for a range of industrial and selected agricultural products originating from least developed countries within GSP schemes for least developed countries, the GSTP or a regional framework: Egypt, the Republic of Korea, Malaysia, Singapore, Thailand and Turkey. Chile and Indonesia are examining the possibility of introducing similar least developed country schemes. Morocco will introduce duty-free

treatment for imports of selected products from African least developed countries. India and South Africa laid their emphasis on special tariff concessions in favour of least developed countries within their respective subregional groupings.

51. Turkey put into effect additional preferential market access measures in favour of all least developed countries on 1 January 1998 for 250 products. Unilateral tariff preferences apply to raw coffee. Duty-free entry applies, *inter alia*, to a number of chemicals; mohairs, silk, noil silk and hemp yarns; various mineral products; certain ferro-alloys; sewing machines and television tubes. Other developing countries will communicate at a later stage further detailed information on their schemes, including country and product coverage and the depth of tariff cuts. Further preferential liberalization of access to major neighbouring and other developing-country markets is taking place in favour of least developed country members within specific integration and preferential arrangements, such as GSTP, ASEAN, the South Asian Association for Regional Cooperation (SAARC), COMESA and the Central African Customs and Economic Union (UDEAC).

52. Full implementation of the Plan of Action for the Least Developed Countries requires further progress towards duty-free imports by all countries. This would imply liberalization of those products that can actually be exported by least developed countries, including their main food and food industry exports, clothing, textile and leather products and footwear. Most least developed countries export such products only, and their export capacities are limited even in these sectors. It is interesting to note here that instead of excluding imports of sensitive products from the GSP altogether, some preference-giving countries have applied a safeguard clause, permitting remedial action in specific cases as and when problems arise. Least developed countries also have great difficulty in meeting health and phytosanitary import requirements.

53. The document entitled “Partnership for Growth and Development”, adopted by the United Nations Conference on Trade and Development at its ninth session,[7] and the Trade and Development Board of UNCTAD have laid particular emphasis on the need for least developed countries to strengthen and diversify their export supply capacity in order to make use of the market opportunities opening up for their products and provide a favourable climate for investment. In order to accompany least developed countries’ own reforms by enhanced international support, UNCTAD, the World Trade Organization, the International Trade Centre (ITC), the United Nations Development Programme (UNDP), the World Bank and the International Monetary Fund (IMF) are cooperating within the Integrated Framework for Trade-related Technical Assistance, including for Human and Institutional Capacity-Building, to Support Least Developed Countries in their Trade and Trade-related Activities. UNCTAD, the World Trade Organization and ITC are also combining their forces in a joint integrated technical assistance programme for selected African countries, the first phase of which includes four least developed countries.

D. Tariff escalation

54. Tariff escalation decreased, but nevertheless continued, after the Uruguay Round. Rapidly rising tariffs, from low rates for raw materials to higher rates for intermediate products and sometimes peak rates for finished industrial products, continue to hamper vertical diversification and industrialization in developing countries. A recent World Trade Organization study[8] on nominal tariff escalation in the Quad countries (Brazil, India, Indonesia, Malaysia, Poland and Hungary) confirms that escalation has continued after the Uruguay Round in such sectors as metals, textiles and clothing, leather and rubber products and, to some extent, wood products and furniture. The study notes that the nominal rates imply

a high effective rate of protection in these industries, as the share of material used for their production is relatively high as compared with their value added. As the markets studied are very large, a decline in tariffs for the processed products would imply a significant increase in market access for exporting countries.

55. A recent Food and Agriculture Organization of the United Nations (FAO) study[9] on the impact of the Uruguay Round on tariff escalation in agricultural products in EU, the United States and Japan found that, as a result of the Round, nominal tariff escalation between agricultural raw materials and their processed products decreased in a number of cases. This should create some opportunities for developing countries to diversify their exports into higher-value processed products. However, for more than half of the commodities selected, tariff escalation will retain an important dimension; in nominal terms, tariff wedges between raw and processed products will reach, on average, 17 per cent as compared with 23 per cent before the Round in nominal terms (9 per cent in the United States, 16 per cent in EU and 27 per cent in Japan). The effects of tariff escalation are reflected in trade. Though food processing is a major export industry for developing countries, their exports are largely concentrated in the first stage of processing. More advanced food industry exports make up only 5 per cent of the agricultural exports of least developed countries and one sixth of those of developing countries as a whole, as compared with one third for developed countries. FAO concludes that tariff escalation constitutes a major constraint on vertical diversification of certain agricultural exports.[10]

56. Estimates of effective protection in industry by the UNCTAD secretariat confirm persistent and high tariff escalation in terms of effective protection for specific clothing and footwear products. However, tariff escalation is no longer as systematic as in the past and it often concentrates on the first stage of industry and finished products. In the case of leather shoes, the effective rate of protection (ERP) doubles in the United States and Canada between leather and shoe production (rising from 7 to 12 per cent and from 15 to 32 per cent, respectively). The ERP rises even more steeply in Malaysia, from 16 to 44 per cent; and particularly in Japan for imports above tariff quotas, the ERP increases from 66 per cent for leather to 260 per cent for leather shoes. Leather and shoe industries in the Republic of Korea obtain the same protection of 15 per cent. EU protects its leather industry more than its shoe production (at a rate of 14 per cent compared with 9 per cent).

57. A similar situation prevails for major clothing products. Effective protection remains high for the spinning and sewing stages. Spinning is protected at rates of 14 per cent in EU, 25 per cent and 28 per cent in the United States and Canada, respectively, 40 per cent in the Republic of Korea and almost 70 per cent in Malaysia. ERPs for the intermediate weaving stage range in the main between 13 and 15 per cent, but rise steeply for apparel production: for example, for shirts the rates reach 35 per cent in the United States, 20 per cent in the Republic of Korea and 58 per cent in Malaysia. In fact, effective protection of clothing industries of developed countries is much higher still, given that imports from developing countries remain subject to stringent MFA quotas. These results confirm that FAO's conclusions for food industries are also valid for other major export industries of developing countries.

