

Commonwealth Economic Papers: No.17

**Protectionism:
Threat to International Order
The Impact on Developing Countries**

Selected working papers prepared
for a Commonwealth Group of Experts



Commonwealth Secretariat

COMMONWEALTH ECONOMIC PAPERS: No. 17

PROTECTIONISM:
THREAT TO INTERNATIONAL ORDER
THE IMPACT ON DEVELOPING COUNTRIES

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for a Commonwealth Group of Experts

Commonwealth Secretariat

Marlborough House

London SW1 5HX

October 1982

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Printed and published by
The Commonwealth Secretariat

May be purchased from
Commonwealth Secretariat Publications
Marlborough House
London SW1Y 5HX

ISBN 0 85092 223 2

PREFACE

The papers included in this volume were prepared to assist the Group of Experts which Commonwealth Heads of Government at their Meeting in Melbourne in October 1981 requested the Secretary-General to assemble in order "to investigate the impact of protection on developing country trade and report in time to assist governments in their preparations for the proposed GATT Ministerial Meeting". During the first half of 1982 the Group met three times, and in July 1982 their Report was published by the Commonwealth Secretariat under the title "Protectionism: Threat to International Order; The Impact on Developing Countries".

Most of the papers were drafted within the two months between the first and second meetings of the Group. Three were written by consultants to the Secretariat and the remainder by staff of the Commonwealth Secretariat. The short time available for the work ruled out new and major research efforts, and the papers represent an effort to assemble, digest and present background information on some of the principal issues pertinent to the Group's terms of reference. Conclusions expressed in the papers are, of course, those of the authors and do not necessarily reflect the views of members of the Group or of Commonwealth Governments.

Eight issues are covered by the papers, viz, the multilateral trade negotiations and their effect on developing countries, non-tariff measures, the evolution and evaluation of generalised schemes of preference, agricultural protection, protection on manufactured goods, tariff escalation, safeguard action and adjustment and the machinery for disputes settlement.

Despite the short time in which most of the papers were drafted, it was felt that their content would be of interest to a wider audience than the Group of Experts for whom they were written. It should, however, be emphasised that no attempt has been made to update or otherwise revise the papers in the light of subsequent developments.

B. Persaud
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Developing Countries in GATT after the
Multilateral Trade Negotiations

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1. This Paper was written prior to the establishment of the Expert Group but was made available to it because of its relevance to the work of the Group.

Developing Countries in GATT after the Multilateral
Trade Negotiations

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Developing Countries in GATT after the Multilateral Trade Negotiations

I. Introduction

1. A year has passed since the Tokyo Round of Multilateral Trade Negotiations (MTN) was concluded, and numerous assessments qualitative, quantitative and other - have been made of the results. Among these are the "red book" (together with the supplementary report) issued by the GATT Secretariat; the series of papers produced by the UNCTAD Secretariat to enable the Trade and Development Board to make a global assessment in terms of the relevant UN Resolution; and independent evaluations by individuals and organisations in the field. Undoubtedly, the countries that participated - more especially the developing ones - would still be in the process of making their own appraisals with a view to deciding what further action they need to take in pursuance of the decisions reached at the end of the negotiations.

2. In the realisation that the previous rounds of negotiations under GATT auspices had failed to provide solutions to developing country problems - indeed that their objectives were so limited that such solutions could not be hoped for - the Tokyo Declaration of September 1973 sought to define more clearly the objectives of the negotiations in relation to the trade of developing countries. Accordingly, the negotiations were aimed at securing "additional benefits for the international trade of developing countries", and "a better balance as between developed and developing countries" in the sharing of the advantages resulting from the expansion of international trade; tropical products which have been of particular interest to developing countries were to be treated as a special and priority sector in these negotiations; developed countries would not expect reciprocity for commitments made by them in the negotiations to reduce or remove tariff and other barriers to the trade of developing countries; and recognition was given to

the importance of applying "differential measures to developing countries in ways which will provide special and more favourable treatment for them in areas of the negotiation where this was feasible and appropriate".¹

3. There is little difference of opinion about the results falling short of the hopes and aspirations embodied in the Tokyo Declaration. Even the major trading countries whose initiatives led to it were not altogether satisfied; countries like Australia and New Zealand, with their predominant interest in trade in agriculture, were far less than satisfied; and developing countries, seeing little evidence of any 'additional' benefits flowing from the negotiations, seldom lost an opportunity of voicing their disappointment with the outcome, as well as over the fact that they left so many issues of interest to them unresolved. While all the industrialised countries have almost fully subscribed to the various Agreements in the tariff and non-tariff areas, most developing countries have not yet done so and would seem to be feeling their way still.

4. The conclusion of the Tokyo Round has by no means signalled the close of efforts under GATT auspices to deal with the outstanding issues. While certain developed countries would like to carry on with the unfinished negotiations on a Multi-lateral Agricultural Framework and for an Agreement on service industries and perhaps also on the so-called export restrictions, developing countries have numerous unresolved interests, especially in the field of quantitative restrictions, tropical products, safeguards and further reforms to the GATT Framework. The future role of GATT in relation to negotiations on these and other issues becomes all the more significant when it is realised that there is little prospect of a further international effort of the kind just now brought to an end being mounted in the foreseeable future.

1. Paras 2,3 and 5 of the Tokyo Declaration of September 1978.

5. This broad setting has largely determined the scope of this paper. The purpose is not to make any fresh assessment of MTN: indeed, it will barely touch on this aspect - and then, to elucidate the points otherwise sought to be made; consequently a knowledge of the results is assumed throughout the paper. The attempt is rather to deal, firstly, at some length with an area which may have been only partially touched on by most observers and that is the role played - or allowed to be played - by developing countries in the entire negotiations, an examination of which may hold useful lessons for further negotiations in GATT even at the risk of being regarded as somewhat of a belated 'post-mortem'. More importantly, however, it is to take a look at the role of developing countries in GATT as a whole in recent years - and at the prospects for the future while the organisation functions additionally as the continuing machinery for all residuary negotiations.

6. It has been known, of course, that the part played by developing countries in the negotiations was for various reasons severely limited; public knowledge is not as widespread on the role of developing countries in the forum of GATT itself, where they have encountered a variety of difficulties in pursuing their interests and in securing their full share of rights so far. The paper seeks to make out that the shortcomings of the Multilateral Trade Negotiations have been but a manifestation of the normal but comparatively unpublicised working of GATT.

7. Section II of the paper examines to what extent the various mechanisms created through and under the Trade Negotiations Committee were able to serve the purposes of developing countries as envisaged in the Tokyo Declaration. The manner in which the negotiations proceeded as well as the methods and the devices adopted, and how these affected the whole character of the negotiations and the participation of developing countries is also dealt with in this section. An attempt has been made comparing the modalities of the negotiations under GATT with those in other organisations such as UNCTAD.

8. Section III moves on to GATT proper and gives, firstly, a broad picture of the nature of developing country participation in the working of GATT ever since its inception, and proceeds to outline how this is likely to be transformed in the light of the decisions taken at the Multilateral Trade Negotiations.

9. In the fourth Section of the paper, an endeavour is made to bring together, from the point of view of developing countries the various aspects of the negotiations still due to take place under GATT, and to indicate broadly the directions in which the participation may have to be strengthened and improved in the coming years.

10. A short section embodying a resume of the observations and an indication of the outlook concludes the paper.

11. Participation of developing countries in MTN

The negotiating machinery

11. The machinery that was set up for conducting the detailed negotiations of the Tokyo Round was very similar to that during the Kennedy Round. A Trade Negotiations Committee (TNC) was established, and authorised to elaborate and put into effect detailed trade negotiating plans and to prescribe appropriate negotiating procedures, including special procedures for negotiations between developed and developing countries, as well as to supervise the progress of the negotiations. A number of Groups and Sub-Groups in tariff and non-tariff areas, whose scope was gradually expanded over the first few years of the negotiations to take account of additional concerns of both developed and developing countries, were also constituted before long.

12. For reasons by now too well-known to need repetition, commencement of substantive negotiations had to wait almost till 1977, although the TNC's Groups and Sub-Groups did meet from

time to time even in the initial years and in most cases maintained no more than a semblance of negotiating activity. Some of them did succeed in moving forward a few ideas and concepts, a little at a time, without tackling the central and more important questions. Thus the question of how agricultural products should be dealt with had to await the resolution of both substantive and procedural differences between the two super trading powers, namely, the EEC and USA; issues relating to the sector approach were no more than tinkered with in the multilateral sense, only to be abandoned in the later stages.

13. The Trade Negotiations Committee itself met often enough during the initial period of 3-4 years, but there was nevertheless no indication of the Committee trying by itself to put into effect negotiating plans of any kind, although such meetings as it held could be interpreted as having dealt with the question of progress and of the obstacles thereto. Indeed, right up to the end, the Committee itself never drew up any negotiating plans in the tariff field or as between developed and developing countries or in any other area - and on the few occasions in which it was convened in later years, it either noted what was happening or gave de facto approval to what had happened and heard complaints from developing countries about continued lack of progress and of consideration for their problems.

14. Although little of substance emerged from the meetings of several of the Groups and Sub-Groups during the first four years of the negotiations, a veil of secrecy was drawn over their proceedings, on the ground that negotiations were the concern of participating sovereign countries and that there was no need for others to be informed of how they were progressing. This was said at the time to have been mostly at the instance of two or three of the most prominent developed trading countries, but was in consonance with the traditional manner of work in the servicing Organisation, which tended to restrict rather de-restrict information. Attendance at meetings was

understandingly limited, of course, to participating countries; as regards observership, while the IMF had ready and unquestioned access to every one of these meetings, presumably in view of its special relationship with GATT, the most important organisation outside GATT dealing with trade and development matters, namely, UNCTAD which had a specific mandate from member countries to provide assistance on MTN matters to developing member countries, were placed in the invidious position of seeking permission to send its representatives to each meeting, although such permission was invariably granted and, in any case, documentation seems have been supplied freely.

15. Such documentation as came out of these meetings of Groups and Sub-Groups from time to time had procedural rather than substantive content. In several instances, the summaries of the proceedings of meetings were described at the time by some participants as models of 'non-information', mentioning only the fact of the meeting, the issues discussed, sometimes the points of view put forward, and some procedural matters like dates of future meetings. Developing countries which could participate in meetings had thus little access to information from the most authentic source on what was happening.

16. It would thus appear that although the machinery for conducting negotiations was in place from the beginning - with additions later on - the manner in which it functioned made it difficult for most developing countries - especially those who were represented in Geneva - to keep abreast of events with a view to deciding on ways of strengthening their participation. An argument frequently made at the time was that the complexities of the issues involved, the variety of interests and the flow of international events during the first years of the negotiations were such as to make it impossible for the latter to move smoothly or evenly; but the feeling among developing countries at the time - by no means mitigated even later - appeared to be that there should have been much greater regard on the part of developed countries for the even more adverse

situation in which developing countries were placed in the same international context, and the constraints on active participation which they were working under.

Negotiating modalities - Bilateralisation and its consequences

17. The Tokyo Round began with a fair number of developing countries - some seventeen to eighteen in the first two or three years when negotiations had barely begun, and increased to sixty-nine in the closing stages, as against the total of ninety-nine participating countries. It very soon appeared, however, that this number remained largely nominal and that developing countries participating actively or continuously in the negotiations did not number more than ten to fifteen almost right up to the end.

18. Among the reasons for this limited participation was of course the fact that many developing countries (especially of the Commonwealth) did not have, and still do not have, Resident Missions in Geneva, and that few of them could afford the expenditure involved in sending representatives from capitals, even on occasions. Furthermore, the limited manpower in countries which have become members of GATT in recent years, especially the smaller ones and the land-locked and island developing countries, operated as a serious disability for them. An added reason ascribed by many developing countries to this restricted participation was the fact that meetings and discussions in connection with the negotiating issues were mostly fixed at short notice and to a certain extent simultaneously and there was little certainty of conclusive discussions or negotiations taking place at most meetings, at least in the first few years of the Round. Any attendance of representatives from the capitals would in the circumstances have been regarded as unproductive and wasteful expenditure. As against this, many developed countries had either well-staffed and separate MTN Missions in Geneva with experts in each field, or had

adequately strengthened their existing Missions. (Even among these, Australia at one stage reduced the size and level of its special MTN Mission on the ground that little progress was being made). Few, if any, of the developing countries had the corresponding possibility of strengthening their staff in the Geneva Missions. The inequality in the nature and degree of participation of the two groups of countries was thus evident from the very beginning.

19. It could be argued - as was indeed argued at the time - that the inability of many developing countries to participate adequately in physical and even substantive terms was no fault of the developed countries, and that appeals had been made from the beginning and time and again, for their joining and fully taking part in the negotiations. As against this, however, developing countries contended that the manner in which negotiations went on, in an on-again-off-again atmosphere, and with abrupt stoppages and later sustained bilaterals, were not conducive to any organised participation on their part, even if they had the required manpower at their disposal and had the capacity to field reasonably well-equipped teams, and that due account should have been taken of the situation of developing countries in the process of organising the negotiations instead of concentrating on the convenience of the major participant.

20. A more serious obstacle appeared when the tempo of negotiations was speeded up in the last two years of the negotiations. When it was found that negotiations were not making any progress and a decision was taken at the highest level to speed them up at that stage, the three major trading Groups involved, namely, USA, EEC and Japan, pushed through the negotiations mostly among themselves. Very often, the negotiations turned out to be a US-EEC bilateral, with Japan joining at some stage, and other developed countries being brought in later still as considered necessary or inevitable. This seems to have happened so often that even countries like Australia and New Zealand and some of the Nordic Countries are

known to have voiced private complaints about their not being brought into the picture in time to enable them to participate effectively.

21. The situation with reference to developing countries as a whole was predictably much worse, except perhaps to the extent that some advanced developing countries like India, Brazil, Mexico and sometimes a few African and South East Asian countries, were brought in at later stages, mostly bilaterally or plurilaterally, to be informed of the results of the more restricted negotiations. Several of the bilateral and plurilateral negotiations among the super trading powers were in fact held in Washington or Brussels, thus leaving even the GATT Secretariat in the dark, and sometimes, developing country Missions in Geneva were bypassed and Ministries in their capitals contacted by the major trading countries like USA on bilateral basis for seeking support for propositions worked out elsewhere. This served to shut out, at least temporarily, several of the all-too-few developing country Missions in Geneva.

22. A stage arrived also in the negotiations in the concluding years when an informal Group called 7 + 7 (consisting of seven industrialised and an equal number of developing countries) was brought into being and convened from time to time at the instance of the Director-General of GATT to discuss and try to resolve controversial issues. The USA, EEC and Japan were of course permanent members of this Group while India and Brazil normally attended. The selection of other developed and developing country representatives varied from time to time depending on the nature of the issues discussed, although quite often Canada, one of the Nordic countries, and either Australia or New Zealand (especially when discussions on agriculture took place) did attend these meetings, and a few additional developing countries, depending again on the nature of the issues discussed, were brought in as part of the developing seven.

23. It was not surprising, therefore, that the great majority of developing countries felt completely shut out of the negotiations, and very often did not have information as to what was happening either during or after these intensive negotiations. To a certain degree also, membership of the 7 + 7 Group tended to establish some kind of vested interest among the countries actually participating (developed or developing), and thereby helped in the maintenance of a degree of confidentiality which may not have been fully intended. All this gave rise to the feeling that agreements arrived at in whatever manner among the Big Two or Three, or some such restricted Group, were handed down as the outcome of the whole negotiating process.

24. Almost all the more important issues, such as the tariff reduction hypothesis, subsidies and countervailing duties, safeguards, agriculture, etc. were discussed in restricted conclaves. In regard to tariffs, any pretence of involving developing countries was cast off after the initial series of discussions when a tariff reduction hypothesis was agreed on by the main industrialised countries without giving consideration to the various ideas put forward by developing countries (such as including a special factor in the various tariff reduction) It was of course decided that the tariff reductions would be implemented by the developed countries without asking for similar action by developing countries; however, in the course of bilateral negotiations, a degree of quid pro quo was expected and asked for from developing countries. In the tropical products field there were hardly any negotiations in the strict sense; after the process of submission of request lists was gone through, there were consultations as between the industrialised and developing countries concerned, almost exclusively bilaterally, and thereafter the concessions were announced unilaterally, purporting to be immutable in their content. Also, whereas it had been hoped that the concessions eventually granted would be non-reciprocal, a measure of reciprocity was sought and obtained from developing countries

in the course of bilateral negotiations between them and a few developed countries.

25. In regard to other major issues the situation was hardly different. Whether it was in relation to safeguards, or subsidies and countervailing duties, or anti-dumping, the substantive discussions leading to negotiated conclusions were limited to few developed and developing countries, with not more than a handful of delegations being involved in respect of certain issues like safeguards. Negotiations on issues like Technical Barriers to Trade and Government Procurement, however, continued mostly through the machinery set up for the purpose.

26. Developing countries thus became convinced well before the concluding stage was reached that the tendency had been accentuated of agreements and conclusions being reached in limited groups with hardly any information coming out until some kind of package was evolved and announced for acceptance by the rest of the participants. The first signs of unease on the part of developing countries appeared during the middle of 1977 and early 1978, when their representatives pointed out the absence of any opportunity even to voice their complaints. Indeed when the Trade Negotiations Committee, which met fairly frequently during the earlier part of the negotiations, was not convened over long periods in the later stages, developing countries shortcircuited the Committee by availing themselves of a meeting of the GATT Committee on Trade and Development in late 1977 to voice their complaints at some length. Even thereafter, no formal meeting of the TNC was convened, and only an 'informal' gathering was called, at which developing countries repeatedly referred to lack of transparency in the negotiations, to the 'marginalisation' of developing countries in the whole process and to the almost total abrogation of the multilateral character of the negotiations. Some modification in the attitude of industrialised countries seems to have taken place after this,

and an approach made by some participants like the USA to a number of developing countries again bilaterally - to redress the situation. This, however, did not serve to remove the disappointment among most developing country participants which surfaced even at the conclusion of the negotiations.

27. The bilateralisation of the negotiations meant, according to the developing countries concerned, much more than a serious curtailment of their rights and opportunities. It was pointed out on their behalf that as a rule, bilateral discussions or negotiations as between a powerful trading country or group like the USA, EEC or Japan and any of the individual developing countries, however skilful its team, would inevitably be an uneasy encounter and that the outcome of any such discussion would, in most instances, be to the disadvantage of the developing country concerned. Whereas in a genuinely multilateral forum or in round-the-table negotiations, in which more than one or two developing countries took part, they might have been able to press their interests as a whole as well as in each one's individual interest with some effect, bilateralisation of the negotiations effectively reduced the opportunities for satisfactory results being obtained by developing countries in pursuit of their objectives.

28. Here again, the contention was put forward that it was inevitable, in such complex negotiations of a highly technical character affecting the vital trade interests of the major participating countries, that a comparatively small number of interested countries should get together and negotiate in the first instance and that not every participant could be involved throughout or in every aspect of the negotiations. While the validity of the argument was conceded to some extent, and while it was realised that similar modalities are often employed in other international organisations, the difference in this case according to most developing countries, was that no sustained or visible efforts were made by those who chose to restrict the negotiations to small groups to involve the others as often

as possible and necessary, so as to obtain endorsements on a wider basis. This could possibly have been achieved by more frequent meetings of the Trade Negotiating Committee and of the Groups in the concluding stages of the negotiations.

How developing countries coped

29. There were, however, certain relieving features in this otherwise unsatisfactory situation. A few developing countries did field competent teams in Geneva for handling the negotiations and it was mainly owing to their efforts that the results in some areas such as Subsidies and Countervailing Duties, Technical Barriers to Trade, Import Licensing and Customs Valuation, and the improvement of the GATT Framework were even as moderately satisfactory as they turned out to be at the end.

30. Fortunately, too, developing countries could rely to a considerable extent during all the stages of the negotiations on the technical assistance provided by the agencies involved, namely GATT and UNCTAD Secretariats, as also the Commonwealth Secretariat. There was handsome and universal acknowledgement on behalf of the developing countries of the very valuable technical assistance provided by the GATT Secretariat. The UNCTAD/MTN Project, as well as the UNCTAD Secretariat, dealt not merely with general issues of relevance or interest to developing countries but with wider policy questions and the significance of the proposals sponsored from time to time. The Commonwealth Secretariat Unit in Geneva, in addition to providing developing member countries throughout the negotiations with periodical information on progress, as well as with individual studies and analyses, responded to requests for advice from time to time from a number of member countries in regard to the choices before them. Seminars held by the UNCTAD and Commonwealth Secretariats, and by the regional UN Economic Commissions in

cooperation with these two, at which senior officials of the GATT Secretariat invariably took part, also served to brief developing country representatives on the outstanding issues and how they needed to be dealt with.

Negotiations in GATT and in other forums

31. It would be interesting in this context to compare the procedures and modalities of negotiations in the course of the MTN with those in UNCTAD and other UN organisations. It is well known that neither the industrialised nor the developing countries have established in GATT the kind of caucus or organisation that has evolved in UNCTAD and other UN bodies, which have had well organised group systems for over a decade and a half. Although during the MTN, especially in the later stages, there came into existence an informal group of "less developed countries", which met every now and then in the GATT Secretariat premises under the chairmanship of one or the other of developing country representatives (for a long time Yugoslavia and at the concluding stages Colombia), the group at no time constituted anything corresponding to the '77'. It considered major issues arising in the MTN from time to time and quite often, at the meetings of the Committee on Trade and Development and in the Trade Negotiations Committee itself, statements were made by the Chairman of the Group on behalf of the Group as a whole, although individual countries continued to voice their particular concerns. But it seems that very much unlike the Group of 77 in UNCTAD, for example, there was no question of discussing every issue or the totality of issues or policies, strategies and tactics, at meetings convened before and during every session.

32. Simultaneously with the working of the GATT's informal Group, there was also at work an analogous group in UNCTAD (called the Co-ordinating Group of 77), meeting from time to time at the instance of the MTN Project of that Organisation. Apart from the fact that it was given technical briefing on several issues every now and then, its effectiveness vis-à-vis the negotiations seems to have been no greater than that of the Group within GATT.

33. Among other factors contributing to the absence of any formal group arrangements in the MTN was that the industrialised countries were able to get more or less what they wanted in the course of negotiations by a largely bilateral approach as between themselves and towards developing country problems. In any case, they had their own differences too, as has been indicated already, and in the situation which developed during the negotiations, they could not have much use for any kind of caucus among themselves (like Group 'B' in UN).

34. It has also to be mentioned that GATT, as a largely tradition-bound Organisation, has not encouraged any grouping of countries, and no servicing for Group meetings of the kind provided by UNCTAD is normally available from the GATT Secretariat. It has been argued that the interests of individual developing countries in GATT could be markedly different on different issues; and that the legal position is that they and each one of them, are a contracting party to the General Agreement, each having its own responsibilities and its own rights.

III. Role of Developing Countries in GATT

35. With the GATT itself set to function as the continuing machinery for further negotiations and to work out the future relationship between industrialised and developing countries in the field of international trade, the question arises as to whether the manner in which the organisation itself has been functioning and its procedures and practices are such as to ensure for developing countries a fair and proper participation in its decision making processes.

36. From a membership of hardly more than ten when the GATT was first established in the late 'forties, the number of developing countries which are actually members of the organisation, inclusive of those which have a de facto membership, has now risen to eighty-six. Keeping in view the dominant and nearly exclusive role of developed countries and the meagre participation of the developing countries over the first decade of its existence, it used to be said in the early years of GATT that it was essentially a "rich man's club". In spite of the setting up of a number of Committees in subsequent years to take care of the particular concerns of developing countries such the Committee on Trade and Development, the Sub-Group on Tropical Products, the 'Group of Three', etc., the feeling at the time the MTNs were launched remained that the participation of developing countries in the GATT was nowhere near being commensurate with the strength of membership they had attained by then in the Organisation.

37. The manner in which GATT discharges its responsibility through its various organs has contributed in no small measure to the feeling in the past among developing countries that its functioning is not conducive to a successful resolution of their problems. The Annual Meetings of Contracting Parties, the supreme body administering GATT, has rarely taken any substantial decisions itself, and acts generally on the recommendations of the Council. From meetings lasting a week or more in the early years, the Annual Sessions have latterly become purely formal

meetings of 1-2 days (except in the case of the 35th Session in 1979 which had to formalise all MTN decisions); all its powers, including settlement of disputes, have virtually been delegated to the Council, which consequently has emerged as the pre-eminent and most influential body in GATT, where the developed countries' voice is indeed powerful and decisive.

38. Almost all decisions in GATT bodies are by consensus, and opposition or reservation to particular proposals even by a single member, especially the more powerful members, would mean either the postponement of the issue or the rejection of the proposal. Indeed, it has often happened that even in disputes as between the major trading powers like the EEC, USA and Japan any reservation entered by anyone of them against an otherwise unanimous endorsement of a particular view has had the effect of delaying a decision until an understanding is reached between the parties involved. Bilateral approaches, which for developing countries necessarily mean acting from a position of weakness, could lead to compromises which would not necessarily be required to be entered into under the General Agreement and would not be in their interest.

39. At the end of the Tokyo Round, and taking into account the part sought to be played by developing countries in the course of the negotiations, it might have been hoped that there would be a significant augmentation of these countries role in the day to day functioning of GATT, in addition to the part they are to play in the continuing negotiations. This has no doubt happened, but only to a limited extent.

40. The GATT Committee on Trade and Development which was set up mainly to deal with the interests of developing countries has, in pursuance of the decision taken at the 35th Session of Contracting Parties in November 1979, acquired certain additional responsibilities and duties, and has also set up a Sub-Committee in terms of Resolution 131(V) of UNCTAD to deal with Protective Measures. An Agreement on the GATT Framework for the future of international trade, dealing specifically with a

number of concerns of developing countries, was reached at the end of the Tokyo Round, and the Committee on Trade and Development has the responsibility for supervising the implementation of the provisions therein relating to special and differential treatment for developing countries. Its work is to cover, in a vague sense, trade and development policies, including trade liberalisation and the special problems of the developed countries (for which a separate Sub-Committee has been set up). With all this, however, this body remains a kind of 'Grievances Committee' for developing countries where complaints are heard but little action by way of redress seems to emerge.

41. A great deal was expected of the Sub-Committee on Protective Measures which was set up under the Committee on Trade and Development as a result of the MTN, but the circumstance surrounding its establishment were hardly propitious. Even while it was being constituted, developed countries expressed reservations about its being empowered to make recommendations to the Trade and Development Committee, not to speak of taking any decisions. In the absence at its first meeting in July 1980 of any notification about the protective measures introduced by developed countries, the GATT Secretariat had itself prepared a statement for the use of the Sub-Committee of what could be regarded as protective action. However, the sensitivity in this behalf was so great that a qualification was made to the effect that it had been prepared without prejudice to the rights of GATT members and to the views of individual contracting parties as to the nature of nomenclature of the particular measures included in the statement. How far the Sub-Committee, either by itself or through its main Committee, can break through such legacies of past GATT procedures and fulfil its functions remains doubtful.

42. A Management Group, since commonly referred to as the CG-18 ("Consultative Group of Eighteen"), was established by a Council decision of July 1975, to fill what was at that time considered a lacuna in GATT organisation. This arose from the belief that as in the IMF at that time (with its Group of Twenty),

there should be a high-level body in GATT to deal with major policy questions, especially in view of the rising tide of protectionism; and a Group consisting of eighteen member countries was accordingly brought into being on a temporary basis (since made permanent), with equal representation for industrialised and developing countries (EEC being reckoned as one country). The terms of reference are, mainly, to keep under review international trade developments with a view to the maintenance of trade practices consistent with the General Agreement, and to act in order to forestall sudden disturbances in the trade field as far as possible. The Group was expected to take into account the special characteristics of developing country economies and problems, but its working was not to prejudice in any way the rights and responsibilities of contracting parties.

43. The Group has held several meetings - almost once in a quarter, and has been assigned certain specific functions in relation to GATT's post-MTN programmes, such as structural adjustment and trade policies, trade policy aspects of the North-South dialogue, and overseeing the implementation of MTN results. The effectiveness of this body, especially in dealing with the concerns of developing countries remains unclear after some five years of its working, partly because it has so far been able to address itself only to the more general issues and not dealt specifically with developing country problems.

IV. Tasks before developing countries - strengthening of their role in GATT

44. After the long and arduous labour involved in the conduct of the Multilateral Trade Negotiations, and with the limits more or less reached for further liberalisation in the tariff field as among the industrialised countries, it seems unrealistic to expect that there will be a further round of multilateral trade negotiations under GATT for at least a decade or more. (Indeed, there is an influential viewpoint that "the international trade negotiating process should be an on-going permanent feature of

the system and not one of periodic trade rounds".)¹ It would therefore be premature at this stage to consider how developing countries may face future ad hoc negotiations like the Tokyo Round, although their experience of these negotiations could have value in the further negotiations undertaken in GATT or elsewhere.

45. Developing countries have a present and continuing task securing the fullest implementation of the MTN results in their favour, negotiating within the GATT machinery the various unresolved problems and strengthening their position and role in the GATT framework.

46. In relation to the implementation of the results, there is comparatively little that can be done in the tariff field since negotiations in this area have been completed, and all that may be practicable is some slight advancing here and there of the staging of the reductions, about which much was heard but little done during the negotiations. In the tropical products area, the understanding still is that the unfulfilled requests of developing countries would continue to be dealt with in the GATT machinery, and this, together with the question of tariff escalation in this area, as well as generally with reference to industrial products, will therefore be among the priority issues to be pressed in the appropriate bodies of GATT. The experience gained by developing countries in MTN would have to be put to use in negotiating these and other issues, so as to avoid as far as possible the dangers of bilateralism and the tendency towards decisions reached among restricted groups being imposed without regard to the interests of parties not so involved.