III. Sectors affected by the imposition of trade measures

58. Globalization and liberalization are modifying the impact of trade measures. With the entry into force on 1 January 1995 of the Agreement Establishing the World Trade Organization, some trade measures are losing their importance as trade barriers and as

instruments of trade policy. The Agreement on Agriculture and the Agreement on Safeguards, for example, made it virtually impossible to resort to quantitative restrictions and voluntary export restraints. On the other hand, increased market access and consequent market penetration have prompted domestic industries to seek other measures designed to protect domestic production, notably "contingent protection measures", in particular anti-dumping duties. In addition, exporters are discovering that market access may be affected by other measures, and some such measures are being challenged in the framework of the dispute settlement mechanism. An examination of the sectors subject to attention under these mechanisms can identify potential problem sectors where existing conditions of market access are being challenged.

59. The strengthening of the General Agreement on Tariffs and Trade (GATT) dispute settlement mechanism is one of the major achievements of the Uruguay Round. Since the World Trade Organization Agreements entered into force on 1 January 1995, the number of disputes referred to the new dispute settlement mechanism has increased dramatically compared with the situation under the former GATT. As of 23 April 1998, the World Trade Organization Dispute Settlement Body had received 122 requests for consultations, involving 87 separate matters. In 11 cases, both the Panel Reports and the Reports of the Appellate Body have been adopted. In one case, the Panel Report has been issued. Among these cases, 84 consultation requests concerning 60 matters were made by developed-country members; 27 consultation requests concerning 23 matters were made by developing-country members; and 10 requests on 4 matters were made by both developed- and developing-country members. The major goods sectors involved in these dispute settlement proceedings include agricultural products, meat/fishery/dairy products, textiles and clothing, machinery and electrical equipment, and automobiles and aircraft. The main substantive issues involved are related to the interpretation of GATT provisions and World Trade Organization MTAs on national treatment, anti-dumping duties, countervailing duties, transparency, elimination of quantitative restrictions, non-discrimination, technical barriers to trade, sanitary and phytosanitary measures, trade-related investment measures, government procurement, and so on.

60. With the reduction in tariffs and other measures at the frontier, the application of "contingent protection measures", namely safeguards, anti-dumping duties and countervailing duties, have in certain cases become more significant in relative terms.

A. Safeguard measures

61. During the period between 1987 and 1994, 18 safeguard measures were introduced by the GATT contracting parties. The prohibition of "grey area" measures, notably voluntary export restrictions in the Agreement on Safeguards, was an important achievement in the Uruguay Round in that it increased the security of market access and restored credibility to the multilateral rules. Since the creation of the World Trade Organization, only a small number of safeguard measures have been introduced by the World Trade Organization members under the provisions of the Agreement on Safeguards. These measures include the increase of tariffs by the United States on imports of corn brooms,[11] by Brazil on imports of toys[12] and by Argentina on footwear.[13] The measure imposed by the Republic of Korea against imports of dairy products was in the form of quantitative restrictions.[14] All these measures were applied on an MFN basis.

B. Anti-dumping measures

62. According to the information notified to the GATT/World Trade Organization Anti-Dumping Committee by GATT/World Trade Organization members, 2,329 anti-dumping cases were initiated during the period 1987-1997. Among these cases, more than 1,930, or 83 per cent of the total, were initiated by the 10 major users (the United States, Australia, EU, Mexico, Canada, Argentina, Brazil, South Africa, New Zealand and India).

63. Sectors that have been the main targets for anti-dumping actions are metals and metal products, chemical products, machinery and electrical equipment, plastics and plastic products, textiles and clothing, pulp of wood or of other fibrous cellulosic material, prepared foodstuffs and beverages, stone and plaster products, other manufactured products, footwear and headwear. Market access can be frustrated simply by the initiation of anti-dumping actions, even if the duties are never imposed, as importers seek alternative suppliers. Of the 2,329 cases initiated, 1,021 (or 44 per cent) have reached final determination. The ratios for the key targeted sectors, as shown in figure I, ranged from 37 per cent for textiles and clothing to 53 per cent for metals and metal products, and for prepared foodstuffs.

64. The domestic trade liberalization undertaken by developing countries has led them to introduce anti-dumping legislation and to make frequent use of it. By the end of 1997, almost 50 developing and transition economy countries had notified anti-dumping laws or regulations to the World Trade Organization.[15] Also, during the period 1993-1996, developing countries initiated more anti-dumping investigations than did developed countries.

C. Countervailing measures

65. Over the period 1987-1997, 258 countervailing duty actions were initiated. Among these cases, more than 227, or 87 per cent of the total, were initiated by the seven major users (United States, Australia, Brazil, Canada, Mexico, Chile and New Zealand). As shown in figure II, the main sectors affected by countervailing duty actions are agricultural products, metal and metal products, meat and fishery, prepared food stuffs, textiles and clothing, chemical products, construction materials, machinery and electrical equipment.

D. Textiles and clothing

66. A major achievement of the Uruguay Round was the Agreement on Textiles and Clothing (ATC) which established a schedule to dismantle over a 10-year transition period the long-standing discriminatory trade regime built up under the MFA. Over the first three years of this period, no quotas have been removed by the major importing countries (with one exception in Canada, for work gloves). In addition, as noted previously, this sector is still subject to tariff peaks.

67. In parallel to the progressive phasing-out of MFA quota restrictions, the imposition of discriminatory quantitative restrictions is still permitted under the transitional safeguard provisions of the ATC (article 6), under certain specific conditions. During the period 1995-1997, 34 transitional safeguard actions were invoked by two World Trade Organization members, namely the United States (with 27 cases affecting 14 exporters) and Brazil (with 7 cases affecting 7 exporters). The manner in which the “transitional safeguard mechanism” was applied has been challenged under the World Trade Organization dispute settlement

fig I

fig II

mechanism in several cases. Over the period 1987-1997, there were about 157 anti-dumping investigations related to textiles and clothing, with most of them initiated since 1993.

E. Agricultural products

68. The Agreement on Agriculture resulted in the abolition of quantitative restrictions, variable levies and other non-tariff barriers to agricultural trade. However, a special safeguard mechanism based on trigger prices and trigger volumes of imports was established in respect of those products subject to tariffication, without need to prove injury. The special safeguards take the form of an additional duty, which is applied until the end of the year concerned. Over the period 1995-1997, eight countries took special safeguard actions, affecting 175 national tariff lines. Another problem has been the underutilization of the minimum and current market access tariff quotas. The overall utilization rate was 64 per cent in 1995 and 62 per cent in 1996. About 25 per cent of tariff lines subject to tariff quotas had a utilization rate of less than 30 per cent in 1996.

F. Fishery products

69. Trade in some fishery products has been subject to countervailing duty and anti-dumping investigations in several countries; such trade has also been affected by standards and technical regulations and measures designed to protect the environment. Four cases that have been brought to the World Trade Organization dispute settlement body since 1995 involve such products (salmon in two cases and shrimp and scallops in the other two cases).

G. Dynamic export sectors of interest to developing countries

70. During the first half of the 1990s, developing countries succeeded in expanding their exports at very high rates in a number of sectors ("dynamic sectors"), particularly office machines and telecommunications equipment, scientific and controlling instruments, chemicals, electrical machinery and apparatus, power-generating machinery, sanitary and building fixtures, fixed vegetable oils, paper and paperboard, furniture and automotive products. In these sectors, developing countries as a whole achieved a yearly export growth rate of over 15 per cent between 1990 and 1995, a figure considerably higher than the 9.6 per cent yearly growth of their total exports. The strong performance of developing countries in these sectors, most of which have middle to high value added and technological content, is highly influenced by the exports of a small number of major exporters of manufactures.[16]

71. The sectors in which developing countries have achieved the most dynamic growth of their exports in developed-country markets are largely the same dynamic sectors as those accounting for their overall export performance. In the most important export markets within this group (EU, United States, Japan and Canada, that is to say, the Quad countries), these products face relatively low tariff barriers. Weighted average MFN tariffs for these dynamic sectors in the Quad countries are below 5 per cent, with the exception of automotive products (which face an average import tariff of 5.1 per cent), sanitary and building fixtures (5.3 per cent) and fixed vegetable oils (5.9 per cent) (see table 5). On the other hand, developing countries achieved much lower export growth in developed-country markets in sectors where products face higher tariffs. High tariffs are applied particularly in agricultural products

Table 5

Dynamism of export sectors of developing countries and territories in world trade and their market access conditions

Harmonized Commodity Description and Coding System (Harmonized System) (HS) sections and subsections	*Yearly export growth, 1990-1995 (percentage)*	*Developing-country world market share*		*MFN average[a]*		*Contingency protection measures*			*Subject to special safeguard provisions*	*Subject to World Trade Organization DSM[g]*	*Other measures*
		1995 (percentage)	*Change, 1990-1995 (percentage points)*	*Quad countries[b]*	*Developing countries[c]*	*Safeguards[d]*	*CVD[e]*	*ADP[f]*			
				(percentage)		*Number of measures*					
XVI						2	7	341		14	
Valves and tubes	30.6	38.4	8.1	2.4	2.9						
Office machines	27.2	36.3	15.9	1.4	4.7						
Power generating machinery	20.0	14.2	6.3	2.4	8.6						
Electrical machinery and apparatus	20.3	28.1	8.6	3.5	10.0						
Telecommunications equipment	16.3	40.1	7.6	4.0	10.6						
Other non-electrical machinery	15.2	9.6	3.0	2.6	9.8						
VII							4	264			
Plastics	20.4	17.3	6.5	6.8	15.1						
Rubber manufactures	13.8	16.3	3.9	4.2	15.3						
VI						1	11	389		7	
Organic chemicals	18.9	15.3	4.8	4.8	8.1						
Pharmaceuticals	15.8	6.0	0.5	0.1	6.1						
Other chemicals	13.9	12.5	2.9	4.4	8.4						
Inorganic chemicals	11.3	19.0	4.6	2.4	6.7						
XVIII						1	4	46		6	
Scientific and controlling instruments	20.9	11.5	4.6	3.0	8.8						
Photographic apparatus and so on	13.1	24.9	5.9	4.0	11.9						
XIII							10	80			
Sanitary and building fixtures	17.8	33.5	11.2	5.3	16.4						
X						1	1	113			
Paper and paperboard	16.3	9.5	3.0	3.8	12.3					2	