47. Among the major issues still to be negotiated is the question of safeguards, and the hope that this would be resolved by the end of 1980 has had to be given up in view of persisting differences even as between some developed countries. The present intention would appear to be to reach some kind of

¹See Page 101 of the Article entitled "The Liberal Trade System by Professor J.A. Jackson in the Journal of World Trade Law - March-April 1978.

agreement by April 1981, for which purpose the Committee set up by the Contracting Parties will continue in existence. In any case, the indications are that since some ground has been yielded by developing countries already on the principle of selectivity, there could be more pressures on them in the direction of accepting the EEC position in regard to prior consultation, surveillance, and adjustment assistance measures, thus watering down considerably the stand that developing countries have taken on these issues.

48. The conclusion of a number of Agreements on Non-Tariff Measures has been regarded as a major achievement of the Multilateral Trade Negotiations, marking a significant advance from the objectives and accomplishments of the Kennedy Round. Nevertheless, it is in this area that developing countries have had serious reservations in many cases, and there has been a reluctance so far on the part of most of them to subscribe to Agreements. On balance, however, it would seem that their role in the GATT and their substantive concerns generally could be helped by their subscribing to most of the Agreements, especially as the provisions relating to special and different treatment for developing countries included in some of them are applicable only to signatory countries. Obviously, Agreements like those on Dairy Products and Meat, as also that on Trade in Civil Aircraft, have limited interest for them. In regard to Agreements like those on Technical Barriers to Trade and Government Procurement, the responsibilities that they will be called upon to bear if they subscribe to them may be outweighed in due course by the benefits that they might derive. The Agreements on Import Licensing and Customs Valuation could likewise involve few pronounced disadvantages, and even these may be overcome over a period of time. Some of these Agreements provide for delayed implementation in the case of developing countries, and special provisions for the least developed among the developed countries. It is essential that as and when they decide to participate in these Agreements, developing countries seek from the very beginning to put to use the technical assistance provisions to their fullest extent.

49. The Agreement on Subsidies and Countervailing Duties stands on a somewhat different footing. The USA made it clear from the beginning that it would not apply the provisions of the Agreement to non-participating countries, and consequently the so-called 'injury test' accepted by it under the Agreement in supersession of its domestic legislation would not be applied to countries which either do not accede to the Agreement or are not accepted by USA as partners in the Agreement. Thus, when India acceded to the Agreement earlier this year sometime after USA did, USA invoked the provisions of Article 19(9) to keep India out of its bilateral purview on the ground that no commitment of the kind envisaged under Article 14(5) - to phase out export subsidies - had been undertaken at the time of accession by India. Consequently, countervailing duties were imposed on certain imports from India into the USA without employing the injury test, and the matter has since been referred, at India's instance, to a panel under the provisions of Article XXIII of GATT. Examples like this have given rise to the apprehension that industrialised countries view the provisions of Article 14(5) as mandatory and not just hortatory.¹ They have also added to doubts about industrialised countries being earnest about implementing the provisions of such Agreements in letter as well as in spirit in cases where developing country interests are involved.

50. The circumstances in which it was finally agreed at the 1979 Contracting Parties' meeting that observers could be admitted to the deliberations of the various Committees set up under the various Agreements may have also added to the hesitancy on the part of developing countries to accede to the Agreements. The provision about allowing observers from countries which had not signed the Agreements upto November 1979 (this really meant the great majority of developing countries) was accepted by developed countries only after intensive negotiations, during which the latter had initially insisted on

¹. See Page 104 of the March-April 1980 issue of the Journal of World Trade Law; an Article by Professor Bela Balassa.

restricting access to the Committee meetings only to the signatories. However, with the provision to allow observers from other countries, it should now be possible for the latter to monitor the meetings of Committees to the fullest extent practicable, either through their Missions or through representatives sent specially to the periodic meetings, so as to enable them to decide eventually whether or not to subscribe to them.

51. Developing countries have repeatedly expressed their disappointment at the final formulations in the GATT Framework Text adopted at the 1979 Session of the Contracting Parties, which resulted in considerably watering down the initial Brazilian proposals. With the textual provisions as they stand, however, it is possible to envisage certain improvements in procedures for obtaining waivers as well as in those adopted for balance of payment consultations (which had been characterised in the past by some developing countries as harassing). It is imperative, therefore, that developing countries invoke the revised provisions in an unflinching manner that whatever has been achieved may be put to maximum use. The dispute settlement mechanism provided for in the text could be especially valuable from the point of view of developing countries, and it has been suggested that this could be used to bring in the so-called 'voluntary export restraints' - for whatever it may be worth.

52. Among the results of the negotiations is a provision for reviewing the working of GATT, keeping in view the demands and aspirations of developing countries, but to what extent and in what manner this will be done is unlikely to be known in the near future. The immediate preoccupation of all concerned, especially the industrialised countries, will obviously be the implementation of the MTN results, the consolidation of the various concessions agreed on and the functioning of the new bodies that have been brought into existence; these could well be offered as a reason for delaying any substantive consideration of major issues such as the further reform of GATT. It would nevertheless be necessary for developing countries to pursue this question sooner than later.

53. The question also arises as to how in the light of their experience of the working of GATT, developing countries may re-adjust their role in the coming years so as to derive the maximum possible advantage. It has been obvious that their rising membership and their predominant strength in numbers have not by themselves achieved an adequate improvement in developing country positions. Indeed, as Mexico recently pointed out when it discontinued the negotiation for GATT membership, "the position of poor countries within GATT is weak because they lack the economic and political potential, because the rules of the game do not favour them, and because the scope of the negotiations is limited". Mexico felt that "outside the General Agreement, on the other hand, they could rely on collective strength, use more appropriate forums, and the scope can be extended including strategies as well as products".¹ The implication is obvious that developing countries will have to continue to seek solutions to their trade problems elsewhere too - as, for example, in UNCTAD in fields like commodities, manufactures, GSP, transfer of technology, etc. and in the UN and elsewhere for fundamental policy changes.

54. Reference has been made in Section II of the paper to the question of organisation of regional and interest groups during the MTN. Considerations mentioned in that context apply *mutatis mutandis* to the normal workings of GATT also. Whatever the points of difference in the way in which developing countries organise themselves in UNCTAD and in GATT, there seems little prospect of any viable or strong group system evolving in GATT as it now functions. The hope that by subscribing to the various Agreements under MTN, developing countries can act as a 'pressure group'² seems rather slim in the circumstances; indeed the fact that many developing countries are still hesitant about signing the Agreements and are adopting a wait-and-see attitude seems to

1. Quotations taken from Page 54 of the Pre-Publication issue of the Journal "South".

2. See Page 118 Journal of World Trade Law, March-April 1980 - an Article by Professor Bela Balassa, entitled "The Tokyo Round and the Developing Countries".

be a measure of their scepticism in this behalf. As pointed out above, the role of developing countries as a whole has not been that of a 'pressure group' in spite of their numbers.

55. There is little doubt, however, that developing countries have to devote increasing attention to building up their individual capacities and skills, and utilising to the greatest advantage the technical assistance provided by GATT, UNCTAD and other similar organizations. Inherent in the process is the need for developing countries, which have so far refrained from bringing before GATT or its various bodies their grievances in the form of concrete complaints about contravention of particular provisions of GATT, to do so, instead of in terms of general complaints and grievances often made in the forum of the Committee on Trade and Development.

56. A feeling does exist that even the limited opportunities provided by the existing framework for securing a redress of their grievances are not being put to use by developing countries fully or by employing the accepted legal procedures. Far more use has been made by the developed member countries, for example, of the provisions of Article XXIII:2 about settlement of disputes than by developing countries. If developing countries are to play their full part in GATT, and the changes brought about in the MTN in the working of GATT organs are not to have merely cosmetic effects, there can be no escape from making as diligent use as possible of the provisions of the General Agreement and the new Agreements under MTN in regard to dispute settlement, as developed countries have invariably been doing all along. This has been rendered somewhat less difficult for them in view of the clearer statements of rights and responsibilities in a number of areas as a result of the MTN, and of the new disciplines introduced in some cases which may conceivably make for less frequent (or less obvious) exercise of power by the strong over the weak.

57. There is again a feeling that the new forums provided under GATT, such as the Sub-Committee on Protective Measures, are not being put to use to the maximum extent. In spite of a number

of communications in the latter half of 1980 from the Chairman of the Sub-Committee and the GATT Secretariat inviting from developing countries (among others) a catalogue of instances of protectionist action taken by industrialised countries, the response seems to have been meagre. This may have been because developing countries have not had the time or the resources to identify and bring to notice such instances; in some cases, too, the matter may not have received the attention it undoubtedly needs.

58. As indicated earlier in this paper, there is very little publicity about matters connected with GATT, especially in relation to developing country problems and how they are dealt with in the Organisation. It may serve developing countries' purposes better if the latter saw to it that their problems - and more especially what they regard as inequalities and imbalances - are brought to public attention as often as possible so that the curtain may at least occasionally be lifted from the normal workings of GATT and make them more responsive to developing country aspirations.

59. In the long term, however, all these may tend to be regarded as only modest improvements, whereas fundamental changes will be called for in the approach of GATT to developing country problems by which their role is strengthened. It may be that this will become more feasible if and when the global negotiations such as are envisaged under UN auspices make progress, rather than by efforts from within the Organisation alone.

V. Summary and Outlook

60. The intention in this paper has been to examine the role of developing countries in the Tokyo Round of Multilateral Trade Negotiations, and more importantly, their position in GATT as transformed by its results.

61. Although the objectives embodied in the Tokyo Declaration in respect of trade of developing countries marked a distinct

advance from those in the earlier GATT negotiations, it appeared soon after the commencement of the negotiations that the conduct and management of negotiations resulted in placing developing countries at a disadvantage. The on-again-off-again character of the negotiations in the first few years, and serious differences among the major participants on important issues which lasted almost till the last year of the negotiations contributed to the difficulties experienced by developing countries in organising effectively for their participation.

62. The manner in which the various Groups and Sub-Groups constituted by the Trade Negotiations Committee to conduct negotiations met and transacted business, and the paucity of information coming out of them from time to time in the initial years, and the failure of the Trade Negotiations Committee to discharge its tasks adequately, especially in the later stages, also constituted a serious hindrance to adequate developing country involvement.

63. Not least, the concentration of the negotiations in the final stages in the hands of a few major trading countries, with infrequent and inadequate consultations with developing countries (and sometimes even with other developed countries), confirmed the belief among developing countries that they were being pushed to the periphery in the negotiations. It is true that developing countries had greater opportunities in this Round than in the earlier negotiations, and that there have been certain gains such as in obtaining special and different treatment in particular areas while benefiting from the overall trade liberalisation. This, however, did not serve to mitigate at the time or later, their feeling of inadequate involvement in the negotiations.

64. The manner in which the Multilateral Trade Negotiations were conducted has undoubtedly its close parallel in the way in which GATT itself has generally functioned over the years since its inception. The negotiations, and to a smaller degree the working of GATT in the years preceding them, have led to some

desirable and somewhat marginal changes in the basic philosophy, objectives and goals of the General Agreement; but attitudes and procedures have changed little, if at all, and are still regarded as being more in tune with the permanent trading interests of the rich countries. GATT has thus remained very much the kind of instrument it was to begin with, one devised by industrialised countries for dealing with their mutual trading problems - and the addition of an impressive number of developing countries to the membership of the Organisation has not made the kind of difference that might have been hoped for. It is no coincidence that GATT was bracketed with IMF in the documentation put forwarded by the '77' at the recent special UN Session convened to launch global negotiations, it was an indication that there is close kinship between the workings of the two organisations vis-à-vis developing countries.

65. Developing countries have, all the same, to utilise for their benefit both the Organisation and the new instruments and modalities in the coming years. No ad hoc round of trade negotiations such as have been organised in the past under GATT auspices may reasonably be expected in the near future, and so long as a comprehensive international trade body such as has been envisaged in the past (and even in recent times as in the Brandt Commission report and by the Commonwealth Secretariat Task Force) remains a somewhat distant goal, developing countries will have to operate within the framework that has come into existence with a view constantly to improving it and for obtaining and maintaining their rightful share in decision-making and in securing benefits.

66. Thus, in addition to taking advantage of the modest tariff reductions (MFN as well as GSP), seeking further liberalisation in the tropical products area and continuously striving to secure improvements in the framework of GATT, they might, after a period of watching, decide on which of the MTN Agreements they would participate in. The Committees set up under these Agreements to supervise their working have wide powers, and but for the compromise (somewhat weak as it stands) about their

reporting periodically to the Contracting Parties, they threatened at one time to become completely autonomous and to compartmentalise the working of GATT. Several of the Agreements contain provisions for their amendment, and developing countries may well seek to obtain suitable amendments over a period of time; in any case the provisions in some of the Agreements about special treatment and about technical assistance for developing countries (and to the least developed among developed countries) would have to be fully put to use. The way in which some of the Committees have already functioned and the manner in which the provisions of at least one non-tariff Agreement have been interpreted and used by a major trading country do not augur well for their functioning in aid of developing countries, and this situation seems to call for even greater vigilance on the part of the latter.

67. More intensive and closer participation of developing countries in the working of the GATT Council by the use of such manpower as they possess and such assistance as they can get from GATT, UNCTAD, the Commonwealth Secretariat and other sources would seem to be indicated in the coming years for strengthening the role of those countries in the Organisation as a whole. It seems that the Committee on Trade and Development, although enjoying increased powers as a result of the Tokyo Round, seems destined to remain a body for airing developing country grievances without substantive powers; the hopes raised when a Sub-Committee for Protective Measures was constituted under it for putting protective action by developed countries under the microscope, do not yet seem to be showing signs of realisation, partly because of the developing countries' own inability to bring to notice and to highlight adverse actions the part of industrialised countries. In order that new instrumentalities of this kind may yield adequate benefits for developing countries, it needs to be reiterated that their own efforts in the field of participation will have to be considerably reinforced.

68. With the limitations under which developing countries have operated and will necessarily have to operate in the coming years in the GATT framework, and with no "evolutionary leaps" expected within the Organisation to improve the situation of developing countries, the latter have in the long run to look also for improvements by the exercise of external pressure - among others through the global round of negotiations envisaged under UN auspices in implementation of the New International Economic Order.

The Tokyo Round and Agricultural
Exports of Developing Countries

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The Tokyo Round and Agricultural Exports of
Developing Countries

1. After having been virtually ignored during the earlier rounds of multilateral trade negotiations some trade improvements have taken place within the agricultural sector during the Tokyo Round. However, it is necessary to distinguish between those products categorised as tropical products vis-à-vis agricultural products. Most of the improvements occurred in the Group "Tropical Products", (in essence non-competing agricultural products) where, of the 4,400 dutiable items at the tariff-line level subject to requests for concessions, most-favoured nations concessions and Generalised System of Preferences contributions were granted with respect to some 2,930 tariff items, rather than in the Group "Agriculture" incorporating temperate zone agricultural products such as processed fruits and vegetables, vegetable oils, sugar and sugar products and tobacco where little progress was made.¹

2. Regarding tariffs - the easiest measures of agricultural protection to identify - it has been estimated that concessions were granted in the multilateral trade negotiations on one quarter of dutiable imports of agricultural products entering the European Economic Community and eight other major market economies, with the average tariff cut - on those items where concessions were granted - amounting to 40 per cent.² More specifically, the average most-favoured nation tariff rates for imports of agricultural products into developed markets from developing countries have been cut to 6.9 - 11.0 per cent (depending on the method of calculation) compared with the average pre-multilateral trade negotiation rate of 7.9 - 11.7 per cent.³ Such a generalisation however obscures the wide range

1. For further details see General Agreement on Tariffs and Trade (1979) The Tokyo Round of Multilateral Trade Negotiations, April 1979.

2. General Agreement on Tariffs and Trade (1980) The Tokyo Round of Multilateral Trade Negotiations, II - Supplementary Report, January 1980.

3. Ibid.

of tariff cuts by commodity and by country. For example, for the 82 items covered by Table 1 imports into the three markets from developing countries amounted to US\$19.1 billion in 1976. However, 23 items mostly primary commodities with a total import value of US\$7.3 billion were zero-rated before the Tokyo Round. Of the remaining groups no most-favoured nation tariff cuts were made on 15 items valued at US\$2.7 billion. Cuts averaging less than 20 per cent were made on 27 items which account for US\$4.6 billion of imports, and cuts ranging from 20-55 per cent were made on the remaining 17 items. Further, numerous tariff barriers remain especially those on processed products.

3. However, tariff barriers are only a part of the total set of protective measures extended to the agricultural sector in most countries, with the most important non-tariff measures applied to imports being quantitative restrictions, variable levies, technical barriers and hygiene regulations and government procurement. Progress on non-tariff measures was made in the multilateral trade negotiations through the conclusion of codes concerning subsidies and countervailing measures, technical barriers to trade, customs valuation, government procurement and import licensing procedures. However, as noted by the Food and Agriculture Organisation of the United Nations "concrete concessions were granted only on a small fraction of agricultural items on which requests were made by developing countries."¹ It remains to be seen how effective these agreements will be in aiding trade liberalisation. This is especially true at the present time where there are instances of further measures of agricultural protection being introduced. In the European Economic Community for example, export subsidies for beef have recently been granted and in the United States of America a levy on imports of raw sugar has been introduced as a result of the falling world price of sugar. Those examples serve to supplement the evidence that, notwithstanding the effects of the multilateral trade negotiations, for certain agricultural products, measures of agricultural protection are increasing.

1. Food and Agriculture Organisation of the United Nations (1981) Report of Action Taken on Conference Resolution 2/79 on Commodity Trade, Protectionism and Agricultural Adjustment, Committee on Commodity Problems Fifty-Third Session September 1981 - Report No. CCP 81/12 July 1981.

TABLE 1

Trade effects of the Tokyo Round tariff cuts for agricultural products
(Values in \$ million)

Product group	European Economic Community				Japan				United States			
	Average MFN tariff		Imports from developing countries		Average MFN tariff		Imports from developing countries		Average MFN tariff		Imports from developing countries	
	Pre	Post	1976	Projected Change	Pre	Post	1976	Projected change	Pre	Post	1976	Projected change
<u>MEAT</u>												
1. Fresh meat	10.1	9.1	179.8	1.0 to 1.1	9.3	8.0	174.3	2.6	5.0	3.4	181.8	3.1
2. Prepared meat	21.8	21.8	181.8	0.0	18.9	18.8	4.5	-	6.8	4.9	184.2	2.7 to 2.9
<u>FISH</u>												
1. Fresh fish	13.8	12.9	143.6	-2.4 to -3.8	6.0	4.2	208.7	20.7	0.0	0.0	676.6	0.0
2. Prepared fish	22.4	22.4	129.2	0.0	15.0	14.9	85.0	-0.2	1.9	1.5	112.8	0.4 to 0.5
<u>FRUIT</u>												
1. Fresh fruit	15.0	14.8	957.1	-0.4 to -0.8	38.7	26.0	295.1	-	2.0	1.2	507.7	1.3
2. Preserved fruit	21.3	20.1	201.0	-3.1 to -5.8	28.1	24.7	31.6	0.8	13.7	11.6	144.0	3.6
<u>VEGETABLES</u>												
1. Fresh vegetables	9.2	9.1	744.5	-1.8 to -2.8	7.5	7.4	130.0	0.1	17.9	16.4	151.3	0.7
2. Preserved veg.	20.6	20.5	174.6	0.1	20.6	20.4	54.3	-0.1	12.1	10.9	98.8	0.8 to 0.9
<u>SUGAR</u>												
1. Raw sugar	0.0	0.0	439.6	0.0)	35.4	35.4	435.5	0.0	6.6	6.6	1 023.7	0.0
2. Refined sugar	0.0	0.0	46.2	0.0)								
3. Sugar preparations	21.0	21.0	4.4	0.0	37.7	32.3	2.5	0.1	6.6	5.9	14.6	-
<u>COFFEE</u>												
1. Green or roasted	7.0	5.0	2 879.0	35.4	0.0	0.0	337.9	0.0	0.0	0.0	2 671.8	0.0
2. Coffee extracts	18.0	18.0	80.1	0.0	25.0	17.5	6.9	0.4 to 0.5	0.0	0.0	129.5	0.0
<u>COCOA</u>												
1. Cocoa beans	3.0	3.0	720.3	0.0	0.0	0.0	61.1	0.0	0.0	0.0	358.1	0.0
2. Powder and butter	12.2	12.2	144.7	0.0	5.2	4.9	31.9	-0.1	1.6	0.3	196.7	2.5
3. Chocolate	27.0	27.0	7.9	0.0	29.0	27.4	5.6	0.0	6.5	6.5	5.7	0.0

Source: UNCTAD document TD/B/C.1/207/Add. 2, August 1980.

4. The effects of the Tokyo round of multilateral trade negotiations on agricultural products, especially those from developing countries may conveniently be reviewed in detail in seven main groups namely cereals, meat and dairy products, oil-seeds and vegetable oils, fruit and vegetables, sugar, beverages (in particular tea, cocoa and coffee) and fish.

5. There seem to have been few significant concessions in the Tokyo Round as regards cereals. Indeed cereals were a good example of the difficulties encountered in negotiating on agricultural products in general because of the divergences of view between the United States of America and the European Economic Community. A Sub-Group on Grains, set up as part of the negotiations, never achieved anything of substance since negotiations on tariffs, etc, were dependent on the establishment of an International Grains Arrangement (IGA), for which negotiations were transferred to the International Wheat Council (IWC). As a consequence of the failure of negotiations in the IWC nothing useful was achieved in the GATT Grains Sub-Group.

6. Thus it is not surprising that only quite minimal liberalisation,¹ tariff or non-tariff, took place in the main developed cereal producing/consuming countries. The European Economic Community, taking its stand that the common agricultural policy is "not a matter for negotiations," made virtually no concessions apart from some Generalised System of Preferences reductions on manufactured cereal products, even though in the case of certain products, for example, wheat, oats, maize, rice, millet and sorghum, the value of imports of each from developing countries in 1976 was in excess of US\$5 million indicating important developing country supply capacity.

7. Certain United States of America most-favoured nation duties on cereals were reduced or cut to nil, as were those on macaroni and some baked products. For these as with maize, which the United States of America imports in significant quantities from developing countries, a Generalised System of Preferences rate of zero was established in 1978. All in all United States concessions on cereal tariffs under the Generalised System of

1. See UNCTAD CD/230/Add. 6.

Preferences or the most-favoured nation rate appear to have been of limited significance. However, apart from the Generalised System of Preference ceilings (which have been reached on occasions) there do not appear to be non-tariff barriers in the United States of America to cereal imports. In Japan tariffs as such on most cereals were not a serious obstacle, so few tariff concessions were negotiated. Equally, there was no dismantling of a wide variety of non-tariff measures, such as import or tariff quotas, state trading, discretionary licensing and health and sanitary measures. In Canada where a number of important tariffs on cereals remain, as well as discretionary licensing in some instances, some tariff reductions were made while other (temporary) lower tariffs were bound. A few Generalised System of Preferences rates (for example, on rice) were introduced in 1977 and 1978.

8. In the heavily supported livestock sector the major concessions granted under the multilateral trade negotiations were as follows:

- (a) There was an increase in the quantities of bovine meat that can be imported levy-free into the European Economic Community, for example, the General Agreement on Tariffs and Trade's frozen beef, special quality beef and buffalo meat quotas were all raised. In addition, minimum access commitments were strengthened concerning imports of beef into Japan, Canada and the United States of America. Specifically, the United States of America has fixed the minimum level of imports at 567,000 tons under its 1979 Meat Import Act; Japan is increasing its imports to a minimum level of 135,000 tons by 1982/83 and Canada has established a basic minimum quota of 63,000 tons in 1980 which will increase in line with the growth in population.

(b) Some reductions in tariff duties were granted on certain categories of livestock products by the United States of America, Canada, Japan, the Republic of Korea, Spain and Switzerland. In the United States of America, the largest importer of beef, for example, the duty on fresh, chilled and frozen beef has been reduced from 3 to 2 U.S. cents/lb.

(c) From 1980 the European Economic Community has agreed to import up to 9,500 tonnes of cheese per annum from New Zealand. This cheese is subject to minimum c.i.f. import prices. Similar import arrangements have been negotiated for 2,750 tonnes of mature Canadian cheddar and 3,000 tonnes of Australian cheese. In the United States of America access has been granted for the import of 111,000 tonnes of cheese per annum of various types, predominantly from the European Economic Community, New Zealand, Australia and Switzerland.

9. In addition to the above concessions were the formalisation of the International Dairy Arrangement, the setting up of the Arrangement Regarding Bovine Meat which provides for information exchange and market monitoring and the agreement on codes of non-tariff barriers. Thus, the overall result of the negotiations is that while some limited concessions have been obtained, notably for beef and cheese, no major breakthrough towards liberalisation of animal product trade has occurred, i.e. towards the low-cost producing economies of Australia and New Zealand, and no results of significance for developing countries, for example, the Argentine. However, it should be remembered that for the majority of livestock products the international market is very small¹ and that while the impact of measures of agricultural protection is usually most serious in the context of developing versus developed economies, livestock is one sector where the effects between developed economies is of most significance.

1. Between 1978 and 1980 only about 6 per cent of the world meat production was traded, the figures being 1.5 per cent and 4.5 per cent for eggs and milk respectively. Within the meat sector itself 12.5 per cent of sheepmeat was traded compared to 7 per cent for beef and even less in the case of pigmeat and poultry.

10. Twenty-seven countries, including the European Economic Community, undertook to make concessions on oilseeds, vegetable oils and oilcakes in the Tokyo negotiations. For oilmeals and oilseeds the concessions tended to be the binding of existing zero rates. More concessions were granted in the oils and fats area reducing, to some extent, the problem of tariff escalation, but there were very few reductions in duties to zero. The largest number of concessions was in fatty acids and alcohols, followed by soya bean, groundnut, palm, palm kernel and coconut oils. There were significant reductions in duties by the United States of America (the zero rating for coconut oil accounts for about half the value of total United States concessions), and by Japan, the latter making concessions on items which accounted (in 1976) for nearly eighty per cent of the total value of its imports. Although the total value of concessions made by the European Economic Community nearly matched that of the United States of America, it accounted for only about a tenth of the total value of imports. Significantly there were no direct most-favoured nation concessions on item 15.07, fixed vegetable oils, although certain improvements made at Tokyo to the Generalised System of Preference Scheme were introduced in 1977 as the result of the Community's offer at the multilateral trade negotiations. Among developing country importers there were important concessions on certain edible oils by India and the Dominican Republic.

11. As regards non-tariff barriers the multilateral trade negotiations resulted in new instruments and texts which may have a favourable impact on trade in oilseeds and oils. The abolition of the quota imposed by the Community on imports of fatty acids and alcohols appears to have been the only major non-tariff barrier actually dismantled as the result of the negotiations.

12. Tariff reductions on fresh and preserved fruit in the Tokyo Round, although not insignificant in number, are estimated by UNCTAD to have had almost negligible effects on developing countries' export earnings (see Table 1). In the United States market the reductions would have increased less developed countries export earnings by less than 1 per cent. In the European Economic Community a fairly serious loss of export earnings was indicated, mainly from preserved fruit, as the result of the erosion of preferences. A similar preference erosion was indicated for fresh vegetables. Although the tariff cuts of Japan and the United States of America were estimated by UNCTAD to have positive effects they were expected to yield little extra in the way of enhanced export earnings for developing countries.

13. For both fruit and vegetables the reductions in average tariff levels in the European Economic Community were very small; there were relatively greater tariff cuts in the United States of America. The estimated nil trade effect of the sharp reduction in Japanese duties on fresh fruit suggests little or no correlation between the depth of tariff cuts and export earnings.

14. In the sugar sector the achievements of the multilateral trade negotiations were minimal - due primarily to the fact that at the refining stage sugar is an almost perfect example of a competing agricultural product - with virtually no concessions granted by the major developed markets of the European Economic Community, the United States of America and Japan for raw or refined sugar. However some concessions were granted for sugar preparations although their influence on improving developing country trade is likely to be minimal. Nevertheless the existing arrangements under, for example, the Generalised Scheme of Preferences of the United States of America and the Sugar Protocol attached to the Lomé Convention remain, which continue to support, through the provision of access, these developing countries party to these arrangements and thus maintaining that advantage over other developing and low-cost developed sugar producing countries.

15. In the beverages sector most-favoured nation and Generalised System of Preferences concessions were made for tea, cocoa and coffee in the Tokyo Round of negotiations. In the case of bulk tea, the European Economic Community reduced its bound most-favoured nation rate from 9 per cent to zero. The only major developed economy market which retains duties on bulk tea is Japan. However, Japan has now introduced a Generalised System of Preferences rate of 2.5 per cent on imports of black tea from developing countries, while applying a provisional most-favoured nation rate. Further, duty-free treatment for the least developed countries has been granted benefiting many tea exporters including Malawi, Uganda, Tanzania, Bangladesh and Rwanda. For packed tea the most-favoured nation duty on imports to Australia was eliminated and Austria reduced its Generalised System of Preferences rate from 3 per cent to zero. The European Economic Community reduced its bound most-favoured nation rate from 11.5 per cent to 5 per cent: however, since the Community allows duty-free access to all developing countries the cut is of little importance. Only Japan and New Zealand still impose substantial duties on packed tea, although Japan reduced its most-favoured nation rate from 35 per cent to 20 per cent and also introduced a Generalised System of Preferences rate of 14 per cent. New Zealand bound its most-favoured nation rate at 10 per cent and reduced its Generalised System of Preferences rate to zero. Tariffs on instant tea are again only significant in Japan and New Zealand of the major developed lands. With respect to internal taxes on tea (and coffee and cocoa) imposed by certain countries in the European Economic Community statements of intent were made as to the future level of these taxes.¹

-
1. Statements on internal specific taxes applied to tropical products. "The Community has taken note of the observations made by a number of developing countries as regards specific taxes on a number of tropical products. In this respect, the Member States which apply such taxes make the following statements:-
- the Government of the Federal Republic of Germany, which applies specific taxes to coffee and tea, undertakes not to increase the level of these taxes in the future;
 - the Government of Denmark states that it does not expect to increase the level of the specific taxes which it applies to coffee and tea;
 - the Government of the French Republic, which applies specific taxes to tea, cocoa and some spices, undertakes not to increase the level of these taxes in future;
 - the Government of Italy, underlining the link with current economic policy in the present situation of that country, indicates that it will take this problem into consideration in a sympathetic manner".