Harmonized Commodity Description and Coding System (Harmonized System) (HS) sections and subsections	Yearly export growth, 1990-1995 (percentage)	Developing-country world market share: 1995 (percentage)	Developing-country world market share: Change, 1990-1995 (percentage points)	MFN average[a]: Quad countries[b] (percentage)	MFN average[a]: Developing countries[c] (percentage)	Contingency protection measures: Safeguards[d] (Number of measures)	Contingency protection measures: CVD[e] (Number of measures)	Contingency protection measures: ADP[f] (Number of measures)	Subject to special safeguard provisions (Number of measures)	Subject to World Trade Organization DSM[g] (Number of measures)	Other measures
XX						1	1	54			
Furniture	15.7	27.4	9.1	3.5	14.2						
Miscellaneous articles	12.5	34.0	7.4	3.4	13.0						
XVII							4	35		14	
Automotive products	15.5	7.5	2.4	5.1	32.3						
Other transport equipment	6.9	11.5	1.8	2.8	7.4						
VIII							4	9		3	
Travel goods, handbags and so on	12.7	70.4	6.0	9.7	14.2						
Leather, dressed fur skins	11.5	49.1	6.5	5.3	14.6						
XV						1	95	567		2	
Manufactures of metals, not elsewhere specified (n.e.s.)	13.5	22.3	5.5	4.2	13.4						
Iron and steel	10.3	19.2	2.3	4.1	9.8						
V						2	1	53		2	
Non-metallic mineral manufactures	8.5	23.6	3.4	2.9	7.3						
Ores and non-ferrous metals	5.8	26.9	0.3	1.3	5.6						
Fuels	-1.4	58.8	-2.1	1.4	7.0						
XII						1	2	33		3	
Footwear	11.2	62.7	9.9	13.3	16.8						
IX							3	25			
Cork and wood manufactures (excluding furniture)	10.2	40.2	3.2	3.9	14.3						
Forestry products[h]	8.0	22.8	1.4	0.7	4.2						
XI							12	157	34[i]	18	MFA quotas
Clothing	9.6	65.7	5.5	12.9	21.0						
Textiles	9.2	45.2	7.7	9.4	21.1						
I, II, III, IV						15	79	144	175[j]	57	
Fixed vegetable oils	16.5	57.1	8.7	5.9	51.0						
Fishery products	9.4	51.0	5.4	6.2	21.9						
Cereals and cereals preparations	8.6	14.0	1.7	5.2	36.7						
Coffee, tea, cocoa, spices	8.5	64.9	-0.2	3.8	9.9						
Meat and meat preparations	8.2	16.3	2.5	20.0	18.1						

Harmonized Commodity Description and Coding System (Harmonized System) (HS) sections and subsections	Yearly export growth, 1990-1995 (percentage)	Developing-country world market share		MFN average[a]		Contingency protection measures			Subject to special safeguard provisions	Subject to World Trade Organization DSM[g]	Other measures
		1995 (percentage)	Change, 1990-1995 (percentage points)	Quad countries[b]	Developing countries[c]	Safeguards[d]	CVD[e]	ADP[f]			
				(percentage)		Number of measures					
Tobacco and its manufactures	6.7	22.9	-0.5	41.4	42.7						
Vegetables and fruit	4.3	38.7	-0.7	11.3	14.0						
Sugar	4.2	42.7	1.1	12.6	16.1						
Oilseeds and oleaginous fruit	0.7	27.0	-5.0	0.6	10.0						
Memo items:											
Agricultural raw materials[k]	7.4	33.6	3.1	1.5	8.4						
Total goods	9.6	27.3	2.9	4.5	11.2						

Source: UNCTAD secretariat, based on the United Nations Statistics Division, Trade Information and Analysis System (TRAINS) and the World Trade Organization.

[a] 1995 trade-weighted average.
[b] Canada, European Union, Japan, United States of America.
[c] Argentina, Brazil, Chile, China, Colombia, Egypt, India, Indonesia, Republic of Korea, Malaysia, Mexico, Singapore, Thailand, Venezuela.
[d] Safeguard measures introduced during the period 1987-1997.
[e] Countervailing duty actions initiated during the period 1987-1997.
[f] Anti-dumping duty actions initiated during the period 1987-1997.
[g] Based on the consultation requests made within the context of the World Trade Organization dispute settlement mechanism as of 23 April 1998.
[h] Including also paper-making material, which belongs to sect. X.
[i] Transitional safeguard measures initiated under article VI of the Agreement on Textiles and Clothing since the entry into force of the Agreement Establishing the World Trade Organization on 1 January 1995.
[j] Special safeguard measures introduced under the special safeguard provisions of the Agreement on Agriculture since the entry into force of the Agreement Establishing the World Trade Organization on 1 January 1995, and based on the notifications submitted to the World Trade Organization Committee on Agriculture. In terms of national tariff lines, total products affected were 175, of which 60 were price-based and 115 were volume-based.
[k] Including cotton, which belongs to sect. XI; and rawhides and skins, and fur skins and artificial fur, which belong to sect. VIII, as well as rubber and articles thereof, which belong to sect. VII.

(especially sugar, tobacco and its manufactures, and fruit and vegetables) and footwear, all of which face an average MFN tariff in excess of 10 per cent. Thus, relatively low tariffs have been associated with the performance of exports of developing countries in dynamic sectors. It is not possible to say without further study how far lower tariffs in importing countries have accounted for better export performance. While a correlation between tariff levels and export performance is discernible in a number of sectors, this relationship does not appear to hold in the case of the clothing and meat sectors, where exports have grown relatively rapidly despite the existence of tariffs in excess of 10 per cent. In short, a number of factors besides tariff levels in importing countries are likely to influence export performance.

72. As already mentioned, the overall export performance of developing countries is highly influenced by the exports of the major exporters of manufactures. At the lower end of the development process, low-income countries and least developed countries have a major export interest in agricultural products and products with low value added and technological content (for example, clothing, textiles, footwear and leather products). These are precisely the sectors in which market access barriers (tariff and non-tariff) in developed countries (and also in developing countries) are highest. Such market access barriers have therefore particularly affected the exports of the latter group of countries.

73. The sectors in which developing countries achieved their highest export growth towards other developing countries between 1990 and 1995 are largely the same as the dynamic sectors of their overall export performance. The major exceptions are footwear and clothing, in which intra-developing country trade expanded at an annual rate in excess of 24 per cent.

IV. Market access in services

74. The first comprehensive framework for trade in services embodied in the GATS sets out a new concept of market access. The scope of trade in services exceeds that of goods, since it is not limited to the cross-border movement of services, but encompasses the supply of services through establishment of a firm or movement of natural persons[17] and movement of consumers. Market access measures seek to liberalize trade in services by liberalizing regulations affecting the following modes of supply of services: (a) cross-border trade; (b) consumption abroad; (c) commercial presence; (d) presence of natural persons as service suppliers. Through the inclusion of the commercial presence mode, the GATS is in part an agreement concerning investment in the services sector. Market access in services encompasses a variety of policy areas, including investment, the temporary movement of persons, communications, finance and transport.

75. Market access for foreign service suppliers and their services is defined in article XVI of the GATS, which lists measures that are regarded as affecting market access.[18] These include measures that: (a) limit the number of service suppliers who are granted market access; (b) limit the total value of service transactions or assets; (c) limit the total number of service operations or total quantity of service output; (d) limit the total number of natural persons that may be employed in a particular service sector or that a service supplier may employ; (e) restrict or require the supply of service only through specific types of legal entity or joint venture; (f) limit foreign investment. These measures limit the quantity of services provided and the number and type of service suppliers in the foreign market and affect their prices, as would quotas and tariffs for goods.[19]

76. It should be noted that while market access for trade in goods is enhanced and secured by the national treatment rule of GATT 1994, for trade in services, market access is only complete where commitments have been made to provide national treatment in the sector

concerned, as defined in article XVII of the GATS. Typical national treatment limitations included in schedules of commitments relate to nationality or residency requirements for executives and board members, requirements to invest a certain amount of assets in local currency, restrictions on the acquisition of land by foreign service suppliers, special subsidy or tax privileges granted to domestic service suppliers, special operational limits applying only to operations of foreign suppliers, and differential capital requirements.

77. As the outcome of the bilateral/multilateral negotiations on trade in services, market access is scheduled by each country as part of its specific commitments on services (see figure III). Status quo commitments (commitments that reflect the current state of laws, regulations and so forth, for a World Trade Organization member) have been made with respect to various elements of market access in those services sectors that were included in each country's schedules of commitments. For developing countries, such commitments may represent significant market access concessions, as they often reflect recent legislative reforms aimed at liberalization. For all countries, binding commitments provide security and predictability of market access to service suppliers and consumers. These commitments will serve as the benchmark in future rounds of negotiations on the liberalization of trade in services. While the GATS schedules contain only those measures on which the World Trade Organization member countries were willing to enter into binding contractual commitments – market access is provided in other sectors on an autonomous basis and in accordance with the MFN obligation – they currently provide the only indication of market access in respect of services.[20] For example, many countries did not make market access commitments on audiovisual services for cultural or strategic reasons, although foreign suppliers are currently allowed to participate in and often dominate their markets. The analysis of schedules of specific commitments therefore does not provide a full picture as to what actual trade policy regime individual countries pursue in trade in services and in market access in particular.

Figure III. Specific commitments on services, total by sector

78. Trade in services takes different forms in different sectors, and therefore one type of market access commitment – for example, on establishment of a firm or, alternatively, movement of service providers as natural persons – could have a different impact depending

on the dominant way of supplying services to foreign markets in a particular sector. Open market access commitments regarding trade through one of the dominant modes of supply for the sector in question would therefore contribute relatively more significantly to the liberalization of trade in services. The main emphasis has been placed so far on improving the market access conditions for establishment of commercial presence.

79. The key discipline in the GATS is the unconditional MFN status, granting all World Trade Organization members the same treatment with respect to all measures affecting trade in services, including measures affecting services that are listed in schedules of commitments as well as those that are not. However, countries have also negotiated exemptions from MFN treatment and attached them as lists of exemptions to the GATS. Through this approach, countries retained the right to grant better market access to selected countries, often on a reciprocal basis, in sectors for which no commitments or only limited commitments have been made. Audiovisual, financial and transport services and measures relating to movement of persons were most frequently included under the MFN exemption lists.

80. In two sectors, namely, financial services and basic telecommunications, the extended negotiations after the Uruguay Round yielded important market access results. The negotiations on financial services under the GATS were concluded on 12 December 1997. As a result of these negotiations, a total of 56 schedules of commitments representing 70 World Trade Organization members and 16 lists of MFN exemptions (or amendments thereof) were annexed to the Fifth Protocol to the GATS, which was opened for acceptance on 27 February 1998 for a period until 29 January 1999. The new commitments are expected to enter into force no later than 1 March 1999. With five countries making commitments in financial services for the first time, the total number of World Trade Organization members with commitments in financial services will increase to 102 upon the entry into force of the Fifth Protocol; very substantial commitments on financial services were already made during the Uruguay Round and in 1995.

81. The new commitments contain, *inter alia*, significant improvements concerning commercial presence of foreign financial services suppliers in that they eliminate or relax limitations on foreign ownership of local financial institutions, limitations on the juridical form of commercial presence (branches, subsidiaries, agencies, representative offices and so on) and limitations on the expansion of existing operations. Improvements were made in all of the three major financial service sectors, namely, banking, securities and insurance, as well as in other services such as asset management and provision and transfer of financial information.

82. At the close of the three-year negotiations on basic telecommunications in February 1997, the commitments of 69 Governments (contained in 55 schedules) were annexed to the Fourth Protocol to the GATS. All of the world’s industrialized countries participated, as did over 40 developing countries and six economies in transition. On 5 February 1998, the results of the negotiations on basic telecommunications services formally entered into force. In a number of schedules, a member’s commitments for particular services are to be “phased in”. For these, while the schedule formally entered into force on the date of the Protocol as a whole, the actual implementation date for such commitments will be on the date specified in the schedule. Since the negotiations, two participants in the Protocol have improved their commitments and three World Trade Organization members that did not participate have submitted commitments.

83. Participants in the basic telecommunications negotiations also elaborated a set of regulatory principles covering matters such as competition safeguards, interconnection guarantees, transparent licensing processes and the independence of regulators in a commonly negotiated text called the Reference Paper. Each participant was able to use the text in

deciding what regulatory disciplines to undertake as additional commitments in its schedule. Sixty-three of the 69 participants included commitments on regulatory disciplines, with 57 of these committing to the Reference Paper in whole or with only minor modifications. In addition, two of the three Governments that recently submitted commitments also included the Reference Paper in their commitments. By February 1997, nine Governments had submitted MFN exemption lists which were also annexed to the Fourth Protocol.