16. For cocoa and cocoa products four developed economies, Australia, Finland, Sweden and the United States of America now apply duty-free treatment to imports from developing countries under either the most-favoured nation or the Generalised System of Preferences tariffs. It should, however, be remembered that due to the "competitive need" provisions, the United States Generalised System of Preference treatment did not apply to the Ivory Coast in the case of cocoa butter during 1977 and 1978, nor to Brazil between 1978-80 and the Ivory Coast in 1979 for cocoa powder. Further, in Austria, Canada, Norway and Switzerland, cocoa and cocoa products from developing countries have duty-free access with the exception of cocoa powder. In New Zealand and Japan duties are imposed on the imports of cocoa paste and cocoa powder and the European Economic Community imposes duties on all cocoa and cocoa products. However, since over 82 per cent of total imports of cocoa and cocoa products are admitted duty-free under the Lomé Convention and other preference schemes the duties are not very significant over and above maintaining an advantage for the African, Caribbean and Pacific States vis-à-vis other developing producers and exporters of cocoa and cocoa products. The same comment regarding internal taxes on tea is applicable for cocoa.

17. For coffee, Sweden, Norway and the United States of America now give duty-free treatment, under the most-favoured nation or Generalised System of Preferences tariffs, to imports of all major coffee and coffee products from developing countries. Further in Canada and Australia the duties that remain only affect a very small amount of trade. On the other hand duties are imposed in a large number of developed economy markets, particularly the European Economic Community, Japan, Finland, Austria and Switzerland and are higher on the imports of roasted coffee and instant coffee than on raw or unroasted coffee. An important feature of the tariff treatment applied to coffee in some developed markets is the importance of trade from special preferential sources at reduced or zero rates of duty. During 1979, for example, nearly 40 per cent of all coffee imports into the European Community were eligible for import duty-free from the

African, Caribbean and Pacific States of the Lome Convention. Internal taxes on coffee are the most important type on non-tariff barrier but, given the very low price elasticity of demand, coupled with the fact that internal taxes are both common and applied at similar rates to all three commodities, the actual effect on consumption is not great.

18. With respect to fish Table 1 shows that the estimated effect on developing country export earnings of the reduction in Japanese tariffs on fresh fish ranks second only to the cut in the European Economic Community's tariff on green and roasted coffee - an increase of almost US \$21 million as against the US \$35 million expansion for coffee. The significant cut in the already fairly low Japanese average tariff from 6.0 to 4.2 per cent ad valorem may be seen as a case of enlightened self-interest since the Japanese diet is so heavily dependent upon imported fish that it is in the interest of consumers that tariff and other protection should be reduced.

19. By contrast with the situation in Japan, the modest tariff cuts introduced by the European Economic Community seem likely to have a negative trade effect owing to the erosion of preferences. The Community does not appear to have made any tariff concessions on preserved fish. In the United States of America fresh fish bears no duty.

20. The foregoing suggests fairly strongly that the effect of the multilateral trade negotiations on developing countries' exports of food products were not as satisfactory as hoped for in relation to the objectives of the negotiations. Although for some tropical products tariffs on the raw product are low or negligible, there remain a number of non-tariff barriers such as internal taxes, health and sanitary regulations, levies, quantitative restrictions and, indeed as for sugar and cereals, the agricultural support policies of the developed countries, which continue to present obstacles to developing country exports. The introduction of procedures to deal with various non-tariff barriers does not so far seem to have made any noticeable impact. To the

effects of the world recession on weakening the demand for food products has to be added the continuation of protectionist measures in the developed country importers.

21. It is not possible to assess quantitatively the effects of the disappointing results of the Tokyo Round, notably in the agricultural sector, on developing countries' food production since there can be no definite relationships between the increases in developing country export earnings and internal food production capabilities. It would seem, however, that the failure to relax barriers to freer agricultural trade must constitute a very serious obstacle to increasing food availabilities in the developing countries since it depresses agricultural prices and export earnings which could be used to import production inputs or food itself.

22. While the limited liberalisation of trade in processed and manufactured products probably has increased the potential for expanding food output of those developing countries with substantial capacity for processing or manufacturing, including the "Newly Industrialised Countries", the situation is that the majority of developing countries possess little such capacity in the short-term, and must continue to rely upon food or agricultural export earnings to meet their developmental needs. Therefore, many of the questions relating to agriculture which were addressed at the Tokyo Round need further attention; in addition a number of protectionist measures, such as agricultural support policies, voluntary export restraints and variable levies, which were not even discussed in the multilateral trade negotiations, should be on the agenda for future GATT meetings.

Measures of Agricultural Protection in Major Markets -
An Analysis of Selected Products

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Commonwealth Secretariat, London

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CHAPTER 1

Introduction

1. Increasing protectionism is widely recognised as one of the principal dangers to world economic health, and in particular as a major obstacle to the prospects of growth for developing countries. Both the Report of the Independent Commission on International Development Issues and The World Economic Crisis devote considerable attention to the adverse effects of protectionism on trade, production, consumption and employment in both developed and developing economies.^{1,2} While, under the General Agreement on Tariffs and Trade's Kennedy and Tokyo Rounds of multilateral trade negotiations, and more particularly through the adoption by the developed economies of a series of Generalised Schemes of Preference, much liberalisation of trade for industrial goods has taken place, little has been achieved in liberalising developing countries' trade in agricultural products. Restrictions on agricultural trade can be far more severe than on industrial products, particularly in the form of non-tariff barriers which frequently correspond to tariff equivalents of well over 100 per cent. There is evidence moreover that protectionism has been increasing over recent years in a number of major traded agricultural commodities, including - among products where developing countries are adversely affected - sugar, beef and oilseeds.

2. Non-competing goods, such as tropical food products and raw materials do not challenge domestic products in the markets of developed countries, and in general are liberally treated by importing countries. However, while at the raw material stage there are few or minor barriers for these products, at stages of further processing tariffs tend to increase (tariff escalation) or non-tariff barriers come into greater prominence. These obstacles to access to markets are among the more important constraints faced by developing countries endeavouring to build up

1. Independent Commission on International Development Issues, North-South: A Programme for Survival, 1980, Pan Books.

2. The World Economic Crisis, a Commonwealth Perspective, Commonwealth Secretariat, 1980.

their processing industries.

3. Competing goods, i.e. products in which there is direct competition for exports from developing countries with the domestic products of developed countries, are faced not only by direct trade barriers such as tariffs, levies or quotas, but also by a multiplicity of measures introduced to support or give incentive to domestic producers. The long existence of such protectionist measures reflects in part deeper motivations, for example, the maintenance of self-sufficiency and preservation of national security: sociological and environmental considerations also play a part. Exemptions in the GATT rules allow the imposition of import restrictions on agricultural or fisheries products "necessary to the enforcement of governmental measures", a major loophole for constraints on imports as a means of support for domestic programmes to raise farm prices or incomes.

4. For an indication of the extent of agricultural protection a Swedish study¹ may be quoted, which concluded that "an intricate system of tariffs, non-tariff barriers and subsidies resulted in an average level of agricultural protection of almost 70 per cent for the European Economic Community, 80 per cent for Sweden, 102 per cent for Norway and 103 per cent for Switzerland" during the early 1970s. Further, when compared with levels twenty years earlier, it was found that protection of the agricultural sector in many developed countries had increased. However, in contrast, in the low-cost efficient producers of agricultural goods, for example, the United States of America, Australia and New Zealand, the levels of agricultural protection in total were lower than those for industrial protection.

5. Many developing countries are heavily dependent upon receipts from the exportation of agricultural materials and food. In Sri Lanka, for example, over 80 per cent of total exports are accounted

1. Odd Gulbrandsen and Assar Lindbeck, The Economics of the Agricultural Sector, Almquist and Wicksell, 1975.

for by food and agricultural materials, while in Uganda and Western Samoa the percentage is even higher.¹ Further, the trade pattern of some developed Commonwealth countries, for example, Australia and New Zealand is influenced by the ability to export agricultural products.

6. This paper reviews in a factual way certain measures of agricultural protection that have been applied in some of the important markets for agricultural goods. However, in view of the extent and complexity of the measures, fully comprehensive treatment is not possible. Nor is it the intention to discuss the rationale of these measures or of agricultural protectionism per se although, obviously, the measures taken must be viewed within the overall agricultural policies of countries' or trading blocs.

7. Although prominence is usually given to the import control measures imposed by significant developed economy markets there are other departures from full liberalisation of trade to which this paper aims attention where they are of importance for agricultural products. Where relevant, occasional reference is made to import duties by developing countries. Export taxes are discussed in those cases where they have been introduced in such a way as to counter tariff escalation of importing countries. Those international commodity agreements, which impose export quotas merit consideration too since they can tend to preserve the status quo and discriminate, in some instances, against more efficient producers.

8. In such an examination of measures of agricultural protection there exists some formal difficulty with respect to the extent to which processed products should be considered in the analysis. Since tariff escalation is a major problem for many developing countries attempting to industrialise through the processing of agricultural products, cognisance must be taken of the extent to which barriers are mounted with increasing severity

1. United Nations Committee on Trade and Development, Handbook of International Trade and Development Statistics, Supplement 1977.

vis-a-vis the degree of processing. Virtually all products are subject to some forms of processing, liberally interpreted, before export; however the degree of processing varies. A pragmatic approach has been adopted here, having regard to the form in which the products are internationally traded: in general terms early stages of processing have been included, for example, refined sugar, roasted coffee, and refined vegetable oils, while more advanced stages have been excluded, for example, chocolates.

9. A wide range of measures operate to give protection to agricultural products. Tariff barriers are the easiest to identify. However, for a variety of purposes, governments have resorted in addition to non-tariff barriers. The General Agreement on Tariffs and Trade has, for example, isolated over eight hundred forms of non-tariff barriers which impinge, to some extent, on trade. These can be classified into five major groups: (a) charges on imports, including variable levies, prior deposits, special duties on imports and internal taxes; (b) specific limitations on trade including quantitative restrictions, voluntary export restraints, health and sanitary regulations, licensing, embargoes and minimum price regulations; (c) customs and administrative procedures including customs valuations, customs classification, anti-dumping duties, consular and customs formalities and sample requirements; (d) government interventions through government procurement, state trading, barriers, countervailing duties and trade diversion/deflection aid; and (e) specific standards including packaging, labelling and market regulations, health and safety standards and industrial standards. Other direct or indirect measures, often introduced by governments which result in supporting or insulating domestic prices are also considered.

10. To understand the extent of agricultural protection in order to assess its incidence in developed economy markets, it is necessary to try and quantify the dimensions of protectionism in agricultural and processed agricultural commodities. Whilst the wide variety of measures applied throughout the world makes quantification difficult some assessment is possible by use of one or more of the following methods. These are to compare

producer prices with representative world market prices; to estimate the impact of protectionism on domestic producers and consumers and on the volume of trade; to estimate the extent of effective protection enjoyed by processing industries in developed countries; and to estimate the extent to which the foreign earnings of developing countries are affected by the support measures applied by developed countries.

11. Differences between Domestic Prices and World Prices. The ad valorem tariff equivalent remains the easiest indicator of agricultural protectionism and is simply the percentage by which the domestic producer price exceeds the price at which the produce can be bought or sold on the world market after allowances have been made for transport costs, insurance, etc. The assumption behind the indicator is that the divergence is the result of the aggregate of protectionist measures. Although the results that can be obtained are certainly indicators, ad valorem tariff equivalents should nevertheless be treated with a certain degree of scepticism since movements in the equivalents over time are not necessarily due to an increase or decrease in barriers to trade. Movements in the world price, for example, would similarly affect the ad valorem tariff equivalent. Nevertheless, a general rising trend in the ad valorem tariff equivalents in the face of the cyclical nature of world prices would indicate that domestic producers are being continually shielded from world supply and demand fluctuations. Tables 1.1 and 1.2 show the ad valorem tariff equivalents for Japan and the European Economic Community for major agricultural commodities. In both cases large increases have taken place although it must be remembered that 1974 and 1975 were years of high world commodity prices. Further, in making comparisons of levels and trends in support between countries and over time, the differences in absolute price levels, rates of inflation and trends in currency exchange rates need to be carefully considered.

12. Producer Subsidies and Increased Consumer Costs. Another measure of protectionism is to estimate the unit values of subsidies to producers and the consumer costs arising from support

TABLE 1.1

Ad Valorem Tariff Equivalents in Japan (a)
(percentages)

Commodity	1974	1975	1976	1977	1978
Rice	72	239	438	501	306
Wheat	100	145	195	379	449
Barley	130	168	224	323	491
Beef	37	228	242	285	251
Pork	28	60	48	106	117
Sugar	40	-11	40	215	330

Source: Monthly Statistics of Agriculture, Forestry and Fisheries, Statistics and Information Department, Government of Japan (various issues):
Main Indicators of Agriculture, Forestry and Fisheries, No. 2, 1979.

Note: (a) The statistics given are the percentages by which the domestic producer price exceeds the price at which the product can be bought or sold on the world market.

TABLE 1.2

Ad Valorem Tariff Equivalents in the European Economic Community (a)
(percentages)

Commodity	1970/ 71	1971/ 72	1972/ 73	1973/ 74	1974/ 75	1975/ 76	1976/ 77	1977/ 78	1978/ 79	1979/ 80
Butter	381	72	149	220	216	220	301	288	303	311
Skimmed Milk Powder (spray)	..	12	45	56	39	166	471	394	358	279
Olive Oil	55	53	25	-4	13	107	92	111	100	93
Oilseeds	31	47	31	-23	-20	27	21	53	61	85
Soft Wheat	89	109	53	-21	7	24	104	116	93	63
Hard Wheat	132	154	81	16	20	45	136	118	116	59
Husked Rice	110	105	15	-40	-19	37	66	28	57	31
Barley	46	85	37	-4	7	17	47	106	125	61
Maize	41	76	43	-2	6	28	63	103	101	90
White Sugar	103	45	27	-34	-59	9	76	155	176	31
Beef and Veal	40	33	12	10	62	96	92	96	99	104
Pig Meat	34	31	47	31	9	13	25	37	55	52
Eggs	101	62	59	11	64	..	..	..	..	..

Source: Eurostat, Yearbook of Agricultural Statistics, Statistical Office of the European Communities, various issues.

Note: (a) The statistics given are the percentages by which the domestic producer price exceeds the price at which the product can be bought or sold on the world market.

policies. This method was employed in an earlier Commonwealth Secretariat paper.¹ An illustration is given in Table 1.3, with corresponding estimates of the total value of subsidies to producers, attributable to policy interventions in the European Economic Community, the United States of America and Japan for selected commodities in Table 1.4. The estimates indicate substantial increases in six of the eight examples in the producer subsidy equivalent and in costs to consumers between 1976 and 1978. Interestingly, the value of subsidies on sugar to the producers in the United States of America and the European Economic Community was higher than the total value of sugar exported by the developing countries during 1978. The total additional cost borne by consumers, as a result of protectionist policies, was of a similar magnitude.

13. Effective Protection for Processing Industries. Further estimates of the magnitude of agricultural protectionism can be obtained by calculating the effective rate of protection which shows the protection for value added in a production process. Nominal and effective tariff rates facing various, although generally competing, processed agricultural products are given for the European Economic Community, Japan and the United States of America in Table 1.5. As can be seen, the rate of effective protection is usually higher than the nominal rate.

14. The Effects on Developing Countries. A number of research studies have been carried out during the last quinquennium to try and assess in quantitative terms, the impact of agricultural support policies in the developed world on the exports of developing countries. Although the methods used, the number of countries and the types of agricultural commodity varied, the studies arrived at broadly similar conclusions.

1. Price Stabilisation and Income Support Measures in Agriculture in the US, Canada, EEC and Australia, Lessons and Implications for the Regulation of International Commodity Trade, T. Josling, Commonwealth Secretariat, September 1977.

TABLE 1.3

Producer Subsidy Equivalents and Additional Consumer Costs due to Policy Intervention

Country/Product	Producer Subsidy Equivalent		Additional Consumer Cost Equivalent	
	1976	1977	1976	1977
<u>United States of America</u>	US \$ 1 ton			
Wheat	2.5	18.0	-0.5	-0.1
Milk and milk products (a)	80.5	98.5	77.6	96.1
Sugar (raw equivalent)	21.1	61.7	22.5	45.0
<u>European Economic Community</u>				
Wheat	35.9	109.1	35.9	109.1
Milk and milk products ¹	168.0	194.5	154.3	177.6
Sugar (white equivalent)	75.6	245.4	59.8	182.2
<u>Japan</u>				
Rice	679.6	836.3	506.7	682.9
Milk and milk products ¹	199.9	234.6	165.1	192.4

Source: Estimates, based upon methodology developed in Price Stabilisation and Income Support Measures in Agriculture in the US, Canada, EEC and Australia; Lessons and Implications for the Regulation of International Commodity Trade T. Josling, Commonwealth Secretariat, September 1977.

Note: (a) Milk equivalent.

TABLE 1.4

Benefits to Producers and Costs to Consumers due to Policy Intervention

Country/Product	Producer Benefits			Consumer Costs		
	1976	1977	1978	1976	1977	1978
			billion US\$			
<u>United States of America</u>						
Wheat	0.1	1.0	0.6	-	-	-
Milk and milk products	4.4	5.5	2.8	4.2	5.4	2.7
Sugar	0.1	0.3	0.8	0.2	0.4	1.2
<u>European Economic Community</u>						
Wheat	1.2	3.9	4.8	1.2	3.7	4.7
Milk and milk products	15.7	18.7	20.8	14.4	17.1	18.6
Sugar	0.7	2.4	4.3	0.7	2.2	3.7
<u>Japan</u>						
Rice	8.0	11.0	13.9	6.0	7.9	10.6
Milk and Milk products	0.8	1.1	1.5	0.7	0.9	1.2

Source: See Table 1.3.

TABLE 1.5

Comparison of Nominal (M FN) and Effective Rates of Protection for Processed Agricultural Products in the European Economic Community, Japan and the United States (percentages)

Product	European Economic Community			Japan		United States	
	Tariff Rate		Effective Protection (a)	Nominal Protection	Effective Protection (a)	Nominal Protection	Effective Protection (b)
	Nominal	Effective					
<u>Meat Products</u>	19.5	36.6	165.0	17.9	69.1	5.9	10.3
<u>Preserved sea foods</u>	21.5	52.6	52.6	13.6	34.7	6.0	15.6
<u>Preserved fruit and vegetables</u>	20.5	44.9	74.7	18.5	49.3	14.8	36.8
<u>Dairy products</u>							
Cheese	23.0	58.8	276.0	35.3	174.7	11.5	34.5
Butter	21.0	76.5	1,327.7	45.0	417.7	10.3	46.7
Condensed and evaporated milk	21.3	44.3	334.4	31.7	153.9	10.7	29.6
<u>Grain and grain products</u>							
Corn milling	12.0	21.8	82.1	25.6	68.7	4.3	0.0
Rice milling	16.0	70.3	105.9	15.0	49.0	36.2	327.6
Prepared foods	5.6	0.0	-50.0	0.7	-21.2	6.2	7.4
Flour and cereal preparations	20.1	48.9	94.7	23.8	75.4	10.9	34.8
Bakery products	12.0	0.9	0.0	20.9	17.3	1.9	0.0
<u>Prepared and processed foods</u>							
Pickles and dressings	20.1	25.9	25.9	21.9	59.8	9.4	-26.9
Roasted coffee	15.2	35.7	35.7	35.0	137.1	0.0	0.0
Cocoa powder and butter	13.6	76.0	76.0	15.0	125.0	2.6	22.0
<u>Vegetable oils</u>							
Coconut oil	11.5	132.9	132.9	9.0	49.2	9.4	16.3
Cottonseed oil	11.0	79.0	79.0	25.8	200.3	59.6	465.9
Groundnut oil	11.3	137.7	139.7	14.2	96.5	15.0	6.7
Soyabean oil	11.0	148.1	148.1	25.4	268.3	22.5	252.9
Rapeseed oil	9.0	57.2	57.2	15.1	22.3	20.8	60.9
Palm kernel oil	10.5	141.5	141.5	7.2	49.2	3.8	29.2

Source: Adapted from Alexander J. Yeats, "Effective Protection for Processed Agricultural Products: A Comparison of Industrial Countries" Journal of Economics and Business.

Notes: (a) Includes levies and other special charges. (b) Effective tariff protection.

15. In 1975 the International Bank for Reconstruction and Development¹ made a quantitative assessment of the potential gains in export trade to developing countries by 1980, were there to be a removal in entirety of barriers to trade in primary commodities by the developed countries. The hypothesis of trade liberalisation was taken to mean not only the removal of tariffs and similar charges but also the dismantling of non-tariff instruments such as quantitative restrictions, internal taxes and aids to domestic production. The study was limited in that it dealt with only nine agricultural commodities, namely beef, bananas, cocoa, coffee, tea, sugar, cotton, hardwood products and citrus fruits. These commodities represented nearly half of less developed countries export earnings from agricultural commodities in the base period 1967-69. Further, the assessment was essentially confined to the effects on trade as measured by imports of Organisation for Economic Co-operation and Development countries (OECD) excluding Australia and New Zealand.

16. For each commodity, projections of trade and prices for 1980, assuming no change in trade constraints, were compared with estimates of possible trade flows arising as a consequence of trade liberalisation. The conclusions of the study were that the growth rate of less developed countries' export earnings from shipments of the nine commodities to OECD countries up to 1980 would rise to 15 per cent per year compared to projections of 12 per cent without the removal of trade barriers. In free on board (f.o.b.) value terms there would be an increase in less developed countries annual export earnings from these commodities by 1980 of US \$4.1 billion (in constant 1974 US dollars), a proportionate addition of about 36 per cent. Two-thirds of these gains were accounted for in three commodities, namely sugar, citrus fruit and wood products in which possible gains were estimated at 59, 264 and 50 per cent respectively. For cocoa and tea, however, gains were negligible, and for coffee less than 7 per cent.

1. International Bank for Reconstruction and Development, IBRD Bank Staff Working Paper No. 193, Possible Effects of Trade Liberalisation on Trade in Primary Commodities, January 1975.

17. The second study is more recent and was published in 1980 by the International Food Policy Research Institute.¹ This study makes a quantitative assessment of the potential level and distribution of increased export earnings among less developed countries of a hypothetical 50 per cent across the board reduction of trade barriers on agricultural commodities in OECD countries. Both tariff barriers and non-tariff barriers which could be quantified are included in the analysis. Country coverage was very large; eighteen trade liberalising OECD members were included², the exceptions being Greece, Finland, Iceland, Portugal, Spain and Yugoslavia, and the fifty-six most populous developing countries.³ With respect to individual commodities a total of ninety-nine individual raw and processed agricultural commodities were included, the only major exclusion being dairy products owing to the limited exports of developing countries. The result of such a reduction of barriers would be a US \$3 billion increase in the annual exports from those countries for the commodities and products examined. The increase would amount to about 11 per cent of total exports of the 99 commodities included in the analysis. Full trade liberalisation would approximately double the benefit.⁴ The potential gross gains expressed in annual flows for the major products from a 50 per cent reduction in protection are shown in Table 1.6. Forty-seven per cent of the overall increase in exports due to liberalisation would be accounted for by the commodity groups of sugar and meats. In contrast, bananas, tea and cocoa combined would account for less than 10 per cent of the potential increase in exports. It is interesting to note that except for wheat, maize, mutton and lamb, pig meat, barley, wheat flour, soya beans and oats, a large share of the world trade increment in those commodities covered would accrue to developing countries.

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1. A. Valdes, J. Zietz; Agricultural Protection in OECD Countries: Its Cost to Less Developed Countries, International Food Policy Research Institute, 1980.
 2. Commonwealth countries included were Australia, Canada, New Zealand and the United Kingdom.
 3. Commonwealth countries included were Bangladesh, Ghana, India, Kenya, Malawi, Malaysia, Nigeria, Sri Lanka, Tanzania, Uganda and Zambia.
 4. United Nations Conference on Trade and Development, General Review of the World Commodity Situation, TD/B/C.1/207/Add 2, 1980.

TABLE 1.6

Potential Absolute and Per Cent Increase in Exports of 56 Most Populated Less Developed Economies by Commodity, following a 50 Per Cent Reduction of Tariff and Non-Tariff Barriers

Commodity	Increase in Export Revenue in Million US \$ valued in 1977 prices (a)	Increase as a Percentage of Initial Export Revenues by the Sample of Developing Economies	Share Accruing to Sample of Developing Economies of Total Increase in Exports	Share of Sample Developing Economies in Total World Exports	
				Initial	Post Liberalisation
Raw Sugar	682.8	25.2	42.9	38.0	38.9
Refined Sugar	334.2	46.1	(b)	34.8	51.4
Beef and Veal	243.5	74.9	42.7	19.2	25.1
Green Coffee	210.2	3.1	88.8	88.8	88.8
Wine	161.0	46.3	29.0	28.0	28.3
Tobacco	139.6	11.8	43.3	53.0	51.8
Maize	83.4	7.9	14.9	14.9	14.9
Wheat	78.6	13.2	8.5	6.7	6.9
Soy Cake	77.6	8.3	30.2	50.1	47.7
Cocoa Butter Oil	56.5	18.6	90.5	90.5	90.5
Pork	51.0	104.4	7.8	7.8	7.8
Tea	50.6	5.0	90.5	90.5	90.5
Molasses	49.5	21.8	71.3	72.0	71.9
Palm Oil	43.6	4.9	96.7	96.7	96.7
Cocoa Beans	40.9	2.1	92.3	92.3	92.3
Copra Oil	40.7	9.7	91.3	91.4	91.4
Roasted Coffee	38.1	94.9	55.6	61.1	58.3
Olive Oil	36.1	22.0	56.3	56.3	56.3
Potatoes	32.9	53.0	16.0	19.0	17.8
Soybeans	32.0	3.6	22.2	18.6	18.7
Soy Oil	30.3	10.0	(b)	33.6	35.8
Barley	29.3	85.7	8.2	2.9	4.1
Coffee Extracts	28.9	10.7	73.5	80.0	79.3
Apples	28.9	22.9	17.0	25.2	23.2
Groundnut Oil	28.6	9.3	74.4	82.5	81.8
Grapes	28.4	76.4	14.1	14.9	14.6
Cocoa Paste Cake	27.8	19.1	100.0	100.0	100.0
Wheat Flour	25.3	86.9	(b)	2.9	6.5
Cocoa Powder	21.7	39.9	(b)	36.3	46.1
Bananas	21.3	4.3	53.1	53.1	53.1
Milled Rice	16.7	1.3	(b)	45.0	45.5
Groundnut Cake	16.0	7.3	93.0	93.0	93.0
Beef Preparations	15.2	5.6	52.4	57.0	56.7
Mutton and Lamb	13.3	28.2	14.7	6.1	7.0
Oranges	13.0	6.4	15.1	23.5	22.8
Copra Cake	12.8	13.8	95.5	95.5	95.5
Malt	12.2	63.8	39.4	3.9	6.0
Beans, Dry	11.5	7.0	46.4	50.2	49.9
Groundnuts, Shelled	11.4	4.0	62.1	60.8	60.8

Source: A. Valdés, J. Zietz; Agricultural Protection in OECD Countries: Its Cost to Less-Developed Countries, International Food Policy Research Institute, 1980.

Notes: (a) Commodities in which the increase in export revenue is less than US \$10 million include chicken, sugar confectionery, castor oil, lemon and lime, oats, sorghum, copra, sunflower cake, paddy and husked rice, maize flour, millet, rye, dry broad beans, peas, chick peas, lentils, tangerines, grapefruit, palm kernel oil, sunflower oil, rape colza oil, cottonseed oil, tung oil, sesame oil, rapeseed cake, linseed cake, cottonseed cake, sesame cake, lard, margarine, tallow, wool grease, stearine, boiled oil, hydrogenated oils, greasy wool, scoured wool, groundnuts in shell, coconuts, desiccated coconuts, sesame seeds, mustard seed, linseed, cottonseed, salted dry beef, meat extracts, bacon and ham, pork sausages, pork preparation, chicken preparation, cigarettes, pears, plums and tomato juice.

(b) Total world exports from this commodity would decrease.

18. For practical reasons it is necessary to narrow the present examination to particular products and particular countries. The agricultural areas chosen are the sugar sector, the livestock sector, the beverages sector (non-alcoholic) and the oilseeds, oils and fats and oilmeals sector. Among the criteria used in the choice of sectors was the consideration that this selection reflected the interest of both developed and developing Commonwealth countries, the Caribbean countries and Australia in the case of sugar, Oceania and Botswana for livestock, the Indian sub-continent and many Commonwealth African states in beverages and the widespread importance of the oilseeds sector. Further, the choice reflected the variety of agricultural products, with tree crops, livestock and field crops all being represented, as well as giving a balance between competing and non-competing and processed and unprocessed agricultural products. With respect to the market coverage prominence is given throughout the paper to the United States of America and the European Economic Community primarily because of their significance in the production, consumption and trade in the sectors being considered. Where pertinent, the coverage extends to Canada, Japan and other Western European countries, and also to Australia and New Zealand. Finally, some comments on measures of protection in developing countries have been made in instances where those countries are important importers of the commodity concerned.