84. Transparency as a general obligation in the GATS may be more important in facilitating market access for developing countries' service operators than any other single commitment. Availability of information on the rules and procedures for supply of services in foreign markets will not only cut transaction costs but will also provide new trading opportunities for small and medium-sized firms in general. The establishment of contact points under article IV:2 (increasing participation of developing countries) of the GATS will facilitate the access of developing countries' service suppliers to market information concerning commercial and technical aspects of the supply of services; registration, recognition and obtaining of professional qualifications; and the availability of services technology.

85. The GATS framework is designed so that the main emphasis is placed on market access in specific service sectors or subsectors. The horizontal commitments section of the schedule lists access limitations relevant to trade in all services. The majority of measures listed relate to commercial establishment of firms, namely, conditions for acquisition of land and real estate, foreign investment and subsidy policy, and the movement of natural persons as service suppliers. These have normally been limited to selected categories, which generally include executives and senior managers as intracorporate transferees; independent senior executives; business visitors not engaged in supplying services directly; and specialists, usually with advanced levels of expertise. In many cases, all other categories of natural persons will be granted market access based only on their passing economic needs tests. In addition, a number of countries have retained the right to apply economic or labour-market needs tests for specialists, subjecting them to individual compliance with labour-market testing. As a result, scheduled entries on market access and national treatment in specific sectors should always be regarded jointly with those listed in the horizontal section.

86. One of the distinct categories of the limitations on market access comprises economic needs tests (ENTs). Tests imply that the relevant government agency might grant market access depending on its assessment of the economic needs of the population or its demand for or capacity to supply such services. The relevant conditions may be qualitative or quantitative, taking into account the local market conditions and the availability of local service suppliers, the characteristics of the population or any other criteria, but they are frequently not specified in the schedule (see figure IV). Owing to its discretionary nature (especially where criteria are not clearly specified), economic needs testing poses a major barrier to trade in services and leaves considerable uncertainty as to the level of market access commitment.

Figure IV. Measures affecting trade in services

87. ENTs are prevalent in limiting market access with respect to the movement of persons, but are also applied to investment (commercial presence commitments). Since a commitment made subject to an ENT provides no guarantee of access, its economic and legal value is minimal. ENTs detract from the potential contribution of the GATS to improving and securing the overall climate for investment and facilitating the movement of persons associated with the globalization process. Since ENTs are invoked by countries in many service sectors, scheduling specific criteria for their application and eventually their removal with respect to those sectors or modes of supply would be central to future efforts to liberalize trade in services.

88. Market access for goods and market access for services are often linked; for example, there are linkages between supply of services such as consultancy engineering services and the subsequent export of capital goods; provision of an integrated package of goods and services, as in the case of export of environmental goods and services; and export of maintenance services following the supply of goods, particularly high-technology goods, where specialized training and maintenance can be provided by temporary movement of persons or via telematic services. In addition, the need for customization of goods and services has increased the complementary role of producer services. This is not to mention the fact that transport and distribution services are essential for trade in any good.

89. Cross-border trade has been growing increasingly as a result of development of telecommunication networks, advances in information technology and the advent of the Internet. New technologies are expected to further boost trade in services, even in areas where it was considered technically unfeasible at the time of the Uruguay Round negotiations. Sometimes citing technical infeasibility, only half or less of the commitments made by countries provide for completely free market access in cross-border trade.

90. Generally speaking, market access is freest for consumers who choose to purchase services abroad (some restrictions, however, exist on payments and transfers). This is an important way of exporting services, particularly medical services, tourism, transport and educational services. Though trade is not directly restricted, that does not mean that trade is barrier-free: requirements in other service sectors, for example, non-portability of medical insurance, could limit trade in related sectors.

91. Virtually all World Trade Organization members have made commitments on establishment of foreign firms providing services within the country. Many countries have provided for qualified access, that is to say, they have inscribed limitations in their commitments on commercial presence, particularly in terms of measures defined in article XVI of the GATS, where requirements for a certain type of legal form for establishment and limitations on foreign capital participation are frequently cited. Furthermore, ENTs have been mentioned in many sectors, though by a rather limited number of countries.

92. Relatively less market access liberalization has been achieved for the presence of natural persons as service suppliers. Broadly speaking, opening market access has been limited to horizontal commitments on the temporary movement of management personnel and specialists linked to commercial presence. Some countries have made sectoral and category-specific commitments, in addition to horizontal commitments (see box). Many of the commitments relating to independent contract personnel are subject to ENTs.

93. Table 6 summarizes the commitments made by World Trade Organization members in their schedules for each major service sector and for each mode of supply: cross-border supply, consumption abroad, establishment of commercial presence, and presence of natural persons. It distinguishes between full, partial and no commitments to provide market access or national treatment. It must be emphasized, however, that the latter distinction between partial and no commitments is a very crude one and, depending on the nature of the limitations that have been maintained in a partial commitment to liberalize, the difference between a partial commitment and a full commitment could be marginal or very significant. The table therefore gives only a broad indication of the level of commitments made by countries.

94. Under article VI.4 (domestic regulation) of the GATS, negotiations are near completion on disciplines to ensure that measures relating to qualification requirements and procedures, technical standards and licensing requirements and procedures in accountancy do not constitute unnecessary barriers to trade.[21] Various options are under consideration as to the legal character of the disciplines, for example, a legally binding annex, or a non-binding decision or a reference paper on the basis of which members may undertake binding commitments. This work is particularly important in that an effort has been made to distinguish between article VI measures covered by the disciplines and article XVI (market access) and XVII (national treatment) measures which could be taken up in the next round of negotiations. Moreover, the disciplines will help facilitate the access of professionals through both commercial presence and movement of natural persons modes.