19. Within these somewhat arbitrarily established parameters the paper attempts to bring together some of the information that is available from different sources. As such, the paper can be seen as presenting work that has already been undertaken, rather than any particular new information or analysis.

CHAPTER 2

The Sugar Sector

Introduction

20. Sugar is amongst agricultural commodities that can be grown both in the tropical and sub-tropical zones, as sugar cane, and in the temperate zone, as sugar beet. While beet is an annual crop taking some six to eight months before reaching maturity the first harvest of cane takes place between one and two years after planting and replanting is not required for about five years. Although production costs of cane and beet sugar vary widely because of numerous factors such as the nature of the two plants, yields, sugar content and the degree of processing required, on reaching the refined stage they become almost perfect substitutes for each other providing one of the best examples of a competing agricultural product, i.e. a product in which there is direct competition for exports from developing countries with the domestic products of developed countries.

21. World sugar production has been increasing at about 3 per cent per annum since 1960. In 1980 production totalled 84.61 million tonnes raw value (Table 2.1) with the five largest producing countries plus the European Economic Community¹ accounting for 54 per cent of the total. Sugar produced from cane accounts for about three-fifths of total production. Less than 30 per cent of world production enters world trade. With the exception of the European Economic Community the major exporting nations are all cane producing, the most important being Cuba, Brazil, Australia the Philippines and the Dominican Republic, which together accounted for two-thirds of world exports during 1980. The six major importers in the same year in order of importance were the Union of the Soviet Socialist Republics, the United States of America, Japan, the European Economic Community, China and Canada,

1. All references to the European Economic Community in this paper exclude Greece.

TABLE 2.1

Production, Consumption and Trade in Sugar for Major Markets in 1980
(million tonnes, raw value)

Production	Imports	Exports	Consumption
World Total	26.55	26.73	World Total 87.68
European Economic Community	4.98	6.19	Union of Soviet Socialist Rep. 12.30
Brazil	3.80	4.32	European Economic Community 10.61
Union of Soviet Socialist Rep.	2.33	2.66	United States of America 9.33
Cuba	1.43	2.41	Brazil 6.26
United States of America	0.95	1.79	India 5.04
India	0.91	0.79	China 3.60
Sub-total	14.40	18.95	Sub-total 47.14
% of world total	54	71	% of world total 54

Source: International Sugar Organisation, Statistical Bulletin February 1982.

TABLE 1.2

The Percentage of World Trade in Sugar under Special Arrangements
(million tonnes, raw value)

	1968	1980
World Exports (gross)	20.5	26.7
of which re-exports	3.8	2.6
World Exports (net)	16.7	24.1
of which priced on the world market	6.1	17.8
Special Arrangements divided as follows:-	10.6	6.3
Preferential exports to Centrally Planned Economies from Cuba	3.2	4.0
Preferential exports to the United States under the Sugar Act	4.5	nil
Preferential exports to the United Kingdom, Canada and New Zealand under the Commonwealth Sugar Agreement	2.7	-
Preferential exports to the European Economic Community under the African-Malagasy Arrangement	0.1	under Lome
Preferential exports to Portugal	0.1	nil
Preferential exports to the European Economic Community under the Lome Convention	-	1.3
Long-term contracts to Japan, Malaysia, the Republic of Korea, Singapore and New Zealand from Australia	nil	1.0 (e)
Special Arrangements as a Percentage of Net World Exports	63.5	26.1

Source: Derivation from various country sources.

Note: (e) estimate

and accounted for 54 per cent of the total. As a result of Special Arrangements, however, not all exports enter the world market. Until the end of 1974 about half the world trade was covered by these types of arrangements, for example the Commonwealth Sugar Agreement and the United States Sugar Act, but since their expiry (even allowing for the Sugar Protocol of the Lome Convention) the percentage of sugar traded under these special arrangements has been reduced (Table 2.2).

Domestic Support Policies

22. Sugar producing countries generally pursue protectionist agricultural policies to support their producers and their processing industries although these policies do not appear to have stemmed from broad economic and social considerations. The support systems that have arisen, although reflecting basic considerations, owe much to the lobbying ability of those involved in its production and marketing. Nevertheless, the range of measures that have been used is very wide.

23. An estimate¹ of the extent to which national producer returns and consumer costs are influenced by government policies is given in Table 2.3. This estimate attempts to measure the effect of government policies in subsidising sugar producers and sugar consumers for four major markets, namely the European Economic Community, the United States of America, Australia and Canada throughout the last decade using the Producers Subsidy Equivalent which represents the direct subsidy that would be necessary to replace the various policies employed and the Consumer Subsidy Equivalent which represents the direct consumer subsidy. Where a market is protected for the benefit of producers the Producer Subsidy Equivalent will be positive and normally the Consumer Subsidy Equivalent negative. The results indicate that the European Economic Community has the highest level of support and Australia the lowest. The results of

1. In an article by Harris, S (1980) U.S. and E.E.C. Policy Attitudes Compared Towards the 1977 International Sugar Agreement, Journal of Agricultural Economics, Volume XXXI No. 3.

TABLE 2.3

The Effect of National Government Policies in Subsidising Sugar Producers and Sugar Consumers

Country	1969/70	1970/71	1971/72	1972/73	1973/74	1974/75	1975/76	1976/77	1977/78	1978/79
A. Producer Subsidy Equivalent (%)										
European Economic Community ^a	131	110	81	10	-139.8	-243.1	29.5	88.7	125.7	
United States of America	68.8	61.2	55.7	18.8	2.3	0.3	10.9	12.8	28.3	61.0
Australia	23.1	19.0	12.1	7.4	3.3	-16.7	-15.4	-10.6	-4.5	-10.2
Canada	20.1	10.8	4.4	3.2	3.2	3.8	5.2	7.1	7.7	7.6
B. Consumer Subsidy Equivalent (%)										
European Economic Community ^b	1969	1970	1971	1972	1973	1974	1975	1976	1977	1978
United States of America	-52.7	-51.3	-43.0	-30.7	-	78.8	118.6	-17.4	-51.3	-72.4
Australia	-35.8	-33.6	-29.1	-9.0	0.1	-1.3	-3.0	-5.3	-11.8	-28.7
Canada	-31.1	-27.5	-19.3	-11.6	-0.8	88.3	75.2	49.7	20.3	32.7
	-7.6	-6.8	-5.3	-3.4	-2.7	-	-4.8	-8.4	-13.3	-15.0

Source: Harris, op cit.

Notes: ^a European Economic Community '6' up to 1972/73. From then on '9'.

^b European Economic Community '6' up to 1972. From then on '9'.

Method of Calculation: Production levels and average producer prices for each year were collected for each country (the EEC being treated as a single unit) and used to derive total Producer Value figures. Where direct producer payments had been made separately by Governments, these were added-in. Similarly on the consumer side, a total Consumer Value figure was calculated using consumption volumes and appropriate wholesale prices, after any direct consumer subsidies have been taken into account.

The major policies for each country were identified and the transfers calculated as follows:-

"(a) if the policy involved a per unit payment then the impact of the policy was applied over the relevant volume of output. Thus a per unit producer subsidy was multiplied by production and the total listed as a 'transfer' to producers. For a tariff or a levy, the per unit figure was applied to production to give the transfer to producers,

(b) if the data was more conveniently recorded in terms of financial totals such as the cost of subsidies on a particular product, then this was allocated directly. Where the financial data related to trade taxes - i.e. levy receipts - then it was first converted to a per unit figure by relating to trade volume and applying the procedure as in (a) above,

(c) if the policy involved price discrimination, such as the maintenance of higher domestic than export prices through marketing control, then the price difference was calculated. This was then multiplied by production in the high price market and allocated to producer transfer,

(d) if the policy involved trade quotas, then resort was made to the difference between internal and external prices, and treated accordingly. This was the only case where 'world' prices were used explicitly in the calculations.

(e) an input subsidy was allocated directly to producers, as in the case of a price subsidy".

The total transfers were then aggregated to give total Producer and Consumer Subsidy values (PSE'S AND CSE'S). These were expressed as a proportion of the total Producer and Consumer Value figures.

stabilising domestic markets can be seen by examining the period between 1973 and 1975¹. Since the support prices for domestic producers showed hardly any change, the degree of support declined dramatically so that for a short period of time, certainly in the European Economic Community, producers were actually supporting consumers. Subsequently, however, the producers were again being subsidised by the consumers.

24. Following from the price effects of support policies are the effects on domestic production and, given the importance, as exporters or importers, of the European Economic Community and the United States of America, (as well as the Commonwealth countries of Canada and Australia) the effects on the level of international trade. In Table 2.4 estimates of trade volume changes as a direct result of domestic government policy are given for four major economies. (It should also be noted that some domestic policy decisions have implications for the pattern of international trade which are more important than originally foreseen. One good example of this has been the growth of the British Sugar Corporation at the expense of Tate and Lyle precipitating the closure of some of the latter's refineries and thus putting some doubt upon the commitment by the European Economic Community of importing significant quantities of cane sugar). The results in Table 2.4 indicate the destabilising influence of domestic government policy in the markets examined. When there is a large available quantity of sugar on the world market attempts by those countries to either increase the volume of exports or reduce the volume of imports has tended to exaggerate the downward movement of world prices while the opposite trend has occurred at times of a scarcity of supply on the world market. Since these nations, as has been indicated in Table 2.1, are significant on

1. World spot prices rose from 15.16 US cents/lb in the beginning of 1974 to 56.14 US cents/lb at the end of that year thereafter falling back to 13.65 US cents/lb by the middle of 1975.

TABLE 2.4

Trade Volume Effects of Domestic Government Sugar Policies^a
(1,000 tonnes raw value)

Country	1969	1970	1971	1972	1973	1974	1975	1976	1977	1978
European Economic Community ^b	1,582	1,649	1,389	1,037	865	-3,689	-5,506	784	2,263	3,387
United States of America	5,229	4,122	3,638	2,855	971	-	145	-	488	1,116
Australia	141	109	88	58	22	- 259	- 225	-154	-64	-108
Canada	-	41	30	20	13	11	15	29	49	55
Total above	6,852	5,921	5,145	3,970	1,871	-3,937	-5,571	659	2,736	4,450

Source: Harris, op.cit.

Notes: a Positive figures are where government policies increase exports and/or reduce imports: negative figures are where government policies increase imports and/or decrease exports.

b The European Economic Community '6' up to 1973. From then on '9'.

Method of Calculation: The implications for international trade volumes of government measures in the above countries are calculated by applying "representative" demand and supply elasticity values (with respect to price) to the Producer Subsidy Equivalent and Consumer Subsidy Equivalent indices, and aggregating the resulting volume changes. By implication Positive Producer Subsidy Equivalents, and Negative Consumer Subsidy Equivalents will lead to increased exports and/or reduced imports and vice-versa when the signs are reversed.

the world market the problem has been exacerbated¹.

1. In this context it is pertinent to examine the Australian complaint to the General Agreement on Tariffs and Trade (GATT). During 1979 Australia (and Brazil) formally complained to the GATT panel about the European Community's policy of giving cash subsidies to sugar producers for exported sugar when world market prices are below the Community's internal prices i.e. export refunds. The case was based upon a GATT rule that forbids any member from using export subsidies which give it a "more than equitable share of world export trade in that product". Subsidies are also banned if they prejudice or "constitute a threat of serious prejudice" to the export interests of other GATT members. At the end of 1979 the panels of GATT ruled that whilst finding that the Community's export refund policy is "a permanent source of uncertainty in the world sugar market and therefore constitutes a threat of serious prejudice" to Australian and Brazilian export interests "it was not feasible to quantify the prejudice in exact terms". Following this ruling a bi-lateral solution between Australia and the Community was sought during 1980. These negotiations were unsuccessful. As a result a working party of GATT was established in response to further concern expressed by both Australia and Brazil regarding future action on the above ruling. Both countries pressed that the European Economic Community create "pre-established effective limitations to its sugar subsidy system so that it will not again depress world prices nor be a permanent source of uncertainty on world markets". However, at the beginning of March 1981 Australia failed to obtain any change in the European Economic Community's policy at the GATT council meeting: the Community's representative arguing that since no export refunds were being paid the complaint was irrelevant. The GATT council "took note of the EEC's intention to notify GATT as soon as it adopts new sugar regulations as well as the 1981/82 sugar intervention prices" and promised to "promptly review the situation" following the receipt of that information. A new Working Party was established by the GATT Council in September 1981, and submitted a Report for discussion. At the GATT Council meeting in early 1982 the EEC delegate maintained that under the Community's new sugar régime, with its co-responsibility concept, all elements of export subsidy had been eliminated; but the complainants protested that procedural devices had been used to block substantive discussion of an issue which remained unresolved. The chairman regretted that the Council had been unable to reach a satisfactory conclusion; there was no alternative in his opinion but to regard the two cases closed. He suggested, however, that Council meetings to consider notification and surveillance procedures under GATT should look at the problems of dispute settlement in the light of this experience. Subsequently, Australia, the Argentine, Brazil, Colombia, Cuba, Dominican Republic, India, Nicaragua, Peru, and Philippines together lodged with the GATT Council a fresh complaint against the Community's sugar export refund scheme.

25. The United States of America. Prior to the 1974 sugar "boom" the United States of America controlled both the domestic production and the importation of sugar through a succession of Sugar Acts. The effects of these Acts were to treat separately consumption from domestic and foreign sources and to impose quotas on both in order to ensure both a control on the total supply and a maintenance of domestic price objectives. In addition, local producers also obtained a direct subsidy payment which was funded by applying levies on imports and an excise tax on both sugar processors and refiners. In 1974, however, at a time of very high domestic sugar prices and a significant shortfall in the quotas of exporting countries the United States Congress chose not to extend the Sugar Act of 1948, thus ending forty years of comprehensive Government regulation of domestic sugar production, imports and prices. Price objectives and quotas for domestic and foreign suppliers had been in effect since the Jones - Costigan Act of 1934. The major political objection to a new Sugar Act was "that the Sugar Act was seen as being "high-cost" to consumers, when the rate of increase in food prices was already a major concern and yet it could not guarantee supplies for consumers when world supplies were tight". The major economic objections to renewal were "that it was argued that over a third of the income transfers from United States consumers and taxpayers went to overseas quota holders", that "although levels of protection afforded the United States sugar industry were among the highest of any agricultural commodity it was claimed that less than a quarter of the transfers represented a net income gain to United States farmers", and finally, "it was recognised that the benefits of the support programme were heavily skewed, with the 65 largest producers - out of the approximately 21,000 involved in sugar production in 1961 - receiving between them one-sixth of total Government payments under the Sugar Act"¹.

1. Harris, S, op. cit.

26. Following the ending of the Sugar Acts in 1974 the United States of America's policy for sugar was basically one of free trade coupled with a vestigial import tariff. This policy position came under increasing pressure as world prices fell in 1975 and 1976, and ultimately led to a tripling of the import duty. Whilst the International Sugar Agreement was being negotiated during the following two years the 1977 Food and Agricultural Act was passed initiating an interim price support payment programme for sugar beet and sugar cane through a system of loans and purchases at certain minimum levels. However, as domestic market prices continued to remain below production costs protectionist pressure in the United States of America increased further and resulted in a further increase in the import duty coupled with the introduction of a variable import charge¹. 1979 saw the introduction of a new system of import fees which brought prices up to the support figure of 15 US cents/lb. With respect to national production, many domestic producers tendered their output to the Commodity Credit Corporation under the loan programme (a scheme whereby loans are granted at an agreed minimum loan rate to producers who choose not to sell immediately at the prevailing prices - the sugar can be redeemed when prices recover i.e. similar to intervention except that initially the product is not sold) since it was more attractive. At the beginning of 1980 the United States of America eventually ratified its membership of the International Sugar Agreement, and, owing to the rise in world prices successively reduced its import duty. By February 1980 the statutory minimum import duty of 0.625 US cents/lb was reached for 96 degree basis raw sugar having been reduced by 2.1875 US cents/lb. Details of other tariff barriers are given in Table 2.5. As a result of the high level of world prices the Secretary of Agriculture determined that a price support programme was not necessary for the 1980 and 1981 sugar crops. Thus, the early 1981 position was that while there was no comprehensive Government regulation for sugar a number of possible Acts could

1. The combined import duty and fee charged on raw sugar averaged 5.5 cents/lb in 1978 as against an average world price of 7.8 cents/lb.

TABLE 2.5
Tariffs on Sugar and Sugar Products in Major Markets ^a
(per cent)

	Raw Sugar		Other Sugars		Molasses		Sugar Confectionery without cocoa		
	Not Refined	Refined	Other Sugars	Inedible	Edible	Liquorice	Chewing Gum	Other	
European Economic Community									
Pre-MTN Tariffs									
Most-favoured nation rate						21	16.5 + <u>b</u>	20.7 + <u>b</u>	
Lomé Convention									
The threshold prices for sugar are safeguarded by a system of variable levies on imports of all products covered by the sugar regime. A quota of 1.3 million tonnes is allowed access under Protocol 3 of the Convention.									
Canada									
Pre-MTN Tariffs									
Most-favoured nation rate	8.6 - 9.3		8.4	0.0	2.8	?	17.5 <u>B</u>	20.0 <u>B</u>	
Generalised Systems of Preferences									
Post-MTN Tariffs							11.5	12.5	
Most-favoured nation rate	-		-	-	-	-	10.2 <u>B</u>	15.0 <u>B</u>	
Japan									
Pre-MTN Tariffs									
Most-favoured nation rate	41.5Y/kg	51.5Y/kg	27Y/kg	18Y/kg	18Y/kg	0.0	40.0 <u>B</u>	35.0 <u>B</u>	
Post-MTN Tariffs									
Most-favoured nation rate	-	-	-	0.0	-	-	30.0 <u>B</u>	-	
United States of America									
Pre-MTN Tariffs									
Most-favoured nation rate	0.625USc/lb	0.625USc/lb	15.0 <u>B</u>	0.3	6.6	6.0	5.0 <u>B</u>	7.0	
Generalised System of Preferences									
Post-MTN Tariffs	0.0	-	0.0	0.0	0.0	0.0	0.0	0.0	
Most-favoured nation rate	0.625USc/lb	0.625USc/lb	6.0 <u>B</u>	0.0	-	-	-	-	

Sources: Various country sources. Notes: ^a The table is simply an indication of the tariffs involved. In actual fact the position is far more complicated and depends to some extent on the percentage of sucrose, the method of measurement etc. ^b Plus a variable component. B Indicates that the rate is bound under the General Agreement on Tariffs and Trade.

be invoked including the discretionary authority of the Secretary of Agriculture under Section 301 of the 1949 Agricultural Act, if economic circumstances and political pressure made it necessary.¹ At the end of 1981, however, in the face of declining world prices, the Government voted to re-introduce a sugar loan programme for the period 1982-85 inclusive. The loan level for 1982 crops, for which the programme commences in October 1982 will be 17.00 US cents per lb, rising successively to 17.50; 17.75 and 18.00 US cents per lb over the following three years. Although funds will not be available until October 1982 there will be price support immediately in the form of an increased import duty and fee. The implications on the world sugar market following from this decision are very significant both within the United States of America through its impact on consumption and outside through import demand contraction.

27. Although, given the importance of the United States of America on the world market, the increase in the levels of the import duty during the latter half of the 1970s when world sugar prices were very low, was protectionist in nature and may have added to the depression of world prices, it should be remembered that the United States of America does allow sugar to be imported under the Generalised System of Preferences authority in Title V of the Trade Act of 1974. During 1979, the quantity of raw sugar imported into the United States of America duty-free under its generalised scheme of preferences totalled nearly 920,000 short tons, about 19 per cent of total raw sugar imports and about double the 477,000 tons imported during the previous year. The value in 1979 was US\$41.9 million compared with US\$29.9 million in 1976. During the period 1976-1979 sugar was the largest Generalised System of Preferences eligible item (Table 2.6).

1. Others include Headnote 2, support 10(A) schedule 1, Tariff Schedules of the United States; Section 201 (a) (2), Trade Expansion Act of 1962; Section 22, Agricultural Adjustment Act of 1933 and Title II, Trade Act of 1974. For further details see Barry, R.D, Ackland, L.E. and Greer, T.V. (1981) A Review of US Sugar Programmes and Legislative Authorities, U.S.D.A. Sugar and Sweetener Situation and Outlook, May 1981.

TABLE 2.6
United States Generalised System of Preferences in
Relation to Countries Supplying Sugar to the United States

<u>Countries not eligible for United States, Generalised System of Preferences duty-free treatment on any product</u>	<u>Beneficiary Developing Countries not currently eligible for Generalised System of Preferences duty-free treatment on sugar as of March 1st 1980(1)</u>	<u>Beneficiary Developing Countries currently eligible for Generalised System of Preferences duty-free treatment on sugar as of March 1st 1980</u>
Canada (2), Belgium (2), Denmark (2), France (2), Netherlands (2), Sweden (2), Switzerland (2), United Kingdom (2) German F.R. (2), Japan (2), Australia (2), Mainland China (3)	Dominican Republic, Brazil, Peru, Philippines	Barbados, Belize, Costa Rica, El Salvador (4), Guatemala (4), Jamaica (4), Haiti, Honduras, Mexico. Nicaragua (4), Panama (4), St. Christopher-Nevis-Anguilla, Trinidad and Tobago, The Argentina (4), Bolivia, Colombia (4), Ecuador (5), Guyana (4), Paraguay, Peru (4), Uruguay, Venezuela (5), Romania, Kenya, Malagasy Republic, Malawi, Mozambique, Swaziland, Hong Kong, India (4), Thailand (4), Taiwan (4), South Korea, Fiji.

Source: United States Department of Agriculture, Sugar and Sweetener Report Vol. 5. No. 5.

Notes: (1) The Trade Act of 1974, Section 504 (c), excludes any beneficiary developing countries otherwise eligible for Generalised System of Preferences on particular commodities - such as sugar - when United States imports of a commodity from those countries in the previous calendar year were equal to or greater than 50 per cent of the value of all United States imports of that commodity, or to a specified value fixed each year in relation to the Gross National Product.

(2) These countries were specifically excluded by name in the Trade Act, Section 502(b).

(3) Communist countries are excluded from Generalised System of Preferences duty-free treatment for any commodity except Hungary, Poland, Romania and Yugoslavia.

(4) These twelve countries were re-instated to the Generalised System of Preferences duty-free list on March 28, 1980 by Executive Order, because their 1979 sugar shipments to the United States totalled less than US\$41.9 million in 1979.

(5) Ecuador and Venezuela were newly designated as Generalised System of Preferences beneficiaries in the March 28 Executive Order. Indonesia, Zimbabwe and Uganda were also designated but these countries do not export sugar to the United States.

28. A small quantity of refined sugar, about 100,000 tonnes in 1978, is also imported, dutiable, into the United States of America. The suppliers are Canada and the European Economic Community and in the latter case the quantity is limited as a result of restrictions imposed by the International Sugar Agreement on imports from non-member countries. Since Community exports of sugar were also being subsidised, the United States customs service in 1978 imposed a countervailing duty of 10.4 US cents/lb. Further, as a result of a 1979 United States International Trade Commission determination that the domestic sugar industry was being injured because of Canadian sugar being "dumped" , "anti-dumping" duties have been imposed. The outcome of these two measures has been to reduce even further the small amount of refined sugar imported into the United States of America.

29. The European Economic Community. The first sugar regulation for the European Economic Community was implemented in July 1968¹, nine years after the first Commission proposals. The regime supported Community sugar growers by providing them with higher prices than would under normal circumstances be available from the world market. The methods by which this is achieved are through variable import levies and export subsidies. Third country supplies cannot enter the Community at less than institutionally determined minimum import price levels (threshold prices) as import levies are calculated to cover the full difference between world prices and threshold prices. On the other hand, export subsidies are granted to bridge the gap between Community and world price levels and hence allow the European Economic Community's exports to compete on world markets. Although basically modelled on similar regimes within the common agricultural policy, sugar differs in a number of important respects of which three deserve mention. First, the volume of production for which price guarantees apply is limited by quota. The Community's sugar production is fixed by a system of "A", "B" and "C" quotas, with

1. Official Journal of the European Communities, Council Regulation No. 1009/67 18 Dec. 1967.

a total price and sales guarantee for "A", a regressive price and sales guarantee for "B" and no guarantee for "C". Second, since the direct support mechanisms apply to the processed product and not the farm gate product, the regime has to set refining margins for sugar processors so that minimum prices to be paid by them to farmers may be stipulated. Third, continued guaranteed entry from those major cane producing countries which have had "traditional links" with the Community is controlled through quotas. To take into account the entry into the European Economic Community of the United Kingdom, Ireland and Denmark the sugar regulation was amended in 1972 with these three states receiving production quotas¹.

30. The severe criticisms of the Community sugar policy, however, arose not out of the first sugar regulation but from the second which was in operation from 1975 to 1981. Although the original proposals by the Commission of the European Communities advocated a limitation to the physical production of sugar this was rejected by the Agricultural Ministers. As a result of the price explosion on the world market which made additional purchases problematical, coupled with supply difficulties as well as problems surrounding the enlargement of the Community, the second sugar regulation adapted and intensified the existing support system. The adaptation meant the creation of a substantial stockpile within the Community for internal release at times of shortage. (The Community also agreed at the same time to import cane sugar under the Lome Convention). The intensification came when the Community increased the level of domestic production for which it would provide price support by nearly 25 per cent in addition to improving its relative profitability. The effect of these decisions was to increase the level of self-sufficiency within the Community from 91.4 per cent in 1974/75 to over 122 per cent in 1977/78, excluding imports under the Lome Convention. The only outlet for this excess production became the world market and the share of the world market accounted for by exports from the European Economic Community rose from about 5 per cent in the early 1970s to nearly 20 per cent by the

1. Further details are given in "The Common Agricultural Policy of the European Community" R. Fennell, Grenada.

end of that decade. This expansion was only possible, given the high cost of production, through export subsidies and has resulted in a depressing of world prices. In order to operate such a policy costs are incurred and have been increasing as a result of increasing target prices (Table 2.7).

31. Sugar will remain a supported commodity under the dispositions of the new five year sugar regime in operation from 1 July 1981¹. The major features of the regime are that whilst "A" quotas remain virtually unchanged at 9,226 thousand metric tonnes, white value "B" quotas are reduced from 2,419 to 2,212 thousand metric tonnes (excluding Greece - 29,000 tonnes - for reasons of comparability) and that in order to eliminate the cost of net exports a basic production levy of up to 2.0 per cent of the intervention price is being imposed on both "A" and "B" quota sugar and if that proves insufficient the levy on "B" production can be increased up to 30 per cent. The regime also includes possible procedures towards the Community's accession to the International Sugar Agreement as well as incorporating isoglucose within the sugar regime². Concerning the major feature i.e. reducing the "B" quota it is interesting to note that while the Community has a potential surplus of production and preferential sugar imports over consumption of 2.8 million tonnes, the Commission itself believes that this re-allocation of "B" sugar will result in "a slight increase in the production of B sugar and thus in the quantities to be exported"³. This is

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1. Official Journal of the European Communities, Council Regulation No. 1785/81, 30 June 1981, L 177, Volume 34.
 2. Further details can be found in House of Lords, Session 1980-81, 8th Report, Select Committee on the European Communities, EEC Sugar Policy, 27 November 1980, HMSO.
 3. Draft Regulation on the Common Organisation of the Market in Sugars, Council Reference 10009/80, Commission reference COM(80)553 final, Official Journal No. C271, 18 October 1980.

TABLE 2.7

The Budget Cost of the Community Sugar Regime (a)

	<u>Total expenditure of the Budget of the Community</u>	<u>Expenditure of the FEOGA Guarantee Section</u>	<u>FEOGA expenditure on sugar</u>	<u>Resources from Levies on sugar (b)</u>	<u>Net cost of the sugar regime</u>	<u>Expenditure on sugar export refunds</u>
1975 MUA	6,213.7	4,336.3	310.1	79.7(c)	230.4	38.2
1976 MUA	7,957.2	5,721.0	229.0	128.5	100.5	55.6
1977 MUA	8,484.7	6,593.7	536.7	202.4	334.3	362.6
1978 MEUA	12,181.7	8,672.8	878.0	406.2	471.8	639.2
1979 (d) MEUA	14,447.0	10,404.1	1,004.6	459.8	544.8	750.1
1980 (e) MEUA	15,324.8	11,214.5	1,116.6	466.0	650.6	835.4

Source: House of Lords, Select Committee on the European Communities, EEC Sugar Policy. HMSO 1980.

Notes : (a) Because of a change in the unit of account used for budgetary purposes, the figures for 1978 onwards are not directly comparable with those for 1975 to 1977.

(b) Includes production levies and storage levies but excludes third country import levies since no budgetary distinction is made between those for sugar and those for other agricultural imports.

(c) Represents production levies only - there were no storage levies in 1975.

(d) Appropriations based on Supplementary Budget No. 3.

(e) Original Budget, as presented to the European Parliament in November 1979.

because some producers to whom "B" quotas were previously allocated were unable to fill their quotas, whilst the new quotas are more geared to production levels in the recent past. Since the new regime incorporates no fundamental changes to the present mechanisms it is likely that sugar will remain heavily supported.¹

32. Australia. The conclusion of the Commonwealth Sugar Agreement in 1973 left Australia with only one stable outlet, the domestic market. Australia reacted by introducing a Domestic Sugar Agreement between the Queensland Government and the Commonwealth Government under which all imports were banned by the Commonwealth Government in return for which the Queensland Government undertook to make refined sugar available to wholesalers and manufacturers throughout Australia at prices not exceeding an agreed maximum. This domestic price is tied to movements in the consumer price index, movements in sugar export prices and to an index of industry costs. If differences exist between world and domestic prices, revenues received by producers are determined by a pooling method.

33. Regarding the international trade sector exports are either sold on the world market or through long-term bilateral contracts. In January 1978 the volume of Australia's export tonnage was determined in accordance with the International Sugar Agreement. Subsequently, about half the total was destined for countries with whom Australia had concluded long-term contracts while the residual was sold at world market prices. In 1980-81 Australia had contracts with Japan, South Korea, Malaysia, Singapore, China and New Zealand. Although the long-term contract with Japan of 0.6 million tonnes has now expired an interim arrangement has been made under which Japan will purchase 0.7 million tonnes during the 18 months from 1 July 1981 at prices related to world free market prices.

34. New Zealand. No raw cane sugar or beet sugar is produced in New Zealand. In a year about 170,000 tonnes of raw sugar is imported and refined locally to meet domestic requirements.

1. Acceptance of proposals which maintain or through re-allocation can lead to an increase in production can be easily justified when, as on the previous occasion, they are negotiated and agreed at times of high world sugar prices!

There exists a Sugar Price Stabilisation Agreement between the government and refining company to insulate the domestic New Zealand market from extreme fluctuations in the world price. However, imported raw sugar for processing other than by refining carries an import duty (NZ \$90.0/metric tonne in 1981) at the time of delivery from bonded warehouses, i.e. the refining industry is protected.

The International Sugar Agreement

35. Over the last century there have been a number of attempts to stabilise the free market for sugar of which the most recent is the International Sugar Agreement of 1978, the principal aims being to increase the export earnings of developing countries, to stabilise world market prices at a level that would assure producers of a satisfactory level of profits and to provide adequate supplies to importing countries at fair prices. Its main mechanisms are:-export quotas for each country, the maintenance of free market prices within a floor and ceiling level and national stockholding obligations.

36. The new Agreement was negotiated against a backcloth of new developments in the trading of sugar. First, as has been shown, the reduction in the percentage of sugar traded under Special Arrangements resulted in the large exporters being far more concerned with their quota allocation. Second, was the increase in the number of countries with indigenous sugar industries. According to one estimate¹, 27 countries commenced sugar production between 1951 and 1973, of which many had a large capacity for export and were thus interested in obtaining a sugar quota. The 1951 International Sugar Agreement, for example, allocated basic export tonnages to 23 countries, while in 1978, basic export tonnages were allocated to 51 countries. Third, the effects of the 1974 experience were still being felt both by exporting countries and by importing countries when the Agreement was being negotiated.

1. Hagelberg, G.B. Instability of World Centrifugal Sugar Production, 1975, Institut fur Zuckerindustrie.

37. The two basic elements of the scheme were the basic export tonnages and the stock building arrangements. All but the very minor exporters were allocated basic export tonnages. In 1978 these totalled 15.3 million tonnes with the largest being Cuba (2.5 million tonnes) , Australia and Brazil (2.35 million tonnes) and the Philippines, Thailand and the Dominican Republic (1.4, 1.2 and 1.1 million tonnes, respectively).¹ Quotas may be reduced at times of low world market prices. By quota adjustments coupled with the operation of a reserve stock the Agreement aimed at maintaining prices within the range of 11-21 US cents/lb, with a mid-point of 16.0 US cents/lb. The use of such mechanisms is inherently protectionist, in so far as the allocation of basic export tonnages is based upon political considerations coupled with a "traditional" or "historical" level of exports, and not upon criteria of efficiency of production. Any allocation by this method in effect attempts to maintain a status quo, cost advantages of some countries being, to some extent, negated through the allocation of quotas. For example, the cost of producing sugar in the European Economic Community is 50 per cent higher than producing sugar in Brazil, but the Community would have probably been given an export quota of 2.0 million tonnes if it had been party to the International Sugar Agreement. (A number of sugar production cost estimates for various countries are given in Table 2.8). Further, although quota re-allocation may at least partially be a response to pressures from more efficient producers such an allocation does not fully take into account that production costs vary at differing rates over time. One result of quota determination by factors other than efficiency criteria could be a further movement away from conditions of sectoral 'Pareto optimum' and perfect competition and towards a situation of imperfect competition and protectionism.

1. Although both Australia and Brazil felt it unjustified that Cuba should have a larger basic export tonnage when Cuban exports to the free market in the best of the preceding five years had averaged 1.92 million tonnes compared with 2.35 (Australia) and 2.64 (Brazil). See Harris S. op. cit.

TABLE 2.8

Sugar Production Cost Estimates

US cents/lb raw sugar

United States	14.3	Taiwan	10
European Economic Community	14-16	Central America	0.5-13
Philippines	9	Swaziland	11.5
Thailand	11	The Argentine	11.5
Australia	11-23	Brazil	7-9

Source: Schnittker Associates (1978) The Price Behaviour of Sugar: A Report prepared for the Congressional Research Service, Washington.

TABLE 2.9

Agreed Quantities of Sugar Allowed under the Lome Convention¹ (and other Arrangements) into the European Economic Community. (tonnes, white sugar)

Barbados	49,300	Mauritius	487,200
Congo	10,000	Swaziland	116,400
Fiji	163,600	Tanzania	10,000
Guyana	157,700	Trinidad & Tobago	69,000
Jamaica	118,300	Uganda	5,000
Kenya	5,000	Total	1,221,500
Madagascar	10,000		(2)(3)(4)
Malawi	20,000		

Source: Official Journal L347 12 December 1980, Commission of the European Communities.

- Notes:
- (1) The essential changes with respect to the deliveries allowed under the Commonwealth Sugar Agreement were that Australia no longer had a quota, an increase in Mauritius' guaranteed tonnage (487,200 compared to 375,000 tonnes, previously) and a substantial reduction for the Commonwealth West Indies (395,000 tonnes under Lome compared with 696,000 tonnes before).
 - (2) Additionally under a special trade agreement with the two United Kingdom dependencies of St. Kitts-Nevis-Anguilla and Belize, and with the Dutch dependency of Surinam (the latter officially acceded to the Convention on July 16, 1976 following independence) 14,800 tonnes, 35,400 and 4,000 tonnes, respectively, were allowed entry.
 - (3) India was granted an export quota of 25,000 tonnes specified in the Joint Declaration of Intent annexed to the Treaty of Accession.
 - (4) A quota of 25,000 tonnes has been granted from the 1982-83 season for Zimbabwe.

38. It is possible to argue that protective influences within the International Sugar Agreement could be excused if in fact the Agreement succeeded in stabilising world sugar prices. Although it is too early to make any long-term conclusion events during 1980 and 1981 with the world prices fluctuating greatly outside the price band would¹ seem to indicate that the 1978 Agreement has not been a short-term success. Further, in its lack of control over domestic agricultural support policies, which have already been shown as destabilising the world market, any positive effects that the 1978 Agreement may have are diluted.

The Lome Convention

39. The Sugar Protocol annexed to the Lome Convention was mainly derived from Protocol 22 of the Treaty of Accession of the United Kingdom to the European Economic Community. In effect this Protocol commits the European Community to maintaining the supplies traditionally guaranteed by the United Kingdom from those developing countries which were signatories of the Commonwealth Sugar Agreement, and extends this arrangement to certain other African, Caribbean and Pacific states.

40. The Protocol guarantees access to the Community market for 1.3 million tonnes of African, Caribbean and Pacific sugar and the receipt by the African, Caribbean and Pacific States of a price of the same order as that which the European growers received, at least equal to the intervention price in the Community. The agreed quantities are given in Table 2.9, and the guaranteed prices for each year are agreed after negotiation.

41. The mechanism of the Sugar Protocol is important in that the safeguard clause for other products in Article 10 of the Lomé Convention does not apply to sugar. Moreover, the Protocol has no set term of years (although its text specifies, that it may be denounced by either party subject to two years notice).

1. The London daily price for raw sugar (monthly average) rose from £98.25 per tonne in July 1979 to £387.87 per tonne in October 1980, and fell to £159.76 per tonne in October 1981.

42. Since access is only guaranteed to the African, Caribbean and Pacific States mentioned in Table 2.9 the Sugar Protocol of the Lome Convention is, like the previous Commonwealth Sugar Agreement¹, protectionist from the point of view of other exporting countries. Further, the cost of supporting this policy is very high, although owing to differences in the method of calculation, the magnitude of the costs varies. One method of calculation is to take the difference between the world price for raw sugar and the Community price². Taking a quantity of 1.3 million tonnes the Sugar Protocol (according to this method of calculation) has cost the Community 887 million Ecus over the period of the Convention. Thus, had the African, Caribbean and Pacific States sold their sugar on the world market, they would have "lost" 887 million Ecus. However this estimate is not completely satisfactory since it does not take into account the

1. The Commonwealth Sugar Agreement expired on 31st December 1974, as a result of the entry of the United Kingdom into the European Economic Community having been in effect for twenty-three years. The Agreement involved the United Kingdom importing 1,675,000 tonnes of sugar (white sugar equivalent) at an agreed price, of which 330,000 tonnes came from Australia, the only developed country in the Commonwealth Sugar Agreement. As such this Agreement discriminated against non-Commonwealth exporters of sugar to the United Kingdom, Canada and New Zealand.

2. The World Price and the African, Caribbean and Pacific Guaranteed Price
(Ecu's/100 kg, raw sugar)

Year	<u>World Price (London Exchange)</u>	<u>African, Caribbean and Pacific Guaranteed Price</u>
1974/75	57.36	-
1975/76	27.39	25.53 from 1.2.75
1976/77	16.90	26.70 from 1.4.76
1977/78	13.06	27.25 from 1.5.77
1978/79	14.87	(27.81 from 1.7.78 (33.62 from 9.4.79
1979/80	30.91	34.13 from 1.7.79
1980/81	50.59	35.89 from 1.7.80
1981/82	-	38.94 from 1.7.81
November 1980(peak)	68.06	

price negotiated between those states and Tate and Lyle, neither does it take into account the extent to which exports from the Community depressed world prices. Other estimates of the total cost are 970 million Ecus and 1,007 million Ecus¹. Although the advantages of the arrangement to the African, Caribbean and Pacific States become insubstantial on the rare occasions when world price are high, the cost borne by the Community remains large.

Future Possibilities

43. It has been shown in the previous sections that the sugar sector is highly protected. Protection is not limited to developed market economies² but as a result of size, and other factors, the effect of protectionist policies by the developed economies are more significant on world production, consumption and trade than those of smaller developing economies. Further, it has been indicated that domestic support policies pursued by governments of the European Economic Community and the United States of America can have a destabilising influence on the sugar market, and that a reduction in the level of support may be advantageous. For example, one study³, estimates that by reducing by 50 per cent trade barriers which at present exist in the Organisation for Economic Co-operation and Development countries the benefit to the less developed economies would be in the region of US\$1080 million (at 1977 prices) per annum for sugar and sugar products including confectionery. However, the effects of reducing the level of protection should be examined a little more closely.

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1. The cost respectively of the hypothetical re-export of 1.3 million tonnes of raw sugar and white sugar.
 2. Support policies are also used in the major developing exporting nations ranging from a complete ban on sugar imports into Guyana, to very high tariff levels being imposed in India which did not import any sugar between 1958 and 1980.
 3. Valdés and Zietz op.cit.

44. First, it should be remembered that sugar is an almost perfectly competitive agricultural product and is grown in many countries. For both security and self-sufficiency reasons few countries would voluntarily stop producing sugar especially at the present time when its importance may grow as a fuel source. In Brazil the government plan to have 3 million alcohol-fuelled motor cars running by 1985, the alcohol being produced from cane sugar.

45. Second, while it remains true that a reduction in trade barriers would lead to a redistribution of wealth away from developed economies to developing economies there would be a redistribution within developing economies. In the study quoted above, for example, the large sugar exporting nations of the Philippines, Brazil and the Dominican Republic with supply elasticities of exports of 0.83, 2.15 and 0.53 respectively, for raw sugar would receive a much smaller share of the increased world exports while countries that are less export-oriented in their production, for example, Angola, India and Bolivia with export supply elasticities of 8.69, 10.0 and 5.24 would increase their market share.

46. Third, one-third of the world trade in sugar is carried out under Special Arrangements. Usually, the prices paid to exporters are generally higher than world market prices reflecting concern to assure supply. These Arrangements are in themselves 'protectionist' but tend to support the developing sugar exporting nations, many of whose economies are heavily dependent on sugar. If these Special Arrangements were to cease it is likely that some "traditional" sugar exporters would be unable to compete on the world market. In a recent article on the Caribbean sugar industry, for example¹, it is stated that "none of the five exporting CARICOM (Caribbean Community Common Market) territories which participate in the Lomé Convention's Sugar Protocol, with the sole exception of Barbados, has a sugar sector that is viable from a banker's point of view. All depend heavily

1. Financial Times, "Hard Times in the Caribbean", David Renwick, 1981.

on annual subsidies from the respective island treasuries". It is thus possible that many African, Caribbean and Pacific States would be adversely affected if the Sugar Protocol, by which the European Economic Community gives some degree of support to the sugar industry, was dismantled.

47. Finally, some consideration should be given to two possible events which may have some bearing on the international trade in future: the possibility of the European Economic Community joining the International Sugar Agreement and the possibility of amending the Sugar Protocol.

48. By not joining the 1978 International Sugar Agreement the European Economic Community can be said to have gained in three major ways. Firstly, the export restraints that were applied by the International Sugar Agreement during 1978 and 1979 of 17.5 per cent of the basic export tonnages to member countries resulted in better market opportunities for Community exports. Secondly, it is estimated that during 1979 for every one cent rise in the world price the budget cost of the Community's support system was reduced by 5 per cent. Thirdly, the Community avoided the burden of agricultural adjustment in terms of export restriction and stock holding and was able to pursue its own production policies¹. Although these were material gains it is unlikely the Community deliberately aimed to take advantage of being a non-member since the Community itself feared that non-participation would detrimentally affect exports. While these gains might not have occurred if the Community had been a member of the International Sugar Agreement such an argument tends to be difficult to pursue since the Agreement does not have any direct control over domestic policies. The inability of the 1978 International Sugar Agreement to limit, more than temporarily the rising price of sugar on the world market in 1979 and 1980 could seem to suggest that the Agreement has been ineffective. As well as the broader issues of the level of stocks and the range of prices

1. Harris, *S*,op.cit

necessary to increase the effectiveness of the Agreement, it does raise the question of Community membership. However, since Community stocks were also released during early 1980 (from a level of 11.2 million tonnes to 4.0 million tonnes between January and September 1980) it would appear that the major reasons for obtaining membership of the Agreement would be to appease international criticism by honouring its declared commitments to the United Nations Committee on Trade and Development under the Integrated Programme for Commodities, to bring all the Community into a position of acknowledged responsibility in determining international policy, to ensure co-ordination of its actions given the disciplines imposed on all members and to save the Community from future GATT panels of inquiry.

49. The life of the Sugar Protocol has now reached an interesting stage since while it is of indefinite length it can be amended after April 1981. However it should be stressed that any amendments must arise from negotiations between each African Caribbean and Pacific State (or all) and the Community, and that even if one state decided to withdraw from the Protocol, two years notice would be necessary otherwise the country's withdrawal would represent a unilateral breach of contract. Nevertheless the closure of Tate and Lyle's refinery at Liverpool in 1981 introduces a question as to the future of the guarantee. Although there remains sufficient capacity within the Community to refine all of the sugar imported under the Sugar Protocol there is no room for further closures. However, that possibility exists since "Tate and Lyle's ability to compete effectively with the British Sugar Corporation is limited by the fact that the refining margin built into the EEC's institutional price structure for sugar is based on beet processing and is inadequate for cane refining"¹. If refining capacity is further reduced this would impose a severe strain on the Protocol, which only guarantees to import sugar, since much of that sugar would have to be re-exported unrefined.

1. House of Lords, Select Committee on the European Communities, EEC Sugar Policy, HMSO 1980.

CHAPTER 3

The Livestock Sector

Introduction

50. For the majority of livestock products the international market is very small: between 1978 and 1980 only about 6 per cent of world meat production was traded, the figures being 1.5 per cent and 4.5 per cent for eggs and milk respectively. Within the meat sector itself 12.5 per cent of sheepmeat was traded compared to 7 per cent for beef and even less in the case of pigmeat and poultry. Since the major developed economies are characterised by a high degree of self-sufficiency the result is that even small movements in production and consumption have a disproportionate effect on the prices and the volume of world trade. Although the impact of measures of agricultural protection is usually most serious in the context of developing versus developed economies, livestock is one of the sectors where the effects between developed countries are of significance in a Commonwealth context, for example, Australia and New Zealand and their northern hemisphere markets.

51. During the 1970s trade in the livestock sector has been particularly volatile. Rapidly rising demand between 1971 and 1973 preceded a collapse during 1974/75 followed by several years of depressed prices. The end of the decade co-incided with prices again rising. The low world price levels throughout most of the decade were in part a reflection of the increased surpluses in many of the developed economies: the European Economic Community, for example, which was the largest import market during the 1960s has now become the largest exporter of milk products. In contrast, many developing countries have virtually ceased to export dairy products, and the availability of cheap, sometimes subsidised supplies has often been a discouragement to domestic dairy development. Like many agricultural products, price fluctuations result from climatic conditions and, in this particular case, are coupled with the cyclical nature of live-

stock production. Nevertheless, these fluctuations in the residual world markets have been accentuated by the domestic support policies within major markets. Although it remains difficult to accurately determine the quantitative effect of such policies, there does exist much evidence that protectionist measures in major markets have adversely influenced the livestock sector as a whole.

52. The degree of protection of animal products differs markedly both by countries and commodities: in general, dairying and beef are more heavily protected, a result, in part, of the numbers of farmers with cattle, while sheep, goat, and horse meats are less protected, a reflection of the small importance of these items for most farmers in the developed world (excluding Australia and New Zealand). One guideline of assessing the degree of protectionism in countries can be made by comparing the levels of producer prices in different countries. The results are given in Table 3.1, although it should be reiterated that the results need to be interpreted carefully. However, the Table does show the difference in milk and cattle slaughter prices, between low and high-cost countries, especially the comparison between Oceania and Japan and the European Economic Community, although certainly not the entire difference is the result of protectionary influences. The variation in the price of sheepmeat reflects, for example, not only protection, but also a preference by consumers for fresh lamb.

Domestic Support Policies

Beef and Veal

53. Over the past twenty years the livestock sector, in general, and beef in particular has been increasingly subject to measures designed to protect domestic producers from the vagaries of international trade. For the major developed economies these include the control of imports by voluntary restraints, quantitative restrictions or prohibition under 'safeguard' legislation, in addition to the imposition of import duties or variable import levies, and the application of direct or indirect non-tariff barriers including animal and public health

TABLE 3.1
Producer Prices of Animal Products in Selected Countries
 (average 1977 - 1979, US\$ 100 kg)

	<u>Cattle</u> ←	<u>Pigs</u> slaughter	<u>Lamb</u> weight	<u>Chickens</u> →	<u>Milk</u>	<u>Eggs</u>
The Argentine	109	103	..	..	..	..
Australia	100	137	102	..	11	117
European Economic Community (9)	297	169	420 France 318 UK	135 German F. R.	26 Target Price	137 German F. R.
Japan	582	270	..	130	51	109
Republic of Korea	569	273	..	191	36	125
New Zealand	78	127	76	..	8	101
Sweden	335	179	326 inc. Mutton	198	34	110
Switzerland	515	272	580	290	38	201
United States	199	118	190	80	22	79

Source: Various country sources.

regulations.¹

54. In the European Economic Community, beef and veal are incorporated under the common agricultural policy which provides for a system of price support. This attempts to keep Community market prices as close as possible to an agreed common price level. Imports from third countries into the European Economic Community are controlled by customs duties and variable levies. With the exception of pure bred cattle and calves all other categories covered by the beef and veal regime are subject to customs duties although variable import levies are only applicable on certain categories (Table 3.2). However, as a result of a suspension of import licences between July 1974 and March 1977 under safeguard provisions followed by the application of very high import levies amounting in some cases to almost 100 per cent of the purchase price of the product in world markets, the importation of most categories of cattle, calves and fresh chilled or frozen beef and veal since 1974 has been on the basis of schemes under which concessionary levies or duties apply. The only imports that were not affected were the quotas agreed under the General Agreement on Tariffs and Trade (see Table 3.2)

1. Protectionist measures have, however, not been solely confined to traditional developed importing countries like the United States of America, Japan or the European Economic Community. Several exporting nations including the Argentine, Uruguay and Kenya have protected consumers, as opposed to producers, against price increases by restricting livestock and meat exports through the taxation of exports, changes in exchange rates, export quotas or partial export bans.

TABLE 3.2

Measures Affecting Imports of Major Meat Importing Countries

Country	Custom's Duty	Variable Levy	1972	1973	1974	1975	1976	1977	1978	1979	1980
<u>United States</u>						Quotas (000 tons)					
Live cattle	1.3-2.5 cts/lb	None	Restraint arrangement between United States, Canada and Mexico								
Bovine meat	2.5 cts/lb (a)	None)	Restrictions								
Sheep/goat meat	0.5-2.3 cts/lb	None)	562.5	suspended	551.0	559.0	577.0	677.0	712.0	712.0	suspended
Pigmeat	None	None	NB: Lamb excluded								
Poultry (chicken)	3-5 cts/lb	None	None								
Corned beef	4 5 per cent	None	None								
<u>Canada</u>						Restraint arrangement between United States, Canada and Mexico					
Live cattle	1.3 cts/lb	None	Free	Free	57.0	1.8.74-	Free	66.0	67.0	70.0	78.0
Bovine meat	2 5 cts/lb	None	30.7.75								
Sheep/goat meat	5.6 cts/lb	None	None								
Pigmeat	None	None	None								
Poultry	12.5 per cent	None	Free	Free	Free	Free	Free	Free	Free	20.0	22.0
Corned beef	15 per cent	None	None								
<u>Japan</u>			Fiscal years (April - March) 1972/73 to 1980/81								
Bovine meat	25 per cent	Yes	71.5	120.0	5.7	85.0	96.5	92.5	112.0	134.5	136.0
Sheep/goat meat	None	None	(b)								
Pigmeat	8.8 per cent	Yes	(c)								
Poultry	20 per cent	None	None								

TABLE 3.2
Measures Affecting Imports of Major Meat Importing Countries (contd)

	Custom's Duty	Variable Levy	Quotas (000 tonnes)								
			1972	1973	1974	1975	1976	1977	1978	1979	1980
<u>European Economic Community</u>											
Live cattle											
1. Pure-bred breeding animals	Free	None									
2. Others	16	Yes			See below						
Bovine meat											
1. Meat fresh, chilled or frozen	20	Yes									
2. Meat salted in brine, dried or smoked	24	Yes			See below						
3. Meat other prepared	20	Yes									
Live sheep											
1. Pure-bred breeding animals	Free	None			See Table 2.2						
2. Other	15(10)(d)	Yes (e)									
Sheepmeat											
1. Meat fresh, chilled or frozen	20(10)(d)	Yes (e)									
2. Meat salted in brine, dried or smoked	24(24)(d)	Yes (e)			See Table 2.2						
3. Meat other prepared	26(26)(d)	None									
Pigmeat	Free	Yes									
Poultry	Free	Yes									
No quantitative restrictions but the following quotas were set for imports at reduced or zero rate of levy or duty:											
GATT live bulls, cows and heifers - Alpine Breeds (000 head)											
GATT frozen beef quota (boneless)			22.0	34.0	34.0	38.5	38.5	38.5	43.0	43.0	43.0
GATT special quality beef quota (boneless)			..	..	..	..	..	..	..	..	..
GATT buffalo meat from Australia quota (boneless)			..	..	..	..	..	..	..	..	..
Lomé beef quota (boneless)			..	..	..	22.9	27.5	27.5	27.5	27.5	27.5
Yugoslav baby beef quota (boneless)			..	..	..	18.0	18.0	18.0	18.0	18.0	18.0
Balance sheet frozen fore quarters and boneless cuts for manufacturing use (bone-in equivalent)			n.a.	n.a.	18.0	18.0	18.0	18.0	18.0	18.0	18.0
			120.0	Free	Nil	Nil	Nil	40.0	50.0	60.0	50.0
				to							
				Sept							
Balance sheet live young male cattle quota (000 head) for further fattening			Nil	Nil	Nil	112.5	150.0	200.0	230.0	230.0	230.0

Sources: Various country sources.

Notes: (a) Approximately 2.0 per cent ad valorem tariff equivalent at 1980 prices.

(b) Of the original quota of 160,000 tons, 40,000 tons were deferred in 1974.

(c) Okinawa quota only.

(d) Non bracketed figures are for third countries not covered by voluntary export restraints, bracketed figures are for third countries covered by voluntary export restraints.

(e) Applicable for third countries not covered by voluntary export restraints.

(f) United States 10,000 tonnes; Australia 5,000 tonnes; Argentina 5,000 tonnes and Uruguay 1,000 tonnes.

and the Lome Convention¹ coupled with certain amounts of live cattle and frozen beef under the balance sheet arrangement. More recently, the other arm of the price support policy, namely export subsidisation, has made a heavy impact on the world beef market. The European Economic Community has moved from being a net importer of beef in 1978 to a position of very substantial exports (545,000 tonnes) in 1980, at rates of subsidies up to US\$1,500 per tonne. Australian producers have called for action through the General Agreement on Tariffs and Trade against subsidised Community beef exports.

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1. Under the second Lome Convention special measures were undertaken for a further period of five years in order to enable African, Caribbean and Pacific States which are traditional exporters of beef and veal to maintain their position on the Community market, thus guaranteeing a certain level of imports for their producers.

The measures involve a 90 per cent reduction in charges other than customs duties, i.e. levies on the importation of beef and veal originating in Botswana, Kenya, Madagascar and Swaziland provided that a tax of the equivalent amount is levied at the time of export by the state concerned.

The quantities of boned or boneless meat allowed per calendar year is as follows:-

Botswana	18,916 tonnes
Kenya	142 tonnes
Madagascar	7,579 tonnes
Swaziland	<u>3,363 tonnes</u>
	30,000 tonnes

During any specific year, if a short-fall occurs then that amount can be re-allocated. Further, in the event of force majeure the European Economic Community will consider appropriate measures to ensure that the quantities affected can be delivered in the preceding or following year as a result of the major importance of these exports to the Community for the economy of the above states.

Lastly, it should also be noted that Zimbabwe has been allocated a quota of 8,100 tonnes of boneless beef, once it is agreed that the livestock sector is in a healthy condition.

55. In the United States of America, quantitative restrictions are the major method of regulating the market and originally emanated from the 1933 Agricultural Adjustment Act which permitted quotas on imports which threatened to undermine the objectives of domestic farm programmes. The most recent regulation has been the Meat Import Act of 1979, which superceded the Meat Import Act of 1964 in providing for the imposition of import controls on certain fresh, chilled and frozen beef, veal, mutton and goat meat products. Some preserved meats are also covered. Like its predecessor, the new law mandates quantitative import controls if imports are expected to exceed 110 per cent of the agreed quantity. The major new feature of the 1979 Act is that the import quota is linked both to domestic beef production levels and to a counter-cyclical formula in order to prevent the price effects of the domestic cattle cycle being exacerbated by imports.¹ However, although these quantitative restrictions on meat imports into the United States of America exist, voluntary restraint arrangements have been negotiated with major suppliers under Section 204 of the Agricultural Act of 1956 with the result that the United States Government has avoided, having to impose and administer formal import quotas. Canada, similarly, has negotiated export arrangements.

56. In Japan, price support measures include customs duties, variable levies and quotas. Quotas are applied to beef and are fixed half-yearly. After a rapid rise in imports up to the early 1970s, Japan temporarily stopped the issuing of beef import licences in 1974/75 under the safeguard clause of the General Agreement on Tariffs and Trade, Article XIX. However, in recent years Japanese quotas have again shown a rising trend (Table 3.2) well exceeding average import levels of the early 'seventies. The global import quota for the first half of the fiscal year 1980-81 (April to September) was set at 72,000 tonnes divided into a general quota of 64,000 tonnes and a special quota of 8,000 tonnes. The latter provided for imports of

1. For further details see United States Department of Agriculture, Foreign Agriculture, Changes in US Meat Import Law, July 1980 Supplement.

2,400 tonnes of cooked beef, 1,250 tonnes of beef for school lunches, 1,500 tonnes of beef for hotels and 2,850 for Okinawa. For the second half of the 1980-81 fiscal year the quota was set at 62,800 tonnes similarly distributed.

57. The other major non-tariff measures affecting animal products, notably beef and veal, are animal and public health regulations. Whilst the legality of measures designed to prevent the introduction of diseases has been recognised in the General Agreement on Tariffs and Trade, meat exporting countries have often criticised the inadequacy of consultation and communication with regard to the trade restricting effects of such measures - and changes in them - as well as the differences in meat inspection systems of various importing countries and the way in which health standards and regulations are interpreted and enforced. In general, imports are permitted only from countries whose production and processing facilities have been found by inspection to comply with the veterinary requirements of the importing country. Countries with a high standard of animal health have the strictest regulations: Canada, the United States of America, Japan, much of Western Europe and the Republic of Korea all bar the importation of livestock and uncooked meat from countries where foot and mouth and rinderpest diseases are prevalent. As a result, many major markets can only be supplied by a relatively small number of exporting countries, notably Australia, New Zealand and Central America. To some degree less restriction applies in the European Economic Community where, since cattle are protected by vaccination, (excluding the United Kingdom and the Republic of Ireland) under certain conditions uncooked boneless bovine meat can be imported from countries where the level of foot and mouth disease is higher than in the Community, but where the disease is not endemic.