95. Liberalization of market access in services is a particularly complex process since barriers to foreign entry are usually incorporated into domestic legislation. Given that improvement in market access conditions might imply the need for legislative reform, removal of barriers in services could be seen only as a progressive process with due respect for national policy objectives and the level of development of countries.

96. Parallel to the multilateral efforts on improving market access for trade in services, there is an increasing expansion of the scope of regional integration agreements to include services. Integration agreements grant preferential treatment limited to services operators of the member countries by providing better market access for them and their services within the trading area covered by the agreement. Full liberalization of trade in services, including investment and free movement of persons, has been achieved within the area of EU. In contrast, in the bilateral agreements that EU has concluded with countries in Central and Eastern Europe and the Mediterranean region, limited improvement in bilateral market access was achieved, with the GATS providing a basis for commitments. NAFTA[22] has not achieved full liberalization of services trade, and it has encompassed a slightly different structure than the GATS: services “trade” is limited to cross-border, but investment and temporary movement of business people are addressed in separate chapters, as are financial and telecommunication services. Negotiations on services in MERCOSUR are based on a framework similar to the GATS but are aimed at achieving an increased level of commitments on market access. Regional trade agreements related to services are likely to influence future multilateral efforts on improving market access in services.

Table 6

Commitments made by World Trade Organization members on services by mode of supply[a]

(Percentage)[b]

	Cross-border			Consumption abroad			Commercial presence			Natural persons		
	Full	*Partial*	*No*	*Full*	*Partial*	*No*	*Full*	*Partial*	*No*	*Full*	*Partial*	*No*
I. Market access[c]												
Business services	46	32	22	54	34	12	24	73	3	1	93	6
Communication services	19	72	9	36	55	9	6	91	3	0	94	6
Construction and related engineering services	26	12	62	53	32	14	29	64	7	0	97	3
Distribution services	31	53	16	34	56	11	17	80	4	0	96	4
Educational services	48	39	12	54	40	6	25	66	9	1	92	7
Environmental services	17	21	62	51	35	14	26	74	0	1	97	3
Financial services	21	33	46	34	42	24	14	84	2	2	90	8
Health-related and social services	44	4	52	71	21	8	19	77	4	0	94	6
Tourism and travel-related services	42	19	39	62	27	11	30	66	4	2	89	10
Recreational, cultural and sporting services	48	29	23	56	40	4	20	71	9	1	91	8
Transport services	29	31	41	47	47	6	16	76	8	1	95	5
Other services not included elsewhere	11	44	44	11	78	11	0	78	22	0	100	0
II. National treatment												
Business services	50	27	22	60	27	13	57	38	5	10	82	9
Communication services	39	51	10	40	48	12	32	62	5	7	84	9
Construction and related engineering services	25	13	61	51	32	17	7	83	10	0	92	8
Distribution services	30	55	15	35	56	9	14	83	3	0	96	4
Educational services	42	48	9	49	45	5	8	73	19	1	92	7
Environmental services	16	26	57	51	38	10	20	79	1	1	97	2
Financial services	26	27	46	37	36	26	12	85	3	1	89	10
Health-related and social services	54	4	42	73	19	8	17	73	10	2	92	6
Tourism and travel-related services	48	16	36	68	19	13	61	33	6	13	73	13
Recreational, cultural and sporting services	47	35	18	55	37	8	14	75	11	2	88	10
Transport services	32	25	43	56	37	8	46	43	11	13	78	9
Other services not included elsewhere	11	44	44	11	78	11	11	67	22	0	100	0

Notes:

Percentages may not add up to 100 due to rounding. Basis of total is listed sectors.

[a] The present table analyses the commitments undertaken in the schedules of World Trade Organization members for each mode of supply (cross-border supply, consumption abroad, commercial presence, and presence of natural persons) by classifying them into the following three categories:

"Full": no limitations to market access or national treatment;

"Partial": commitments exist to grant market access or national treatment, but are subject to certain limitations;

"No": no commitments in market access or national treatment.

While the table reflects the results of the negotiations on basic telecommunications that entered into force on 5 February 1998, the results of the financial services negotiations concluded in December 1997 are not taken into account, since the latter commitments have not yet entered into force.

[b] The denominator of the fractions furnishing the percentages appearing in the body of the table is equal to the total number of commitments that can be made in the sectors and subsectors listed in the schedules of World Trade Organization members. No account is taken in the calculations of the sectors or subsectors that were not listed in the schedules of members.

[c] Any measures restricting both market access and national treatment are scheduled in the market access column of the schedule in accordance with article XX.2 of the GATS; therefore, the percentages indicated in the market access section of the table also take account of such measures.

Horizontal commitments on the market access of natural persons

Entry subject to an economic needs test	Antilles, Barbados, Dominica, El Salvador, Grenada, Jamaica, Malta, Peru, Philippines, Sri Lanka, Saint Lucia, Saint Vincent and the Grenadines, Trinidad and Tobago
Entry for senior personnel as intracorporate transferees	
All	Argentina; Aruba; Australia; Brunei Darussalam; Cameroon; Canada; Czech Republic; Dominican Republic; member States of the European Union; Finland; Hong Kong, China; Hungary; Iceland; India; Israel; Japan; Kenya; Kuwait; Mauritius; Mexico; Morocco; Namibia; New Zealand; Nigeria; Norway; Republic of Korea; Romania; Singapore; Slovakia; South Africa; Sweden; Turkey; United States of America; Uruguay; Zambia
Subject to an economic needs test	Antigua and Barbuda, Belize, Brazil, Cuba, Cyprus, Guyana, Indonesia, Poland, Suriname, Thailand, Zimbabwe
Subject to quota	Bolivia, Chile, Colombia, Costa Rica, Egypt, Ghana, Guatemala, Honduras, Liechtenstein, Malaysia, Nicaragua, Pakistan, Switzerland, Tunisia, Venezuela
Business visitors	Australia, Austria, Canada, Czech Republic, member States of the European Union, Finland, Hungary, Iceland, India, Japan, Malaysia, Mexico, Morocco, New Caledonia, New Zealand, Norway, Poland, Republic of Korea, Slovakia, South Africa, Sweden, Switzerland, Thailand, Turkey, United States of America, Venezuela

Source: L. Altinger and A. Enders, “The scope and depth of GATS commitments”, *World Economy*, May 1996.