Other Meats

58. In the European Economic Community a common regime has been established for pigmeat, poultrymeat and sheepmeat, the major aims being to maintain the principle of common price levels

throughout the Community as well as the principle of "Community preference" in relation to its trading arrangements with Third countries. In the case of both pigmeat and poultrymeat, although there are no customs duties imposed on imports from Third countries, both sectors are protected by import levies and sluicgate prices. The basic import levy is fixed at a level which ensures that producers in the Community are not adversely affected when world cereal feed costs are significantly below Community costs: the sluicgate price prevents Third country suppliers from "dumping" pigmeat or poultrymeat into the European Economic Community at a price below world production costs. If the free at frontier or import price of any product under the pigmeat and poultrymeat regimes falls below the sluicgate price an additional levy can be introduced to reflect the difference between the two prices. The major result of these measures is that little pigmeat and poultrymeat is imported into the Community from Third countries.

59. The sheepmeat regime of the European Economic Community is very new having only been introduced in October 1980. Whilst its broad aims are the same as the pigmeat and poultrymeat regimes there are no sluicgate prices. With respect to trade with Third countries, voluntary restraint agreements have been concluded between the Community and New Zealand, Australia, the Argentine and Uruguay. These countries have agreed to limit their exports of chilled and frozen sheepmeat into the Community in return for a reduction in the customs duty from 20 per cent to 10 per cent. Further voluntary restraint agreements are in the process of being concluded with Bulgaria, Czechoslovakia, Hungary, Poland, Iceland, Austria and Rumania (Table 3.3). Where imports are not covered by the above arrangements, the imports are subject to import licences, customs duties, securities and import levies¹ which are based on the difference between the free at frontier offer price and the seasonally adjusted basic internal price.

1. In the case of meat of sheep and goats, fresh chilled or frozen, the variable levy may not exceed the duty of 20 per cent bound under the General Agreement on Tariffs and Trade.

TABLE 3.3

Voluntary Restraint Agreements during 1981 between the European Economic Community
and Third Countries under the Sheepmeat Regime¹

<u>Country</u>	<u>Live Animals (tonnes)</u>	<u>Fresh or Chilled Sheepmeat (carcase weight)</u>	<u>Frozen Sheepmeat Equivalent</u>	<u>Total</u>
Australia	-		17,500	17,500
The Argentine	-		23,000	23,000
Austria	300	-		300
Bulgaria	2,000	1,250		3,250
Czechoslovakia	-	800		800
Hungary	10,050	1,150		11,200
Iceland	-	600		600
Poland	5,800	200		6,000
New Zealand	-		245,500	245,500
Rumania	475	-		550
Uruguay	-		5,800	5,800
Total above	18,625		295,875	314,500

Source: Meat and Livestock Commission (1981) CAP - SHEEPMEAT, An explanation of the EEC Sheepmeat Regime.

Note: (1) It is likely that small allocations will be made to Spain and Yugoslavia totalling about 780 tonnes carcase weight equivalent.

60. In the United States of America pigmeat, poultrymeat and sheepmeat (not lamb) are all covered by the Meat Import Act discussed above. In Japan, in the case of pigmeat, variable levies are imposed in addition to tariff duties although there is no quantitative restriction. For poultrymeat and sheepmeat there are no variable levies nor quantitative restrictions although there are customs duties in the case of poultrymeat.

Dairy Products

61. The dairy sector of virtually all developed market economies is supported by a number of policy instruments in order to maintain the prices received by the producer at relatively high levels (typical price guarantee and support policy instruments for milk are given in Table 3.4). In the European Economic Community, the common organisation of the market in dairy products covers fresh, concentrated and powdered milk and cream in addition to butter, cheese and curd. Domestic prices within the Community are secured and stabilised by the imposition of variable levies on imports of dairy products to prevent internal price levels being reduced below the threshold prices; by the payment of subsidies on exports in order to bring prices of Community produce down to the generally lower-priced international market level; by the guaranteed purchase and/or storage of butter and spray-dried skim milk powder; and by the payment of subsidies on skim milk used for the manufacture of casein and on skim milk and skim milk powder fed to livestock. Although there are no threshold prices for either liquid milk or fresh milk products import levies and export refunds are applied on trade with Third countries. With the exception of butter from New Zealand and special arrangements for cheese under the General Agreement on Tariffs and Trade, few milk products are imported into the European Economic Community: the traditional market for much of Australia and New Zealand dairy produce having been 'lost' by the accession of the United Kingdom into the Community as a result of these measures.

TABLE 3.4

Price Guarantee and Support Policy Instruments for Milk in Developed Countries in 1978/79

Country	Guarantee, target or minimum milk price	Support purchasing	Deficiency payments and/or general consumer subsidies	Other income supplements	Restriction of imports Quantitative	Variable levies
Australia	milk for manufacture		milk for manufacture only		x	
Austria	x	x	x		x	
Canada	milk for manufacture	x	milk for manufacture only		x	
European Economic Community	x	x	mainly liquid and dry skim milk for animal feed and casein			x
Finland	x		x	x	x	
Greece	x		x			x
Japan	x	x	milk for manufacture only		x	
New Zealand	milk for manufacture		liquid milk only			
Norway	x		x	x	x	
Spain	x	x			x	
Sweden	x		x	x		x
Switzerland	x	x	x	x		x
United States	milk for manufacture	x			x	

Source: International Dairy Federation Annual Session in Montreux Dairy Price Support Policies in Developed Economies, W. Krostitz.

62. The cornerstone of the protection of the United States of America's dairy market is through the support price for manufacturing milk coupled with support purchases by the Commodity Credit Corporation. Milk for liquid consumption is marketed under federal market orders or state regulations which require distributors to pay minimum prices to producers. In Japan, a deficiency payments scheme operates which is the difference between the price actually paid by the manufacturing industry on the basis of regulated prices for the major milk products and the support price. Apart from the deficiency payment, the manufacturing milk price is supported by intervention purchases of butter, skim milk powder and condensed milk when market prices of these products fall below specified levels.

63. In international trade, two major effects of the dairy price support policies of major high-cost producing countries can be noted. The low-cost efficient producers of exporting countries have been increasingly excluded from some markets now being supplied by the domestic high-cost producers, and the low-cost producers have also lost part of third markets to high-cost producers whose governments subsidise the sale of surplus products abroad - the surpluses being the result of the domestic policies in the high-cost producing countries. Of the total turnover in international dairy trade about 75 per cent comes from countries that subsidise their exports by one means or another. For two of the major products, butter and skimmed milk powder, international prices during the past decade have averaged as little as one quarter to one third of the levels of prices on domestic markets of major northern hemisphere producing, consuming and exporting countries. Further, sizeable quantities of skimmed milk powder, for animal feed, have been exported at prices requiring even higher subsidies and milk powder, butter oil¹ and other products totalling 1.5 to 2.0 million tonnes of milk equivalent annually have been disposed as food aid to developing countries, 10 per cent of total exports.

1. Further details on butter are given in paragraphs 98 and 99.

Quantitative Assessment of the Beef Sector

64. In order to obtain a more detailed quantitative assessment of the effects of protection in the livestock market on international trade and national welfare in the beef sector, a study was recently made by the Food and Agriculture Organisation of the United Nations, using a world beef trade model with 1977-79 data.¹ Whilst it must be remembered that any econometric model cannot take into account all the various factors involved, the results do indicate the possible increases in the volume of trade that would occur from certain policy changes. If the rates of market protection for beef in both the developed and developing market economies were reduced by 25 per cent, the model calculations suggested that the volume of world trade in beef would have been 22 per cent larger than the actual trade between 1977 and 1979, and that average world trade prices (as against support prices) would have risen by 7 per cent. A 50 per cent reduction in protection rates would have led to a 73 per cent increase in trade and a 16 per cent rise in price (Table 3.5). The result of such a decrease in support measures

1. The model was run, using average 1977-79 data on production and consumption of beef as well as slaughter cattle market prices of individual market economy countries or groups of countries and price elasticities of supply and demand. For deriving a "world market" price, the 1977-79 average of cattle market prices in the two main beef exporting countries (Australia and Argentina) was used as a starting point. To this an approximate 30 per cent margin for "natural protection" of production in importing countries was added to allow for transport from the main exporters to the main importers, for certain quantitative losses involved in frozen meat trade, in which form the larger part of international beef trade takes place, as well as for consumers preference for fresh meat. By relating domestic market prices to this world market price, ad valorem tariff equivalents (or implicit tariff rates) were calculated as a uniform yardstick to measure the degree of protection, whatever protective systems were actually employed by countries. As liberalisation would have lowered domestic prices in high price countries, domestic production would have decreased and demand increased, according to the assumed price elasticities. Other things being equal, growing import demand would have caused world market prices to rise which in turn would have encouraged production and reduced demand in low-cost producing countries. The model was run in such a way that a new world market price was computed, bringing demand and supply into equilibrium at the world level. Centrally planned countries were not covered by the model, except for their net trade.

would be a reallocation of both production and consumption, with the export earnings of low cost producing countries rising markedly, notably Oceania and South America. Gains in overall welfare - the model tacitly accepts welfare changes between producers and consumers - would have been made in both exporting and importing countries (Table 3.6). Assuming a reduction of protection of 25 per cent, there would have been little effect on overall welfare in the United States of America. In the Oceanian and South American exporting countries farm incomes would have increased more than the consumer burden, while in the European Economic Community and Japan the reduction in consumer burden more than compensates for the loss of farm incomes. Overall the study concluded that under the hypothetical assumption of reduced market protection, there would have been some redistribution in world beef farm income in favour of developing countries while within developing countries a redistribution of welfare from consumers to farmers would have occurred.¹

65. Although the study was confined to beef, liberalisation of the beef sector would affect the whole livestock sector because changing beef prices are related to the production and consumption of other livestock products according to the respective cross-price elasticities of demand and supply. One major effect would be a reduction in the demand for other meats in the major importing countries, and an increase in the beef exporting countries, given 'ceteris paribus' clauses.

Qualitative Assessment of the Dairy Sector

66. Major effects could also be expected from the liberalisation of trade of dairy products. Effective protection of milk is very high in many countries: in some high-cost countries price support has resulted in the production of large large surpluses disposed of through subsidised pricing.

1. Similiar conclusions are reached by A. Valdés and J Zietz op. cit.

TABLE 3.5

Effects of Liberalising Trade in Beef - Percentage Changes from Original Situation
(all countries reducing implicit tariff rates by the same proportion)

Exporters	Original Rate of Implicit Tariff per cent	Implicit Tariff Rates Reduced by 50 per cent						Net Trade	
		25 per cent		50 per cent		Production	Consumption		
		Domestic Price	Production	Consumption	Net Trade				Domestic Price
Australia	-	9	3	5	10	19	7	-10	22
New Zealand	-	10	4	6	10	22	8	-11	21
The Argentine	-	8	4	2	27	18	9	5	58
Uruguay	-	7	3	5	19	17	6	-10	42
Brazil	-	8	4	4	242	18	9	8	523
Central America	7	5	2	4	47	12	5	8	104
Yugoslavia	86	5	-2	4	-69	-11	-4	9	-147(a)
<u>Importers</u>									
United States	46	1	-0	1	17	-2	-1	2	28
European Economic Community									
Japan	118	7	-2	4	202	-15	5	9	443
Austria	328	-13	-7	19	92	-28	-15	49	233
Canada	148	9	-4	11	450	-18	-8	25	1,040
Finland	52	2	-1	1	47	4	1	2	88
Greece	224	-11	-5	7	0	-24	-10	18	••
Portugal	147	9	-3	6	13	-18	-6	13	30
Spain	134	9	-4	10	48	-18	-8	22	111
Sweden	108	8	-3	9	83	-17	5	21	190
Switzerland	356	7	-3	4	234	-14	-6	8	508
Republic of Korea	318	-14	-6	11	160	-29	-13	27	388
Other Developed	10	-13	-5	15	78	-28	-12	39	193
Other Developing	10	5	1	2	68	11	3	5	-151
Centrally Planned	••	5	1	2	41	11	3	5	-91
World (d)	••	••	••	••	29	••	••	••	-53
	-	7(b)	0	0	22(c)	16(b)	1	1	73(c)

Source: Food and Agriculture Organisation of the United Nations, Committee on Commodity Problems, Intergovernmental Group on Meat, Ninth Session, 1980, CCP :ME 80/4.

Notes: (a) Country switches from net exporter to net importer. (b) World market price. (c) World exports (Sum of net exports of all exporting countries). (d) Excluding centrally planned economies except for

TABLE 3.6

Welfare Effects of Trade Liberalisation in Beef
(all countries reducing implicit tariff rates by 25 per cent)

Country	Reduction in Consumer burden	Change in farm income million	Increase in Tariff receipts US \$	Increase in overall economic welfare
Australia	-79	176	0	97
New Zealand	-15	42	0	27
The Argentine	-207	273	0	66
Uruguay	-21	32	0	11
Brazil	-190	204	0	14
Central America	-100	116	-3	13
United States	299	-273	-37	-11
European Economic Community (9)	1481	-1394	461	548
Japan	444	-292	331	483
Austria	59	-54	41	47
Canada	45	-43	6	8
Finland	55	-52	32	35
Greece	65	-30	-21	15
Portugal	35	-24	11	21
Spain	126	-103	53	76
Sweden	29	-27	10	11
Switzerland	152	-126	90	115
Yugoslavia	42	-44	26	24
Republic of Korea	116	-79	67	104
Other developed	-45	43	-4	-5
Other developing	-537	500	-49	-87
World excluding Centrally Planned	1654	-1155	1014	1612

Source: Food and Agriculture Organisation of the United Nations, Committee on Commodity Problems, Intergovernmental Group on Meat, Ninth Session, 1980, CCP: ME 80/4.

Thus, international trade in dairy products is particularly distorted and in some high-cost producing countries, for example, the European Economic Community, heavy costs have been incurred.¹ If liberalisation did occur it would result in reallocation of resources from many northern hemisphere nations towards the southern hemisphere low-cost exporters, notably Australia and New Zealand. However, since there is only a very small number of efficient low-cost exporting countries with a relatively limited production capacity, it is likely that the world market prices for dairy products would increase which in turn may encourage dairy development in the developing countries.

Effects of the Multilateral Trade Negotiations

67. The major concessions granted included the following:-

- (a) An increase in the quantities of bovine meat that can be imported levy-free into the European Economic Community (Table 3.2), in addition to minimum access commitments concerning imports of beef into Japan, Canada and the United States of America. Specifically, the United States of America has fixed the minimum level of imports at 567,000 tons under its 1979 Meat Import Act; Japan is increasing its imports to a minimum level of 135,000 tons by 1982/83 and Canada has established a basic minimum quota of 63,000 tons in 1980 which will increase in line with the growth in population.
- (b) Some reductions in tariff duties have been granted on certain categories of livestock products by the United States of America, Canada, Japan, the Republic of Korea, Spain and Switzerland. In the United States of

1. It is estimated that the total expenditure on milk and milk products in the European Economic Community during the 1979 financial year amounted to 4,459.6 MEUA (30 per cent of the total budget) Source: Official Journal of the European Communities, C342, Volume 23, December 1980.

America, the largest importer of beef, for example, the duty on fresh, chilled and frozen beef has been reduced from 3 to 2 US cents/lb.

- (c) From 1980, the European Economic Community will import up to 9,500 tonnes of cheese per annum from New Zealand. This cheese will be subject to minimum c.i.f. import prices. Similar import arrangements have been negotiated for 2,750 tonnes of mature Canadian cheddar and 3,000 tonnes of Australian cheese. In the United States of America access has been granted for the import of 111,000 metric tonnes of cheese per annum of various types, predominantly from the European Economic Community, New Zealand, Australia and Switzerland.

68. In addition to the above concessions were the formalisation of the International Dairy Arrangement, the setting up of the Arrangement Regarding Bovine Meat which provides for information exchange and market monitoring, and the agreement on codes on non-tariff trade barriers. The overall result of the negotiations is that while some limited concessions have been obtained, notably for beef and cheese, no major breakthrough towards liberalisation of animal product trade has occurred, i.e. towards the low-cost producing economies of Australia and New Zealand, and no results of significance for developing countries, for example, the Argentine.

CHAPTER 4

The Tea, Cocoa and Coffee Sectors

69. In contrast to the previous chapters, all the beverages which form the content of this section are non-competing agricultural commodities, with are almost wholly produced in the developing world. Thus, prima facie, there should be no tariff or non-tariff barriers to the import of these commodities into the developed countries. This chapter examines the extent and continued existence of barriers to entry and of tariff escalation.

Tea

70. Of the annual world tea output of about 1,850,000 tonnes, 40 per cent is exported, of which India, Sri Lanka, Kenya and China account for two-thirds, the remainder being divided between other countries in the Far East, Africa and Latin America. For some African countries tea is of substantial importance, contributing, for example, 15 per cent of Kenya's export earnings and 23 per cent of Malawi's.

71. Regarding the major developed economy markets there are, with two exceptions, no import duties on tea, whether imported in bulk or in packaged form¹. The exceptions are New Zealand which imposes a 5.5 c/kg duty on packaged tea and Japan where there are temporary tariffs of 5 per cent and 20 per cent, respectively, on bulk and packaged tea (Table 4.1). Presumably, the reason for the tariff imposition is in order to protect the domestic tea production and packaging industries. Similarly for the importation of instant tea, the European Economic Community, the United States of America and Australia do not impose tariffs, although again New Zealand and Japan do. Tariffs on bulk, packaged and instant tea are also imposed by some middle eastern countries.

1. Nominally duties on packaged and instant tea are imposed by the European Economic Community but since duty-free treatment is granted to all developing countries the duties have no significance.

TABLE 4.1

Tariffs on Tea in Major and Minor Markets

Country	Bulk Tea	Packaged Tea	Extracts, Essences, Instant Tea
<u>European Economic Community</u>			
Pre-MTN Tariffs			
Most-favoured nation rate	9% B	11.5% B	12% B
Generalised System of Preferences	-	0%	0%
Post-MTN Tariffs			
Most-favoured nation rate	0% B	5% B	12% B
Generalised System of Preferences	-	0%	0%
<u>United States of America</u>			
Pre-MTN Tariffs			
Most-favoured nation rate	0% B	0% B	0% B
<u>Australia</u>			
Pre-MTN Tariffs			
Most-favoured nation rate	0%	\$0.037/kg	\$0.11/kg
Generalised System of Preferences	-	-	0%
Post-MTN Tariffs			
Most-favoured nation rate	0% B	0% B	\$0.08/kg
<u>Canada</u>			
Pre and Post MTN Tariffs			
Most favoured nation rate	0% B	0% B	0% B
<u>Japan</u>			
Pre-MTN Tariffs			
Most-favoured nation rate	35%	35%	25% B
Generalised System of Preferences	-	-	-
Post-MTN Tariffs			
Most-favoured nation rate	5%	20% B	20% B
Generalised System of Preferences	2.5%	14%	10%
<u>New Zealand</u>			
Pre-MTN Tariffs			
Most-favoured nation rate	0% B	5.51 c/kg	25% B
Generalised System of Preferences	-	-	-
Post-MTN Tariffs			
Most-favoured nation rate	0% B	10% B	20% B
Generalised System of Preferences	-	0%	15%
<u>Pakistan</u> (present position)	54.5%	100%	100% = 20 ^(a)
<u>Iran</u> " "	20% + 3RIs/kg	20%+3RIs/kg	45% + 500RIs/kg ^(b)
<u>Iraq</u> " "	235 fils/kg	235 fils/kg	75% ^(b)
<u>United Arab Emirates</u> "	2%	2%	2%

Sources: Various country statistics.

Notes: (a) On duty paid value.

(b) Prohibited import.

B Signifies bound rates under the General Agreement on Tariffs and Trade.

72. Non-tariff barriers, however, do exist in the European Economic Community although they are of little importance. Given the very low price elasticity of demand for both tea and coffee they are seen as a method of raising government revenue by imposing "luxury" consumption taxes. Further, there are similar taxes on coffee and cocoa and as such tea is not specifically discriminated against. Moreover, apart from the turnover tax in the German F.R., which is marginally discriminatory on the import of packaged teas, the sales taxes have to be borne by both domestic packers and imported tea in packaged form (Table 4.2). Another possible non-tariff barrier that can be isolated is brand loyalty, although increasing shares of "own" brand products would indicate that the problem is not insurmountable. However, this may be a severe problem to a small individual exporter, although it must be remembered that controls against brand images would be impossible to legislate for.

73. Given the above comments any benefits which might accrue from developed country trade liberalisation would be very small and would be distributed to developing countries in the same proportion as their current market share¹. Further, with respect to increased domestic processing, a study² on the packaging of tea into bags and the manufacture of instant tea in India and Sri Lanka concludes that "while the tea producing countries are hypothetically in a position to export their tea to big developed economy markets in a packeted form suitably preserved in cellophane wrapped cartons so as to compete with the domestic tea packeting industries in the economies concerned, they will not have a comparative advantage in packaging, will face higher freight charges and more important, they will be attempting to cater for a rapidly declining segment of the market". However, increased domestic packaging is

1. Valdes and Zietz op. cit.

2. R.C. Wanigatunga, Packaging of Tea into Bags and the Manufacture of Instant Tea in India and Sri Lanka, World Bank/Commonwealth Secretariat Research Project on the Industrial Processing of Primary Products, June 1981, draft report.

TABLE 4.2

Taxes on Tea in the European Economic Community
(figures per kilogramme unless otherwise stated)

<u>Country</u>	<u>Bulk Teas and Packeted Teas</u>	<u>Instant Tea</u>
Belgium	6 per cent ^(a)	6 per cent ^(a)
Denmark	DKr 5/kg ^(c)	DKr 12.5/kg
France	F.F.0.23/kg+7 per cent ^(a) +2 per cent ^(b) ^(c)	F.F.0.828 per kg+bulk tea tax
German F.R.	D.M.4.15+6.5 per cent ^(b) ^(c)	D.M.10.40+6.5 per cent ^(b)
Luxembourg	5 per cent ^(a)	5 per cent ^(a)
Netherlands	4 per cent ^(a)	4 per cent ^(a)

Sources: Various country sources.

Notes:

- (a) Value added tax.
- (b) Turnover tax.
- (c) Ad valorem incidences of these taxes have fluctuated in recent years as a result of fluctuations in tea prices and currency exchange rates. Tea prices per kilogram vary widely according to quality and degree of processing. For indicative purposes only incidences of the taxes on tea in bulk are given below on the basis of an import price of US\$1.01/lb (average London auction price in 1980) and average exchange rates in 1980: Denmark 40 per cent and the German F.R. 102 per cent. When import prices are higher than US\$1.01/lb incidences are lower than those indicated above and vice-versa. Incidences of these taxes on higher priced goods - high quality teas and tea packed for retail sale - are lower than those indicated above.

recommended in the report for other markets, notably the Middle-East, and North Africa, i.e. in the context of South-South trade.

Cocoa¹

74. Cocoa beans are a non-competing agricultural product being only produced in the developing countries of the tropics, although unlike tea, production is more heavily concentrated with six countries, Ghana, Nigeria, the Ivory Coast, Cameroon, Ecuador and Brazil accounting for over 80 per cent of the world's output. Most of this production is consumed in the United States of America, Western Europe and Japan. Although some progress has been made by the bean producers in processing cocoa beans prior to export, almost two-thirds of cocoa processing activities are still carried out in the consuming countries. Cocoa grindings in the producing countries have increased from about 5 per cent of the world total between 1928-1942 to about 36 per cent in 1980. World imports of cocoa beans, in part, reflect this development with the imports of beans into the United States of America and the Union of Soviet Socialist Republics having fallen while the imports of semi-processed products (cocoa butter, powder and cake) have increased, particularly from Brazil and Ecuador. However, this trend is not always apparent since, on the other hand, imports of cocoa beans into both the German F.R. and the Netherlands, have risen during the last decade, mainly reflecting increased exports/re-exports of semi-processed cocoa products from those countries. Thus, the broad trend is that while cocoa bean producing countries have become significant suppliers of processed products, Western European countries still dominate the export markets for cocoa butter and powder, in particular the Netherlands and the German F.R.

1. This section heavily relies on data from M.V.D.J. Karunasekera, The Economics of Industrial Processing of Cocoa, World Bank/Commonwealth Secretariat Research Project on the Industrial Processing of Primary Products, June 1981, draft report.

75. Tariffs on cocoa and cocoa products in the major developed economy markets and the Union of Soviet Socialist Republics are shown in Table 4.3. In nearly all cases cocoa beans enter freely into these countries; further most of the processed cocoa products (paste, butter and powder) are also free or face relatively small nominal tariffs. In the European Economic Community, for example, exports from the African, Caribbean and Pacific States (which includes all the African cocoa producers) are duty-free under the Lome Convention. Further, under the European Economic Community's General System of Preferences the least developed countries which are outside the African, Caribbean and Pacific group have also been given duty-free entry for their cocoa products, although they are not significant cocoa producers. For other developing countries, notably South America- the bulk of whose cocoa exports goes to the North American market in any case - the three processed products, paste, butter and powder bear duties of 11, 8 and 9 per cent, respectively, having been given only partial duty reductions, of about one-third of the most-favoured nation tariff, under the Community's General System of Preferences. This concession in the case of cocoa butter is limited to a quota of 21,600 tonnes (in 1980)¹ over and above which the full rate must be paid, although in practice the actual amount of imports is far below this level. In the United States of America, both cocoa beans and cocoa paste are free of tariffs: in the case of powder and butter the most-favoured nation rates were previously very low and in the latter case the duty has been reduced to zero following the Tokyo Round of multilateral trade negotiations. One important restriction that is applied in the United States of America, however, is that if imports of butter or powder from a single country in any year exceed US\$25 million (in 1976, but increasing in relation to their Gross National Product) or 50 per cent of the imports of that product, whichever is the lower, they must pay the full most-favoured nation duty the following year. This ceiling was exceeded by both Brazil and the Ivory Coast during 1979. The only major developed nation where tariffs on cocoa

1. The 1981 quota is 22,000 tonnes. A first tranche of 19,485 tonnes is apportioned as follows: German F.R. 720, Benelux 10,935, France 90, Italy, Denmark, Ireland and Greece 45 each, and the United Kingdom 7,560. Further details can be obtained from Official Journal of the European Communities, L354, Vol. 23.

TABLE 4.3

Tariffs on Cocoa and Cocoa Products in Major Markets

Country	Cocoa Beans	Cocoa Paste	Cocoa Butter	Cocoa Powder
<u>European Economic Community</u>				
Pre-MTN Tariffs				
Most-favoured nation rate	5.4% B	15% B	12% B	16% B
Generalised System of Preferences	-	-	8% (a)	11%
Lomé Convention	0%	0%	0%	0%
Post-MTN Tariffs				
Most-favoured nation rate	3.0% B	15% B	12% B	16% B
Generalised System of Preferences (b)	-	11%	8% (a)	9%
<u>United States of America</u>				
Pre-MTN Tariffs				
Most-favoured nation rate	0% B	0% B	3%	0.37c/lb B
Generalised System of Preferences	-	-	0% (c)	0% (c)
Post-MTN Tariffs				
Most-favoured nation rate	0% B	0% B	0% B	0.37c/lb B
<u>Australia</u>				
Pre-MTN Tariffs				
Most-favoured nation rate	0% B	\$0.018/kg	\$0.037/kg B	\$0.072/kg B
Generalised System of Preferences	-	0%	0%	0%
Post-MTN Tariffs				
Most-favoured nation rate	0% B (d)	0% B	0% B	0% B
<u>Canada</u>				
Pre-MTN Tariffs				
Most-favoured nation rate	0% B	1c/lb B	0% B	15% B
Generalised System of Preferences	-	0%	-	10%
Post-MTN Tariffs				
Most-favoured nation rate	0% B	0% B	0% B	10% B
Generalised System of Preferences	-	-	-	5%
<u>Japan</u>				
Pre-MTN Tariffs				
Most-favoured nation rate	0% B	10-20% B (e)	5% B	30%
Generalised System of Preferences	-	5-10% (e)	0%	15%
Post-MTN Tariffs				
Most-favoured nation rate	0% B	10-20% B	2.5% B	21.5% B
<u>New Zealand</u>				
Pre-MTN Tariffs				
Most-favoured nation rate	0.452c/kg B (f)	30%	0% B	30% B
Generalised System of Preferences	-	-	-	-
Post-MTN Tariffs				
Most-favoured nation rate	0% B	30%	0% B	30% B
Generalised System of Preferences	-	15%	-	15%
<u>Union of Soviet Socialist Republic</u>				
Pre-MTN Tariffs				
Most-favoured nation rate	0%	0%	0%	25%
Generalised System of Preferences	-	-	-	0%

Sources: International Cocoa Organisation "Obstacles to the expansion of cocoa consumption; measures affecting trade", ICC/13/7, 9 July 1979; UNCTAD: various country sources.

- Notes:
- Subject to a tariff quota.
 - Duty-free entry has been granted to the least developed countries for their cocoa products.
 - Subject to a ceiling, see text.
 - A 2 per cent revenue duty was introduced in 1979. The duty is also applicable to coffee.
 - The higher rates are for defatted paste.
 - 30% B for roasted cocoa beans.
- B Indicates that the rate is bound under the General Agreement on Tariffs and Trade.

products are high is in Japan, and here certainly tariff escalation can be shown to exist. Japan, however, has a limited influence on world trade accounting for 1.5 per cent of total world cocoa grindings, and taking 1.8, 4.1 and 2.1 per cent, respectively, of the world's imports of cocoa paste, cocoa butter and cocoa powder.¹

76. Non-tariff barriers exist in many of the major cocoa markets but are not of great importance. Many Western European countries do impose varying degrees of internal taxes on both cocoa beans and powders (Table 4.4). However, in all cases (except Spain) the internal tax is applied to both locally manufactured and

TABLE 4.4

Taxes on Cocoa and Cocoa Products in Selected Western European Countries

Country	Cocoa Beans	Cocoa Paste	Cocoa Butter	Cocoa Powder
Denmark	-	DKr 6/kg	DKr 6/kg	DKr 6/kg
France	FF 0.07/kg(a)	FF 0.085/kg	FF 0.085/kg	FF 0.085/kg
Italy	Lit 180/kg(a)			Lit 170/kg(d)
	Lit 200/kg(b)	Lit 225/kg	Lit 280/kg	Lit 225/kg(d)
	Lit 225/kg(c)			
Norway	-	NKr 7/kg(e)	NKr 7/kg(e)	-

Source: General Agreement on Tariffs and Trade; Tropical Products: Information on the Commercial Policy Situation and Trade Flows, Cocoa and Cocoa Products, COM.TD/W/329, 1981.

Notes

- (a) Ad valorem incidences of these taxes have fluctuated in recent years as a result of fluctuations in cocoa prices and currency exchange rates. For indicative purposes only, incidences of taxes on raw cocoa beans when the import price is at US \$1.18/lb (average cocoa bean prices in 1980) are given below on the basis of average rates in 1980: France 0.6 per cent, Italy 8 per cent. When import prices are higher than US \$1.18/lb, incidences are lower than those indicated above, and vice-versa.
- (b) Roasted, not shelled.
- (c) Roasted, shelled, crushed.
- (d) Cocoa powder containing less than one per cent of cocoa butter.
- (e) New rate with effect from 1 April 1981. The previous rate was NKr 5 per kg.

1. Tariffs on cocoa paste and cocoa powder are also high in New Zealand although again it is not a major market.

imported cocoa products without discrimination and further, it is also applied on tea and coffee. Whilst, theoretically, the tax has the effect of depressing domestic consumption of cocoa products, the very low price elasticity of demand of less than 0.2 would indicate that the actual effect is minimal. Other types of non-tariff barriers which have some significance in an individual country include health and sanitary regulations and internal taxes on unsweetened cocoa powder in Japan; licensing regulations and quotas on beans, paste and unsweetened powder in New Zealand and automatic licensing in Switzerland.

Coffee

77. Coffee is only grown in significant quantities in the tropics. During the 1980-81 season world production totalled 79,000 thousand bags, of which Brazil and Colombia accounted for nearly 40 per cent. Other important producing countries include Indonesia, Mexico and the Ivory Coast and in the Commonwealth, Uganda, Kenya, Tanzania, and India. Approximately three-quarters of world production is exported, with exports from Brazil and Colombia again dominating the world export statistics. In recent years there has been an increasing trend towards the export of coffee in instant form. Between 1975 and 1979 exports of instant coffee from producing countries rose from 111,000 tons (raw coffee equivalent) to 194,000 tons with Brazil accounting for about 80 per cent of the total. On the import side, the major developed economies accounted for some 83 per cent of total imports of coffee beans amounting to nearly US\$11.0 billion during 1979. The European Economic Community and the United States of America were by far the largest markets accounting for 36 and 31 per cent respectively. With respect to imports of all types and forms of coffee into the major developed economies during 1979 unroasted coffee, roasted coffee and instant coffee accounted for 92.3, 1.3 and 6.4 per cent respectively of total requirements.

78. Again, not surprisingly in view of the fact that coffee is a non-competing agricultural product, there are few import duties on raw or unroasted coffee in the major developed markets (Table 4.5). Prior to the Tokyo Round, duty-free access was

TABLE 4.5
Tariffs on Coffee in Major Markets

Country	Unroasted Coffee		Roasted Coffee		Extracts, essences and concentrates	Instant Coffee
	Not freed of caffeine	Freed of caffeine	Not freed of caffeine	Freed of caffeine		
<u>European Economic Community</u> Pre-MTN Tariffs Most-favoured nation rate Generalised System of Preferences Lomé Convention Post-MTN Tariffs Most-favoured nation rate Generalised System of Preferences (a)	7%B - 0%	13%B - 0%	15%B - 0%	18%B - 0%	18%B 9% quota	of 19,100t
<u>United States of America</u> Pre-MTN Tariffs Most-favoured nation rate Generalised System of Preferences Post-MTN Tariffs Most-favoured nation rate	<u>Green Coffee</u> 0%B - 0%B		0%B - 0%B		0%B - 0%B	0% - 0%
<u>Australia</u> Pre-MTN Tariffs Most-favoured nation rate Generalised System of Preferences Post-MTN Tariffs Most-favoured nation rate Generalised System of Preferences	<u>under by-law</u> 0% - 0% (b) 0%	<u>not under by-law</u> A\$0.093/kg 0% A\$0.07/kg 0%	A\$0.165/kg A\$0.124/kg		A\$0.66/kg A\$0.15/kg A\$0.66/kg 0%	
<u>Canada</u> Pre-MTN Tariffs Most-favoured nation rate Generalised System of Preferences Post-MTN Tariffs Most-favoured nation rate Generalised System of Preferences	<u>Green Coffee</u> 0% - 0%B -		2c/1b B - 2c/1b B 0%		7c/1b B - 7c/1b B 3c/1b B	
<u>Japan</u> Pre-MTN Tariffs Most-favoured nation rate Generalised System of Preferences Post-MTN Tariffs Most-favoured nation rate Generalised System of Preferences	<u>Unroasted Beans</u> 0% - 0% -		<u>Roasted Beans</u> 35% - 20% -		25%B 12.5% 20%B 0% 17.5%B -	
<u>New Zealand</u> Pre-MTN Tariffs Most-favoured nation rate Generalised System of Preferences Post-MTN Tariffs Most-favoured nation rate Generalised System of Preferences	0.915c/kg 0% 0%B 0%		50% - 25% 10%		50% - 35%B 25%B	

Sources: Various country statistics

Notes: (a) Least developed countries are eligible for duty-free entry for all items.

(b) A temporary revenue duty of 2 per cent was introduced in 1979 on duty-free items. The duty is also applicable to cocoa.

(B) Indicates that the rate is bound under the General Agreement on Tariffs and Trade.

available in the Canadian, Japanese, Norwegian and the United States markets. In Australia duty-free entry was given to raw and unroasted coffee from Papua New Guinea and from the developing island member states of the South Pacific Forum under the Australian/Papua New Guinea Trade and Commercial Relations Agreement and under the South Pacific Regional Trade and Economic Co-operation Agreement (SPARTECA).¹ As shown in Table 4.7 over 98 per cent of unroasted coffee entered freely into Australia during 1979. However unroasted coffee was dutiable in the European Economic Community at the bound rates of 7 per cent for that not freed of caffeine and 13 per cent freed of caffeine. The non-decaffeinated rate has subsequently been reduced under the Tokyo Round to 5 per cent and a Generalised System of Preferences rate of 9 per cent introduced for decaffeinated coffee. Nevertheless, under the Lome Convention unroasted coffee (and roasted coffee and extracts, etc.) from the African, Caribbean and Pacific States is granted duty-free access and accounts for nearly 40 per cent of total imports (Table 4.7). Duty-free access to the Community is also given to the least developed nations.

79. Within the major developed markets, roasted coffee is only allowed in duty-free to the United States of America and Sweden, although both Canada and Norway granted duty-free treatment to developing countries during the multilateral trade negotiations. In the European Economic Community, the most-favoured nation rates are 18 and 15 per cent, respectively, for roasted coffee freed and not-freed of caffeine, although the Generalised System of Preferences rates are 13 and 12 per cent respectively. In the case of Japan the most-favoured nation rate was 35 per cent prior to the Tokyo Round subsequently reduced to 20 per cent. New Zealand also reduced its bound most-favoured nation rate from 50 per cent as well as granting a Generalised System of Preferences rate of 10 per cent. For Australia the duty is A\$0.124/kg. Interestingly, the share of imports of roasted coffee in total coffee imports in

1. This agreement entered into force on 1.1.81. The member countries enjoying preferential treatment under the agreement are: the Cook Islands, Fiji, Kiribati, Nauru, Niue, Papua New Guinea, Solomon Islands, Tonga, Tuvalu and Western Samoa.

1979 was highest (between 1.9 and 9.2 per cent) in Canada, Sweden and the United States of America where import duties were very low and lowest, at less than 0.5 per cent, in those countries where the import duties were higher, for example New Zealand and the European Economic Community. The percentage of roasted coffee in total coffee traded remains very small.

80. With few exceptions - the United States of America and Sweden - instant or soluble coffee is also dutiable in most developed markets, although some reductions were obtained in the multilateral trade negotiations. The two major markets are the United States of America and the European Economic Community. The bound rate in the Community is 18 per cent although a Generalised System of Preference rate of 9 per cent applies within a quota of 19,100 tons of soluble coffee. However, in addition to the African, Caribbean and Pacific States and the least developed states a number of other countries in the Mediterranean region also have duty-free access to the Community market for this item.

81. The major non-tariff barrier to coffee is the imposition of varying degrees of internal taxes within the European Economic Community and Japan which are shown in Table 4.6. However, the low price elasticity of demand tempers the effect on consumption. At the present time New Zealand also maintains quantitative restrictions on imports of roasted coffee and extracts of coffee, including instant coffee.

82. In the light of the existence of tariff barriers on coffee, trade liberalisation would result in a redistribution of income. The study by Valdes and Zietz¹ which includes under the coffee grouping green coffee (i.e. unroasted coffee beans) roasted coffee and coffee extracts and essences, concludes that "developed country trade barriers effectively protect their domestic coffee roasting industries". If only half of the developing economies

1. Op. cit.

TABLE 4.6

Internal Taxes on Coffee and Coffee Products in Major Markets

<u>Country</u>	<u>Unroasted coffee</u>		<u>Roasted coffee</u>		<u>Instant Coffee</u>	
	Not freed of caffeine	Freed of caffeine	Not freed of caffeine	Freed of caffeine	Not freed of caffeine	Freed of caffeine
Denmark	Dkr 4.35/kg ¹	Dkr 4.35/kg	Dkr 5.4 /kg	Dkr 5.4 /kg	Dkr 13.05/kg	Dkr 13.05/kg
France	-	-	-	-	FF 4.70/kg	FF 4.70/kg
German F.R.	DM 3.60/kg ¹	DM 3.80/kg	DM 4.30/kg	DM 4.55/kg	DM 9.35/kg	DM 9.90/kg
Italy	Lit 500/kg ¹	Lit 525/kg	Lit 625/kg	Lit 656.25/kg	Lit 500/kg	Lit 500/kg
Japan	5%	5%	5%	5%	5%	5%

Sources: Various country statistics, and General Agreement on Tariffs and Trade, Tropical Products: Information on the Commercial Policy Situation and Trade Flows, Coffee and Coffee Products.

Note: (1) Ad valorem incidences of these taxes have significantly fluctuated in recent years as a result of fluctuations in coffee prices and currency exchange rates. For indicative purposes only, incidences of taxes on raw coffee when the import price is at US \$1.74/lb (average coffee bean price in 1980) are given below on the basis of average exchange rates in 1980; Denmark 20 per cent, German F.R. 52 per cent and Italy 15 per cent. When import prices are higher than US \$1.74/lb incidences are lower than those indicated above and vice versa.

TABLE 4.7

Selected Preference - Giving Country Groupings: The Value of 1979 Imports of Tea, Cocoa and Coffee from the World, Developing World and African Caribbean and Pacific Countries

(million US \$)

Imports from	Australia		Canada		European Economic Community		Japan		New Zealand		United States		Total six Groupings	
	World	Developing Countries Total	World	Developing Countries Total	World	Developing Countries Excluding ACP	World	Developing Countries Total	World	Developing Countries Total	World	Developing Countries Total	World	Developing Countries Total
Tea														
Bulk Tea	28.2	28.1(a)	36.2	24.5(a)	692.6	430.1(a)	247.0(a)	12.1	8.7	8.7(a)	175.2	156.0(a)	994.2	928.6
Packaged Tea	1.0	0.9(a)			17.9	15.8(a)	0.2(a)	0.3	-	-				
Instant Tea	0.8	0.8(a)			2.9	1.7(a)	0.3(a)	2.1						
Cocoa														
Cocoa Beans	38.3	38.2(a)	38.5	15.1(a)	1697.9	201.2	1495.5(a)	88.5	17.5	17.5(a)	555.1	552.2(a)	2435.8	2408.2
Cocoa Paste	7.1	5.1(a)	27.9	16.5(a)	178.1	53.9	123.9(a)	15.0	1.0	0.5	194.7	189.6(a)	423.8	402.9
Cocoa Butter	17.0	4.1(a)	19.1	2.6(a)	321.0	137.1	180.4(a)	29.6	2.5	0.4(a)	160.7	144.9(a)	549.9	483.2
Cocoa Powder	8.4	4.3(a)	8.3	0.2	1.1	0.5	-	11.3	0.4	0.1	229.6	100.8	259.1	106.3
Coffee														
Unroasted Coffee	101.6	99.8(a)	293.3	223.3(a)	4773.0	2929.9(b)	1840.1(a)	620.0	24.7	23.0(a)	3819.0	3811.2(a)	9631.6	9545.7
Roasted Coffee	0.3	0.1	36.5	1.7(a)	12.0	2.3	7.2(a)	1.3	0.1	0.0	81.6	80.1(a)	131.8	91.4
Instant Coffee	18.0	7.6(a)	67.1	21.3	204.6	163.0	1.1(a)	123.4	0.1	0.0	257.8	239.2(a)	671.0	462.0
Total above (as a percentage of total imports)	220.7	189.1	526.9	305.2	7901.1	3935.5	3895.7	919.8	55.0	50.2	5473.7	5274.0	15097.2	14428.3
		85.7	57.9	49.3	49.8	49.8	99.1	84.6	91.2	96.3	95.6			
Total developing imports qualifying for duty free entry (as a percentage of developing country imports)		189.0	283.7	3895.7	490.7	4386.4	720.5	78.3	49.6	5173.2	10802.4			
(as a percentage of total imports)		100.0	93.0	49.3	6.3	55.6	92.5	98.8	98.8	98.1	74.9			
		85.6	53.8	49.3	6.2	55.6	78.3	90.1	90.1	94.5	71.5			

Sources: Various country statistics.

Notes: (a) Commodity receiving free entry after multi-lateral trade negotiations, from developing countries. As shown in Table 3.1, 3.3, and 3.5 many of the commodities above receive free entry from all sources.
(b) Of which 43.1(a)

exports of green coffee were to be roasted in the producing country the foreign exchange benefits would be over US\$2 billion (in 1977 US\$). However, this assumes that there are economic reasons for shifting the processing of coffee away from the developed economies. While this is a very complex issue which will not be debated in this paper, it is useful to indicate two points from an OECD report on "The Location of Coffee Processing"¹ which were that coffee processing into soluble coffee yields little in the way of net profitability and that very good sound economic reasons exist for transforming green coffee beans into roasted ground coffee in the consuming countries including marketing advantages, locational determinants and transportation advantages.

83. In conclusion, mention should be made of the International Coffee Organisation and its recent package of economic measures aimed at regulating international coffee prices, in particular the introduction of export quotas. Any agreement which allocates national quotas tends to negate any cost advantage that one producing country may have over another and as such is a movement away from an optimum allocation of resources.

Effects of the Multilateral Trade Negotiations

84. Information on the level of tariffs both before and after the multilateral trade negotiations is given in Tables 4.1, 4.3, and 4.5 for tea, cocoa and coffee. Most-favoured nation and Generalised System of Preferences concessions were made for all three commodities in the Tokyo Round of negotiations.

85. In the case of bulk tea the European Economic Community reduced its bound most-favoured nation rate from 9 per cent to zero. The only major developed economy market which retains duties on bulk tea is Japan. However, Japan has now introduced a Generalised System of Preferences rate of 2.5 per cent on imports of black tea from developing countries, while applying a provisional most-favoured nation rate of 5 per cent. Further,

1. Alex Gordon, The Location of Coffee Processing, Preliminary Draft, OECD, 1979.

duty-free treatment for the least developed countries is granted benefitting many tea exporters including Malawi, Uganda, Tanzania, Bangladesh and Rwanda. For packed tea the most-favoured nation duty on imports to Australia was eliminated and Austria reduced its Generalised System of Preferences rate from 3 per cent to zero. The European Economic Community reduced its bound most-favoured nation rate from 11.5 per cent to 5 per cent: however, since the Community allows duty-free access to all developing countries the cut is of little importance. Only Japan and New Zealand still impose substantial duties on packed tea, although Japan reduced its most-favoured nation rate from 35 per cent to 20 per cent and also introduced a Generalised System of Preferences rate of 14 per cent. New Zealand bound its most-favoured rate at 10 per cent and reduced its Generalised Scheme of Preferences rate to zero. Tariffs on instant tea are again only significant in Japan and New Zealand of the major developed lands (Table 4.1). Canada, Finland, Norway, Sweden and United States of America grant most-favoured nation duty-free treatment while all developing countries have free access under the Generalised System of Preferences to the markets of the European Economic Community, Australia, Switzerland and Austria. With respect to internal taxes on tea (and coffee and cocoa) imposed by certain countries in European Economic Community statements of intent were made as to the future level of these taxes.¹

1. Statements on internal specific taxes applied to tropical products. "The Community has taken note of the observations made by a number of developing countries as regards specific taxes on a number of tropical products. In this respect, the Member States which apply such taxes make the following statements:-

- the Government of the Federal Republic of Germany, which applies specific taxes to coffee and tea, undertakes not to increase the level of these taxes in future;
- the Government of Denmark states that it does not expect to increase the level of the specific taxes which it applies to coffee and tea;
- the Government of the French Republic, which applies specific taxes to tea, cocoa and some spices, undertakes not to increase the level of these taxes in future;
- the Government of Italy, underlining the link with current economic policy in the present situation of that country indicates that it will take this problem into consideration in a sympathetic manner".

86. The effects of the multilateral trade negotiations for cocoa and cocoa products can be seen with reference to Table 4.3. Four developed economies, Australia, Finland, Sweden and the United States of America now apply duty-free treatment to imports from developing countries under either the most-favoured nation or the Generalised System of Preferences tariffs. It should, however, be remembered that due to the "competitive need" provisions the United States Generalised System of Preference treatment did not apply to the Ivory Coast in the case of cocoa butter during 1977 and 1978, nor to Brazil between 1978-80 and the Ivory Coast in 1979 for cocoa powder. Further, in Austria, Canada, Norway and Switzerland, cocoa and cocoa products from developing countries have duty-free access with the exception of cocoa powder. In New Zealand and Japan duties are imposed on the imports of cocoa paste and cocoa powder and the European Economic Community imposes duties on all cocoa and cocoa products. However, since over 82 per cent of total imports of cocoa and cocoa products are admitted duty-free under the Lome Convention and other preference schemes (Table 4.7) the duties are not very significant over and above maintaining an advantage for the African, Caribbean and Pacific States vis-a-vis other developing producers and exporters of cocoa and cocoa products. The same comment regarding internal taxes on tea is applicable for cocoa.

87. For coffee, three developed countries, Sweden, Norway and the United States of America now give duty-free treatment, under the most-favoured nation or Generalised System of Preference tariffs, to imports of all major coffee and coffee products from developing countries. Further, in the Commonwealth countries of Canada and Australia the duties that remain only affect a very small amount of trade (Table 4.7). On the other hand duties remain for a large number of developed economy markets particularly the European Economic Community, Japan, Finland, Austria and Switzerland and are higher on the imports of roasted coffee and instant coffee than on raw or unroasted coffee. An important feature of the tariff treatment applied to coffee in some developed markets is the importance of trade from special preferential sources at reduced or zero rates of duty. During 1979 nearly 40 per cent of all coffee imports into the European Economic Community were eligible for import duty-free from the African, Caribbean and Pacific States of the Lome Convention.

CHAPTER 5

The Oilseeds, Oils and Fats and Oilmeals Sector

88. Oilseeds, oils and oilmeals are competing agricultural commodities being produced in both the developed and developing economies. Developed market economies account for over 40 per cent of the world fats and oils production, this proportion being even higher for oilmeals. With respect to trade, developed economies account for 60 per cent of world exports, and 50 and 75 per cent of world imports of fats and oils and of oilmeals. As such, the major developed economies through various policy changes can exert a considerable influence on the sector as a whole. The extent to which such policies are of a protectionist nature, whether directly or indirectly, forms the subject matter of this chapter.

Tariff Barriers

89. Oilseeds, with few exceptions, are imported duty-free into the major developed markets (Table 5.1). The two exceptions of note are the United States of America and Spain. In the United States of America duties range from US \$7.0 per ton to US \$41 per ton although castor beans, copra, palm kernels and sesameseed all enter without duty. Groundnuts, however, have a duty imposed upon them of US \$154.0 per ton. For Spain, the duties range between 1.5 and 15.0 per cent, although copra, palm kernels, rapeseed and soyabeans all enter duty-free. By contrast, many developing countries impose tariffs on the importation of oilseeds. The highest rates, are imposed by India, Morocco and Pakistan. However, there are exceptions, for example, in Iraq, Mexico and Saudi Arabia where some oilseeds are imported duty-free. One major reason for the relatively high duties by many developing countries is to protect domestic oilseed production. In addition, high duties especially on groundnuts and sesameseed vis-a-vis other oilseeds may be a reflection that these are primarily used in confectionery and not for crushing.

TABLE 5.1

Import Duties on Oilseeds, Oils and Oilmeals; Basic Rates and Concessions Granted During the Multilateral Trade Negotiations by Selected Countries in per cent ad valorem or local currency units

Commodity	Australia % or A\$ per kg	Canada % or cents ¢ per lb	European Economic Community %	India % or R rupees per kg	Japan % or in Yen Y per kg	New Zealand % or in NZ\$ per kg	United States % or in cents ¢ per lb
Oilseeds							
Groundnuts	#0.111	Free B	Free B)	60%	Free B	Free B	¢ 7 B
Copra	Free	"	Free B	"	"	"	¢ 1.87 B
Palm Kernels	"	"	"	"	"	"	Free B
Soyabeans	"	"	"	"	¥2.40 B (Free B)	¢ 22 B (Free B)	¢ 1 B (Free B)
Linseed	"	"	"	"	Free B	Free B	¢ 50 B (¢ 22 B)
Cottonseed	"	"	"	"	"	"	¢ 0.33 B
Castorbeans	"	"	Free	"	Free B	"	Free B
Sunflower	"	"	Free B	"	Free B	"	¢ 0.4 B (Free B)
Sesame	"	"	"	"	Y 6.10 (Free B)	"	Free B
Rapeseed	"	"	"	"	2.5% (Free B)	"	¢ 1 B (¢ 0.4 B)
Other	"	"	"	"	"	"	¢ 0.0.4 B
Fats and Oils							
Lard	Free	¢ 1 B	3% B	...	Y 12 B (Y 10 B)	0-37.5% (Free B)	¢ 3 B
Tallow	"	Free B inedible	7.5% B (5% B)	...	2.5% B (Free B)	"	¢ 0.43 B
Stearin	"	¢ 1 B	12% B (10% B)	...	7.5% B (5% B)	5-20% (B)	¢ 2 B
Fish	"	15% B (7.5% B)	0-6% B	...	10% or Y6	0-5% (B)	0-2.5%
Other Animal	"	17.5% B (12.5% B)	2.5% B (2.0% B)	...	5-7.5% B	0-5% (B)	5%
Fixed Vegetable							
of which: Soyabean	10%	10-17.5% B	5-20%	60% (45% B)	Y 20-28	0-17.5%	22.5% B
Cottonseed	"	(7.5-15% B)	"	60%	(Y 17-20. Y B)	"	¢ 3 B
Groundnut	"	10-13.5% B	5 B - 20%	"	Y 30 B (Y 17 B)	0-12.5% (Free B)	¢ 4 B
Olive	Free	(7.5-15% B)	20%	"	Free B	"	¢ 0-3.8 B
Sunflower	10%	"	5 B - 20%	"	Y 20-28	0-17.5%	¢ 0.9
Rapeseed	"	10-17.5% B	"	60% (45% B)	Y 20-28	"	¢ 0-2.4 B
Linseed	"	10-17.5% B	"	60%	(Y 17-20.7 B)	"	¢ 4.5 B
Palm	Free	(7.5-12.5% B)	4-14% B	"	10% or 10Y	#1.10/22.5%	¢ 0-3 B (¢ 0-0.5 B)
Coconut	"	"	5 B - 20%	"	8% B (7% B)	0-12.5% (Free B)	¢ 1 B (Free B)
Palm Kernel	"	"	5 B - 20%	"	10% or 10Y	22.5-32.5% (22.5% B)	¢ 0.5-3 B (¢ 0-3 B)
Castorbean	"	Free B	5-20%	"	8% B	0-17.5% (Free B)	7.5% B (3% B)
Sesame	"	10-17.5% B	8% B	"	10% B (9% B)	"	¢ 0.7-2.2 B
Other	0-10%	10-17.5% B	5-20%	"	Y 20-28	"	
Boiled etc	0-25%	10-17.5% B	5-20%	"	(Y 17-20.7 B)	"	
Fatty acid	0-25%	(7.5-12.5% B)	14% B (12% B)	"	7.5% B (5% B)	#0-2.60 (B)	¢ 5
Glycerol	0-15%	0-15% B	4.5-8% B (6% B)	"	"	0.35% (Free B)	(3.7-7.9%)
Hydrogenated	Free	0-12.5% B	1.5-6% B	"	2-8% B	0-10%	¢ 0.5 B
Margarine	10-20%	17.5% B	17 B - 20%	"	7.5% B (5% B)	22.5-27.5%	¢ 5 B (9% B)
			25% B	"	25-35%	40%	¢ 7 B

TABLE 5.1 (contd.)

Commodity	Australia % or A\$ per kg	Canada % or cents ¢ per lb	European Economic Community %	India % or R rupees per kg	Japan % or in Yen Y per kg	New Zealand % or in NZ\$ per kg	United States % or in cents ¢ per lb
Oilcake and Meals							
Fish	Free	10% B (5% B)	2.0%	...	Free	20% (a)	Free B
Vegetable							
Soyabean	Free (B)	Free B	Free B	...	5% (Free B)	20% (a)	¢ 0.3 B
Groundnut	"	"	"	...	"	"	"
Cottonseed	"	"	"	...	Free B	"	"
Linseed	"	"	"	...	"	10% (a)	"
Sunflower	"	"	"	...	"	20% (a)	¢ 0.12 B
Palm Kernel	"	"	"	...	"	"	¢ 0.3 B
Coconut	"	"	"	...	"	"	"
Rapeseed	"	"	"	...	"	"	"
Other	"	"	"	...	Free (B)	"	"
					Free B	"	"

Sources: Food and Agriculture Organisation of the United Nations, Committee on Commodity Problems, Preliminary Review of Results of GATT's Tokyo Round of Multilateral Trade Negotiations (1973-1979) CCP: OF 30/3 February 1980.

Notes: () These are the multilateral trade negotiations concessions which will be valid after staging i.e. on 1.1.1987 or earlier if so envisaged in each country's schedule of concessions.

B This indicates that the rate is bound under the general agreements on tariffs and trade. The pre-multilateral trade negotiations are generally those already bound before the Tokyo round; for unbound items, the rates refer to various dates varying from country to country.

Two rates Where two rates are given for vegetable oils the duties usually refer to the degree of refining.

(a) As of 1978 duties have been raised to 25%.

The United States of America and Spain are again the exceptions in the developed world for oilcake and oilmeal imports, imposing duties of between US \$2.6 and US \$6.7 per ton in the case of the former and between 2.0 and 5.5 per cent in the latter case. In other developed countries imports are duty-free. In the oils and fats segment of the market, however, duties are imposed by virtually every country, although in varying degrees. Details for the United States of America, Canada, Japan, the European Economic Community, Australia and New Zealand are given in Table 5.1 although similar rates exist in the major developing country importers, for example, India. A difference between the two blocs of countries is that the tariff schedules of the major developed country importers tend to differentiate between crude and refined oils, (the former being the lower) and further, oils for use in food are often subject to higher rates than those for use in industry. Since the value added in oilseed crushing and refining is low, the higher rates of duty on oils vis-a-vis oilseeds, and on refined vis-a-vis crude oils, do provide protection for the developed economies crushing and refining industry (Table 1.5)^{1,2}

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1. See (a) UNCTAD (1980) The Processing before Export of Primary Commodities: Areas for Further International Co-operation. TD/229/Supplement 2; (b) Stopforth, J. and O'Hagan, J.P. (1967) Structure of the Oilseed Crushing Industry and Factors Affecting its Location, F.A.O. Monthly Bulletin of Agricultural Economics and Statistics; (c) McNerney, J.J. (1981) Coconut Oil Refining World Bank/Commonwealth Secretariat Research Project on the Industrial Processing of Primary Products, June 1981, draft report.
 2. Duties are not just limited to seed oils: they are also charged on commodities which are not traded in any other form, for example, olive oil, fresh oils and animal fats. Since these oils are usually interchangeable with seed oils, the tariff escalation which exists in seed oils represents some disincentive to the importers of non-seed oils to the extent to which escalation encourages the imports of oilseed rather than oils.

90. Whilst there is no doubt that effective protectionism in the oilseeds, oils and oilmeals sector remains, its extent has been reduced as a result of preferential concessions granted by many of the developed economies. In terms of the numbers of countries involved on both the granting and receiving side, the Generalised System of Preferences, under which preferential treatment is given on a non-reciprocal basis by fifteen developed countries and the European Economic Community to some 150 developing countries, is the largest amongst preferential schemes. Further, African, Caribbean and Pacific States have under the Lome Convention free access to the European Economic Community market for all vegetable oils (oilseeds and oilmeals already being allowed free access from all sources). British Commonwealth suppliers also gain free entry for crude oils and also pay lower duties for refined oils, marine oils and animal fats for entry to the Canadian market.