97. So far, the results of negotiations on trade in services show that the major focus has been on obtaining significant commitments for commercial presence and, to a more limited extent on obtaining cross-border commitments. Developing countries have very often made market access commitments on commercial presence as an inducement to foreign investors. For the next round of negotiations, developing countries need to identify sectors where foreign investment is needed and commitments would be valuable for that reason.

98. Liberalization of market access cannot be viewed separately from domestic policy, and needs to be considered jointly with development objectives. The welfare gains of liberalized trade in services might be further enhanced in combination with policies related to, for example, export promotion or infrastructure and capacity-building schemes. At the same time, services trade policy would determine what kind of services sectors might develop as national sectors – whether knowledge-intensive or labour-intensive, or providing high earning potential or a large employment base – thereby determining, to a large extent, investment structure and thus the long-term economic growth path.

99. The next round of negotiations on progressive liberalization of services is to take place in the year 2000 in accordance with article XIX of the GATS. Appropriate flexibility is provided to developing countries in article XIX.2 in regard to opening fewer sectors, liberalizing fewer types of transactions and, when making access to their markets available to foreign suppliers, attaching access conditions aimed at achieving the objectives of article IV (increasing participation of developing countries) in trade in services. In this context, developing countries would need to identify sectors of potential export or other commercial interest and candidates for liberalization.

Notes

[1] The Agreement Establishing the World Trade Organization came into force in 1995, with 81 member countries and customs territories encompassing developed and developing economies as well as transition economies in Central and Eastern Europe. By February 1998, the membership had risen to 132, with an additional 31 in the process of accession. The Agreement can be found in *Legal Instruments Embodying the Results of the Uruguay Round of Multilateral Trade Negotiations, done at Marrakesh on 15 April 1994* (GATT secretariat publication, Sales No. GATT/1994-7), vols. 1 and 27-31.

[2] The analysis covers all products, including tariffed agricultural products, and includes estimates of tariff equivalents for specific rates based on recent import or international prices.

[3] This section provides a summary of the UNCTAD/World Trade Organization joint study on "The post-Uruguay Round tariff environment for developing country exports" (TD/B/COM.1/14), Geneva, October 1997.

[4] Other preference-giving countries, in particular Norway and Switzerland, also improved their GSP schemes substantially and extended duty-free access to a large range of additional products in favour of least developed countries.

[5] Concerning this issue, see also *Market Access for LDCs: Where is the Problem?* (Paris, OECD, 1997).

[6] Comprehensive and Integrated World Trade Organization Plan of Action for the Least Developed Countries, adopted by the Ministerial Conference of the WTO on 13 December 1996 (WT/MIN(96)/14).

[7] *Proceedings of the United Nations Conference on Trade and Development, Ninth Session, Midrand, Republic of South Africa, 27 April-11 May 1996, Reports and Annexes* (United Nations publication, Sales No. E.97.II.D.4), part one, sect. A.

[8] "Tariff escalation", note by the World Trade Organization secretariat (WT/CTE/W/25), Geneva, 22 March 1996.

[9] Jostein Lindland, "The impact of the Uruguay Round on tariff escalation in agricultural products", Commodity Policy and Projections Service (ESCP), No. 3 (Rome, FAO, April 1997).

[10] It should be noted that, while the tariff structure is likely to affect resource allocation, many other factors may help to determine outcomes and the capacity of a country to produce a given product competitively.

[11] Notified in World Trade Organization document G/SECRETARY-GENERAL/N/10/USA/1.

[12] Notified in World Trade Organization document G/SECRETARY-GENERAL/N/10/BRA/1.

[13] Notified in World Trade Organization document G/SECRETARY-GENERAL/N/10/ARG/1.

[14] Notified in World Trade Organization document G/SECRETARY-GENERAL/N/10/KOR/1.

[15] It should be noted that the anti-dumping laws that are adopted are separate from any decisions that the authorities may take to initiate anti-dumping actions.

[16] Hong Kong, China; Republic of Korea; Taiwan, Province of China; Singapore; Mexico; Malaysia; Thailand; Indonesia; Brazil; India and Turkey.

[17] Government services, provided on a non-commercial basis or where competition is absent, are excluded from the GATS.

[18] There is no general obligation to grant full market access and national treatment to foreign services and service suppliers; these obligations are confined to the sectors and subsectors specifically included in the individual schedule of commitments of each member of the World Trade Organization, subject to any limitations with respect to each mode of supply.

[19] Government measures that neither fall within (a) through (f), nor are inconsistent with national treatment, are not addressed by means of schedules of commitments (except, in some instances, through additional commitments). Instead, they are covered by general obligations of the GATS, such as article VI which contains broad disciplines on domestic regulation and article XIV which contains exceptions to GATS rules that can be effected to meet certain public policy objectives so long as they do not represent disguised trade barriers.

[20] The Measures Affecting Services Trade (MAST) data base being developed by UNTAC should eventually provide a more comprehensive basis for analysis.

[21] While the GATS recognizes that such measures can affect the supply of a service, they are not presumed to be trade barriers in the sense of measures covered by article XVI or XVII, but are viewed instead as controls aimed at achieving legitimate national policy objectives related to, for example, quality or technical standards, licensing requirements and so on, all of which should be based on objective and transparent criteria and criteria that are not more burdensome than necessary.

[22] The North American Free Trade Area includes the United States of America, Canada and Mexico, and entered into force in January 1994.