91. An estimate of the value of trade covered by these schemes for selected products is given in Table 5.2, using as a base 1978 data. However, it must be stressed that the Table shows the potential benefit that could accrue to the developing countries who benefit from these schemes, since not all of the benefits have actually materialised. This is due to a number of additional factors including the failure to claim preferential treatment, difficulties in meeting rules of origin requirements and specific limitations within individual schemes. For the group of commodities selected (coconut oil, groundnut oil, palm kernel oil, palm oil and soyabean oil) imports into the European Economic Community, for example, from developing countries, excluding the African, Caribbean and Pacific States, enjoying preferential treatment, accounted for about 36 per cent of total imports (including those from the developed economies). If preferential imports from the African, Caribbean and Pacific states are included the figure rises to 59 per cent of total imports. In the case of the United States of America, duty-free entry of coconut oil is granted under the Generalised System of Preferences-all supplied by developing countries - and accounted for 72 per cent of the total value of imports of these

TABLE 5.2

Selected Preference - Giving Country Groupings: The Value of 1978 Imports of Coconut, Groundnut, Palm Kernel, Palm and Soyabean Oils from the World, Developing World and African, Caribbean and Pacific Countries. (million US\$)

Imports from	Canada		European Economic Community		Developing Countries Total	Japan		United States		Total Four Groupings		
	World	Developing Countries Total	World	Developing Countries excluding A.C.F.		A.C.P.	World	Developing Countries Total	World	Developing Countries Total	World	Developing Countries Total
Coconut Oil	12.8	11.4	217.2	128.4	26.3	154.7	18.5	18.5 ^a	281.1	281.1	529.6	465.7
Groundnut Oil	5.9	-	340.0	98.7 ^a	163.3	262.0	0.3	- ^a	- ^a	- ^a	346.2	262.0
Palm Kernel Oil	4.5	3.7	106.9	37.8	56.6	94.4	4.8	4.8 ^a	40.0	32.2 ^b	156.2	135.1
Palm Oil	12.5	11.9	425.9	319.7	64.1	383.8	83.7	83.6	74.3	74.1 ^b	596.4	553.4
Soyabean Oil	16.1	- ^a	280.0	2.0	-	2.0	1.9	- ^a	4.2	3.4	302.2	5.4
Total above	51.8	27.0	1,370.0	586.6	310.3	896.9	109.2	106.9	399.6	390.8	1,930.6	1,421.6
(as a percentage of total imports)		52		43	23	66		98		98		74
Total qualifying for preferences		27.0		487.9	310.3	798.2		83.6		281.1		1,189.9
(as a percentage of developing country imports)		100.0		83.1	100.0	89.0		78.2		71.9		83.7
(as a percentage of total imports)		52		36	23	59		76		70		62

Source: Food and Agriculture Organization of the United Nations, Committee on Commodity Problems, Preliminary Review and Results of G.A.T.T.'s Tokyo Round of Multilateral Trade Negotiations (1973-1979) CCP: OF 80/3 February 1980.

Notes: (a) Most-favoured nations dutiable commodities not granted any generalised system of preferences. Specifically: - Coconut Oil in Japan the m.f.n. rates for both crude and refined is 10 per cent or 10yen/kg to be reduced to 9 per cent by 1.1.'87 as a result of the Tokyo round of negotiations; Groundnut Oil in the European Economic Community at 5-10 per cent crude and 8-15 per cent refined, in Japan at 17-23 yen/kg for both, and in the United States at US\$ 4 per lb; Palm Kernel Oil in Japan at 8 per cent for both crude and refined; and Soyabean Oil in Canada at 10.0 per cent and 17.5 per cent respectively for crude and refined to be reduced to 7.5 per cent at 15.0 per cent by 1.1.'87 as a result of the Tokyo round of negotiations, in Japan at 17-23 yen/kg for both crude and refined and in the United States at 22.5 per cent for both.

(b) Commodity receiving free entry under most-favoured nation rates.

oils.¹ In Canada, half of the importation of these oils enjoyed preferential treatment while in Japan, whilst preferential treatment was only given to palm oil, this accounted for 76 per cent of the total import value of these selected commodity oils. Thus, during 1978 for the above country groupings i.e. Japan, the United States of America, Canada and the European Economic Community 74 per cent of the value of imports of these oils came from the developing countries. Within this total about 84 per cent of imports of these oils from developing countries were entitled to preferences, seven per cent being allowed duty-free entry under the most-favoured nation schedules.

Non-tariff Barriers

92. Within the oilseeds, oils and oilmeals sector many restrictions exist, which are summarised by country in Table 5.3. Although these occur in both developed and developing countries the effects of these on developing countries are usually more significant. Four major groupings can be distinguished, namely restrictions on imports, on exports, on production and on consumption of which the first category is the most important.

93. In the world trade of oils and fats import levies constitute a significant import barrier. Within the European Economic Community, for example, a variable levy system is applied to olive oil, lard and butter under the common agricultural policy. During the last quinquennium the ad valorem equivalent of these levies has varied between 10 and 100 per cent for olive oil and between 200 and 300 per cent for butter. It should also be noticed that additional levies may be imposed if situations arise which prejudice Community products. Similar variable levy systems are also applied by both Spain and Switzerland. Import quotas are also often applied to this sector, notably by the developed countries for

1. Since 1st January 1981 as a result of the multilateral trade negotiations imports of coconut oil into the United States of America are free of duty on a most-favoured nation basis.

TABLE 5.3
Summary of Selected Measures, excluding Tariffs Affecting the Oilseeds, Oils and Fats and Oilmeals Sector, by Selected Countries

Measures	Oilseeds or Related Products	Oilseeds	Vegetable Oils	Margarine	Oilmeals	Butter	Lard
On Imports							
Discretionary	Bangladesh, India	Japan groundnuts	Portugal olive oil			Austria, Canada	Austria Norway Switzerland
Licensing	Rep. of Korea, Pakistan	Japan, castor beans	Japan, coconut, palm	Japan	E. E. C., Japan	Finland, Norway	
Health and Sanitary Regulations	Australia, Canada	groundnuts, soyabeans	and palm kernel oils		U. S. A.		
Imports Levies		Spain, groundnuts, soya Switzerland	Spain, Sweden, Switzerland		Spain, Sweden Switzerland	Switzerland Finland, E. E. C.	E. E. C.
Imports Prohibition				Canada			
Import Quotas	Algeria, Bangladesh Egypt, India, Iraq Rep. of Korea, Mexico Pakistan, Peru	Switzerland, U. S. A. groundnuts and Japan, groundnuts		U. S. A. in both only for butter substitutes	Switzerland	U. S. A.	
Import Restrictions						Switzerland Portugal	
State Trading	Algeria, Bangladesh Egypt, India, Iraq Iran, Morocco, Mexico Pakistan, Peru	Portugal	Portugal, all except olive oil		Norway incl. fishmeal, Portugal Philippines soyabeans meal	Switzerland Portugal Japan	
On Exports							
Export Aids	U. S. A.	E. E. C. rapeseed sunflower seeds	E. E. C. olive oil linseed, soya bean and sun- flower seeds	Uruguay	Uruguay soyabeans meal	Austria, E. E. C. Finland, Sweden	E. E. C.
Exports Controls	The Argentine, India						
Export Prohibition		Brazil, babassu nuts castor beans, cottonseeds					
Export Quotas		Brazil, soyabeans India, groundnuts	Brazil, soyabeans oil		Brazil, soyabeans meal India, groundnut cake		
Export Taxes	The Argentine, Brazil India, Malaysia, The Philippines						
State Trading		India, groundnuts sesameseed	Brazil, castor oil India, castor oil		India, groundnut cake Peru, fishmeal		
On Production							
Deficiency		E. E. C. rapeseed sunflowerseed, Spain soyabeans, Japan	E. E. C. olive oil				
Payments		rapeseed, soyabeans E. E. C. castorbean cottonseed, linseed soyabeans	Spain, olive oil				
Production Aids							
Production Restraints		Switzerland, rapeseed U. S. A. groundnuts					
Support/Intervention Prices		Switzerland, rapeseed Portugal, safflowerseed sunflowerseed, Spain rapeseed, safflowerseed sunflowerseed, Sweden rapeseed, U. S. A. groundnuts	Portugal olive oil				Austria Canada, E. E. C. Finland U. S. A.
On Consumption							
Consumption Restraints			Spain, soyabeans oil				
Consumer Subsidies	Morocco, Mexico Saudi Arabia, Venezuela	Switzerland, rapeseed E. E. C. olive oil Portugal all except olive oil		Norway		Austria, E. E. C. Switzerland Finland	

Source: Food and Agriculture Organisation of the United Nations, Committee on Commodity Problems. Intergovernmental Group on Oilseeds, Oils and Fats, Protectionism in the Oilseeds, Oils and Oilmeals Sector, CCP QF81/2, 1981.

example, butter exported from New Zealand to the European Community. In the United States of America, butter and butter oil imports are limited to under 900 tons per annum. Further, its imports of shelled groundnuts are restricted to 775 tons per annum (although the import quota for the 1980/81 marketing year was raised to 91,700 tons following the fall of the domestic harvest from 1.8 million tons to 1.0 million tons between 1979 and 1980). Import quotas are also fixed on groundnuts by Japan, by Switzerland on oilseeds and oilmeals and by Austria, Canada, Finland, Japan, Norway, Portugal and Switzerland on butter. Health and sanitary regulations on the oilseeds and oils and oilmeals sector can also affect the imports of these commodities, one example being the enforcement of tighter regulations than present on oilmeals to alleviate the problem of aflatoxin. It should again however be stressed that such non-tariff measures are not confined to the developed world. Many of the major developing country importers impose global quotas, and often imports are controlled through a state monopoly.¹ State trading controls on imports are also common in all centrally planned economies.

94. There also exist a number of influences on the international trade through export subsidies, for example, the European Economic Community export programme applicable to butter, lard, rapeseed, sunflowerseed and olive oil. The butter programme has required heavy subsidisation: over the past four years exports averaged over 300,000 tonnes per year (of which one-fifth was for food aid usage). The resultant low priced exports have been in serious competition in world markets with traditional dairy exporting countries. Further, the low world prices may have hindered the establishment and growth of dairy industries in developing countries. There have also been internal disposal subsidisations accounting for 260,000 tonnes

1. Of the major importing developing countries, Algeria, Bangladesh, Egypt, India, Iraq, Iran, Morocco, Mexico, Pakistan and Peru all control the importation of oilseeds, oils and oilmeals through state monopolies.

and 330,000 tonnes during 1978 and 1979.¹ However export subsidies have only been paid in recent years to small quantities of rapeseed and olive oil. The other major example of export subsidies in developed economies is in the United States of America. This is done through the Commodity Credit Corporation (CCC) which provides financial assistance to facilitate export trading. Commodities which have enjoyed some assistance include groundnuts, groundnut oil, soyabeans and soyabean oil. The concessional trade programmes notably PL 480 and AID also contain elements of export aid. Between 1976/77 and 1978/79, the value of soyabeans, oils, fats and oilseeds exported under these programmes accounted for four per cent of the total value of export earnings of these commodities, about US\$300 million per annum. Measures on exports also also applied in developing countries, for example, export quotas and discretionary licensing. Further, as countervailing measures, many impose export taxes on oilseeds, oils and oilmeals, examples being the Argentine, Brazil, Indonesia, Malaysia and the Philippines. In some cases as the degree of processing increases these taxes tend to fall and, as such, act as an incentive towards domestic processing.

95. Several countries take measures which offer domestic producers a price significantly above normal world levels, or subsidise consumption of domestically produced materials, and thereby act to reduce import requirements and increase export availabilities. Again the most obvious example can be taken from the common agricultural policy of the European Economic Community. In the case of butter, domestic prices within the Community were about 75 per cent higher than international prices at the end of 1980. In fact the Commission of the European

1. These include regulations on the sale of butter at a reduced price to the army and similar forces: on the sale of butter at a reduced price to non-profit-making institutions and organisations: on the sale at reduced prices of intervention butter for direct consumption as concentrated butter: on the sale of butter at reduced prices to persons receiving social assistance: and on the granting of a consumer subsidy for butter.

Communities itself estimated that during the year over 700 million EUA were spent on support policies for butter.¹ This includes aid for intervention buying, aids to private storage and consumer subsidisation (but excludes export subsidies). In the case of olive oil, production is also supported with the help of producer support prices: and it is likely that the cost of support will increase following the inclusion of Greece and probably Spain into the Community. One estimate² is that the cost of olive oil support policy could increase from 500 million EUA to 1400 million EUA. Domestically produced oilseeds are also supported by the European Economic Community. Since 1967/68 rapeseed and sunflower seed were covered, the regime being extended in the 1970s to include cotton seeds, soyabeans, linseed and castor beans. Although production for the latter group remains small, production of the former group has increased totalling, about 400,000 tonnes oil equivalent and costing over 250 million EUA in 1980. Since prices guaranteed to internal producers are substantially above world market prices a deficiency payment, accounting for the difference, is made to the producer without limitation.

96. In the United States of America butter and oilseeds figure predominantly in farm supports. In 1979/80 the cost of the Federal budget to support the dairy programme amounted to US\$1300 million, of which US\$342 million was taken by butter.³ Further, the costly United States policy on groundnuts reserves the market for domestic producers. In order to curb the costs of support (while still reserving the market) the policy was revised in 1977 and now includes a two-price system which, while maintaining a high price for direct consumption, brings the price of groundnuts used for crushing into closer alignment with actual market conditions. As a result, the cost to the Federal budget has substantially fallen from US \$103 million to US\$30 million between 1976 and 1979. Support is also given to soya-bean producers in the United States of America although, in the

1. European Agricultural Guidance and Guarantee Fund (FEOGA) Draft 1981 Budget, October 1980.

2. Congress of the International Association of Seed Crushers, Dakar, April 1980.

3. United States Dairy Situation, December 1980.

last decade, the loan rate has generally been lower than the market price. Japan, Spain, Sweden and Switzerland also operate price support programmes for oilseeds at levels above world market prices, as does Spain for olive oil.

Quantitative Assessment

97. Some attempts have been made to assess quantitatively the effect of production policies on the levels of international trade although only rough guesstimates are possible. The most recent of these was the International Food Policy Research Institute's¹ study which covered the major oilseeds, oils, fats and oilmeals (excluding butter). For the sector as a whole it is estimated that if OECD countries reduced barriers to entry by 50 per cent, the potential increase in the value of world exports of these commodities would be US\$830 million per annum (in terms of 1977 US\$) with benefits accruing predominantly to the United States of America; however, the potential increase of export revenues for all developing countries with a population of over four million in April 1975 would have amounted to over US\$380 million, 7 per cent of the value of their exports. It is stressed in the study that these potential increases which would take place are separate of any growth that may occur independently of liberalisation. Further, and more importantly, "the structure of protection on oilseeds and their derivatives in most OECD countries encourages importing and domestic processing of oilseeds at the expense of indigenous processing (and exporting) by developing countries. Thus, the basic-period trade levels from which the model calculates the effect of trade liberalisation are "artificially" low. The long-run effects of a restructuring of OECD member protection systems on oilseed products could result in much greater benefits to developing member countries than those calculated by the model." Some of the export revenue increase potential would come from increased prices as a result of an increase in import demand after liberalisation, and thus would increase the outlays of foreign exchange for the importers

1. Valdes and Zietz op. cit.

of oilseeds, oils and oilmeals in developing countries. As a result, the United States of America would increase its share owing to its dominance of world soyabean exports, the major commodity of the oilseeds group, and its dominance of the world market for soy cake, the major oilcake in world trade. Nevertheless, the analysis does suggest that there are significant gains to be obtained from trade liberalisation in many developing countries in addition to generating net welfare gains for the trade liberalising countries.

The Case of Butter

98. The above study, unfortunately, does not include butter which is the most subject to non-tariff barriers, the effects of a reduction being virtually impossible to evaluate quantitatively. With respect to supply, price support schemes for milk in developed economies have tended to stimulate milk production and thus butter production. The effect of any reduction of prices, whilst being a disincentive to increasing milk output, may be limited owing to the need to maintain farm incomes coupled with the cost of switching out of dairy production. On the demand side of the equation high consumer price is the basis for price support arrangements for butter. If the price support systems were altered to give lower prices to producers and to allow consumers to benefit, production may fall and consumption may rise resulting in world market prices being nearer to the supported levels.

99. More specifically, an important concern with respect to butter is the relationship between the European Economic Community and New Zealand. For the Community, the major problem that has had to be faced during the last decade was the persistent and increasing imbalance between supply and demand due essentially to steadily increasing production and static consumption, the result of prices being supported at relatively high levels. Some European Economic Community members have not welcomed the import of large even if decreasing, quantities of butter, (120,000 tonnes in 1979, 94,000 tonnes in 1981 and 92,000 tonnes in 1982), from New Zealand, under Protocol 18. At the

At the insistence of the United Kingdom, the Community has recognised the special case of New Zealand but its position has not been helped by increased production in the United Kingdom itself.¹

Effects of the Multilateral Trade Negotiations

100. In concluding this section on oilseeds, oils and fats and oilmeals, the progress made as a result of the multilateral trade negotiations should be noted. Twenty-seven countries, including the European Economic Community have undertaken to cut some tariffs within the sector. In the case of oilmeals and oilseeds, the concessions tended to be the binding of rates that were already at zero prior to the negotiations. More concessions were granted in the oils and fats division reducing, to some extent, the problem of tariff escalation. With respect

1. Prior to joining the European Economic Community the milk producer price received in the United Kingdom for milk being manufactured into butter was lower than for any other manufactured milk product and much lower than milk utilised for liquid consumption. Traditionally, milk production was primarily geared to supplying the domestic liquid market throughout the year. Given the seasonality of milk supply, milk was only available for utilisation into milk products during the summer months. As a result, butter (and cheese) was imported in large quantities to supply the domestic market in the United Kingdom, it being only 30 per cent sufficient, and the capacity for butter production was low. However, pursuant to joining the Community, the United Kingdom (and to a lesser degree the Republic of Ireland) was aware of the possibilities of a gap in the market arising from a reduction of imports from non-Community countries, for example, Australia. In addition, butter manufactured in the United Kingdom could be sold into intervention at high prices, if a market could not be found elsewhere. The result was an increase in the domestic capacity for butter production. Between 1975 and 1979 butter production in the United Kingdom rose from 49,000 tonnes to 161,000 tonnes an increase of 228 per cent. By comparison, corresponding increases in France, and the German F.R. the two largest producers were 9 per cent and 5 per cent. Figures for other major butter producers in the Community during the period were Netherlands (-1 per cent), Denmark (-6 per cent) and Ireland (+55 per cent). Further, the United Kingdom has had difficulty in competing with traditional importing countries and had to sell large quantities into intervention, even under an advantageous pricing system.

to the Generalised System of Preferences a very approximate assessment of the value of trade covered in selected countries by the schemes of the United States of America, Canada, the European Economic Community and Japan has been given in Table 5.2. In recent years only a few commodities of importance for developing countries have been added to some schemes and margins of preference have only been increased in a small number of cases. Infact unless Generalised System of Preferences rates are adjusted downwards these margins may be eroded with the implementation of the multilateral trade negotiation's concessions on the most-favoured nation rate.¹ Regarding non-tariff barriers, there have been improvements in the General Agreement on Tariffs and Trade rules regulating trade. More specifically, the quota imposed by the European Economic Community on the importation of fatty acids and fatty alcohols has been abolished. In addition, the International Dairy Arrangement has formalised and extended existing arrangements under the General Agreement on Tariffs and Trade and OECD which had established minimum export prices for butter, butter fat and skim milk powder. However, as was noted in the case of livestock, no major break-through has occurred and problems remain.

1. See Food and Agriculture Organisation of the United Nations, Committee on Commodity Problems, Review of the Main Preferential Schemes in the Oilseeds, Oils and Oilmeals Sector, CCP: OF 81/3 January 1981.

CHAPTER 6

Conclusions

101. Attention in the international fora is being increasingly devoted to the problems and affects of agricultural protectionist policies of the major market economies on trade, production, consumption and employment both in the developed and developing world. While much liberalisation of trade for semi-manufactured and manufactured goods has taken place through both the multilateral trade negotiations and through the adoption by the developed economies of a series of Generalised Schemes of Preference, little has been achieved in liberalising developing countries trade in agricultural products. This paper has examined and reviewed some of the more significant measures of agricultural protection that have been applied in specific agricultural sectors, of particular interest to both developing and developed Commonwealth countries, by the major market economies. Although, as previously noted in the introduction, the review is selective with respect to the agricultural sectors examined, the range of products dealt with is representative of a variety of agricultural systems and production and trade interests, sufficient to allow broad conclusions at least to be drawn in summary.

102. The paper has demonstrated that the agricultural sectors of the major industrialised countries of the northern hemisphere have been and remain heavily supported. References to endeavours to quantify the extent of agricultural protection have been particularly included in order to stress the size of the problem, although since the wide variety of measures applied makes accurate quantification difficult one must be careful not to lay too much emphasis on the actual numerical results. The extent of the support substantially differs both between countries and between those agricultural products examined. Not surprisingly, competing agricultural products are the most severely affected. However, for products which are non-competing at the raw material stage, in a number of instances, the extent of protection increases with the degree of processing.

103. The non-competing agricultural commodities analysed, if exported to major markets without any or with little processing, for example tea, cocoa, coffee and oilseeds have imposed upon them few, if any, tariff barriers. An important exception is the importation of unroasted coffee into the European Economic Community, but even here exports from the African, Caribbean and Pacific states which account for a significant percentage of the total (Table 4.7) and from the least developed nations enter duty-free. Internal taxes on the three beverages are the most important type of non-tariff barrier but given the very low price elasticity of demand, coupled with the fact that, internal taxes are both common and applied at similar rates to all three commodities, the actual effect on consumption is not great.

104. For the competing agricultural goods, especially sugar and to a lesser extent livestock, the measures of protection imposed by the major developed economy markets are often substantial. In addition, evidence is given in the respective chapters to suggest that one detrimental result of such heavily supported domestic and regional policies has been their effect on the levels of world prices in specific years for sugar, beef and dairy products through the depositing of surpluses that have accrued on the residual world market. However, any assessment must take account of significant exceptions such as the treatment of sheepmeat and butter from New Zealand to the European Economic Community, and sugar and beef imports under the Lome Convention.

105. A wide range of measures designed to restrict the entry of certain processed products exists in the major developed markets, both tariff and non-tariff measures. In the oils and fats segment of the oilseed sector, for example, tariffs are imposed by the major developed economy markets which differentiate between crude and refined oils. Further, as indicated in Table 5.3, a plethora of non-tariff measures exists in this sector ranging from variable import levies, import quotas, export subsidies, to measures which offer domestic producers a price significantly above normal world levels. Since there is increasing emphasis in the international arena towards the encouragement of processing in developing countries it is necessary to ensure that access to

major developed markets remains open and that tariff escalation is avoided. However, again care must be exercised to avoid oversimplified conclusions. For example, as was shown in Table 5.2 for five selected oils (coconut oil, groundnut oil, palm kernel oil, palm oil and soyabean oil) imported into major developed economy markets, about 84 per cent of the import of these oils from developing countries (which account of about three-quarters of total imports) were entitled to preferences.

106. After having been virtually ignored during the earlier rounds of multilateral trade negotiations some trade improvements have taken place within the agricultural sector during the Tokyo Round. However, it is necessary to distinguish between those products categorised as tropical products vis-a-vis agricultural products. Most of the improvements occurred in the Group "Tropical Products", (in effect non-competing agricultural products) where of the 4,400 dutiable items at the tariff-line level subject to requests for concessions, most-favoured nations and generalised system of preferences concessions were granted with respect to some 2,930 tariff items, rather than in the Group "Agriculture" incorporating temperate zone agricultural products such as processed fruits and vegetables, vegetable oils, sugar and sugar products and tobacco where little progress was made¹. With respect to non-tariff barriers, while agreements on technical barriers to trade, bovine meat and dairy products were concluded² it remains to be seen how effective these agreements will be in aiding trade liberalisation. This is especially true at the present time where there are instances of further measures of agricultural protection being introduced. In the European Economic Community for example exports subsidies for beef have recently been granted and in the United States of America a levy on imports of raw sugar has been re-introduced as a result of the falling world price of sugar. These examples add to the increasing evidence that for certain agricultural products agricultural protectionist measures have, during the last quinquennium, been increasing.

1. For further details see General Agreement on Tariffs and Trade, (1979) The Tokyo Round of Multilateral Trade Negotiations, April, 1979.

2. See paragraphs 67 and 100 for details.

107. One issue that continually re-occurs in the agricultural sectors examined is that of preferential treatment. Often incorporated within the support policies of major developed economy markets are a range of concessions granting preferences to individual countries and/or groups of countries which have been "traditional" suppliers of particular agricultural products. Thus, the umbrella of support measures often covers a wide range of different preferential groups whose commodity exports are to some extent supported. For such groups maintenance of their preferential margins vis-a-vis other suppliers may be regarded by them as of greater importance than abating the level of protection.

108. A related point important both in terms of preferential treatment and international commodity agreements concerns the granting of quotas by developed economies for many of the agricultural commodities examined. Allocation of quotas is often based upon political considerations coupled with a "traditional" or "historical" component of export levels and not solely upon criteria of efficiency of production. Any allocation by this method attempts to maintain the status quo, cost advantages of some countries being, to some extent, negated through the allocation of quotas. One result of quota determination by factors other than efficiency criteria could be a movement away from conditions of sectoral 'Pareto optimum' and perfect competition and towards a situation of imperfect competition and protectionism.

109. A number of possible avenues can be pursued to liberalise further the trade in agricultural products given the necessary political will. In the case of tropical non-competing agricultural products there is little justification for the continuation of the remaining barriers on exports from developing countries. For competing agricultural products, however, the position is more complex, in part a result of the competition between low and high-cost agricultural producing developed economies. Certainly further efforts should be made to prevent exports, either of raw materials or processed products, from developing economies to developed markets being adversely affected by unfair developed country competition even if this means institutionalising

existing preference schemes. In addition, joint discussions should take place between the low-cost agricultural producers in developed economies and industrialised countries in order to achieve a trade-off and thus trade expansion of agricultural goods vis-a-vis industrial goods. Further work should be carried out on examining measures of agricultural protection in developing countries in order to promote both inter-developing country trade as well as improving access for the developed countries.

A Note on Tariff Escalation

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A Note on Tariff Escalation

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A Note on Tariff Escalation

I. Introduction

1. Commodity exports are of primary importance to developing countries: in 50 of them the share of commodities in total exports averaged 89 per cent (1980). Increased domestic processing of commodities could therefore be considered prima facie as a potentially important source of domestic income, employment and foreign exchange. The expansion of these activities depends on several factors; the escalation of tariffs with the degree of processing remains an important constraint.

2. A recent study has concluded that a 50 per cent reduction in import barriers by 18 OECD countries against 99 processed and unprocessed agricultural products (mainly the former) would result in exports from 56 selected developing countries expanding by US\$3 billion annually (in 1977 values), an increase of 35 per cent¹. Moreover the World Bank has stated that removal of tariffs on processed varieties of eight agricultural products in which the developing countries have a significant share of world exports would boost developing country export revenues by more than the Generalised System of Preferences (GSP) has done². Another study has concluded that if the mineral ore output of the developing countries was processed locally up to the metal bar stage, it would bring in an additional US\$10-12 billion annually (1975 values)³.

3. During the Tokyo Round the developing countries requested (i) reductions in the degree of tariff escalation and adoption of the 'Swiss Formula' for tariff reductions (under which higher tariffs would be cut proportionately more than lower

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1. A Valdes, J. Zietz, Agricultural Protection in OECD Countries: Its Cost to Less Developed Countries, International Food Policy Research Institute, 1980.
 2. The World Bank, "World Development Report", 1981.
 3. B. Varon, "Enough of Everything for Everyone, Forever?" in Finance and Development, September 1975, p.20.

tariffs¹), and (ii) the exemption from most-favoured nation (mfn) tariff reductions of products in which the developing countries enjoyed preferences, so as to maintain the margin of those preferences. These two requests were considered beneficial by the developing countries in approaching the tariff escalation issue and expanding trade in processed products. But the exclusion from the Multilateral Trade Negotiations of many processed products and other products that are of special interest to the developing countries, such as textiles and leather products, meant that the final outcome fell far short of expectations.

4. In this note an attempt will be made to examine the issues associated with tariff escalation facing the exports of developing countries.

II. Issues Relating to Tariff Escalation

(a) Trade in Processed Products

5. There are no systematic data on world trade in processed products with which to evaluate the incidence of tariff escalation. However, the import data of developed market economies, relating to 25 commodity chains in two selected periods (1970-72 and 1978-80), presented in Table 2.1, show several important features of the processed commodity trade. The proportion of these commodities imported in raw form by developed countries from developing countries declined marginally overall (based on value data). However, in several product groups of interest to developing countries - cocoa, oilseeds and oils, leather and iron - the proportion declined significantly. In several others - coffee, meat, rubber, manganese and phosphates - though the

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1. The Swiss Formula can be expressed algebraically as follows. $Z = AX/A + X$, where A is the coefficient agreed upon; X is the initial rate of import duty; and Z the reduced rate of duty. The European Economic Community, Nordic countries and Australia used a value of 16 as the coefficient A, while the United States, Japan and Switzerland used 14. If this formula had been used without exception, it would have reduced tariff escalation, since processed products are associated with relatively high tariffs; but it was not.

proportion declined, it remained over 85 per cent. Analysis of the developed countries' markets for processed products shows that for fourteen commodity groups the developing countries market share declined while in the remainder the gains appeared to be marginal, except for fish and leather products.

(b) Structure of Tariffs in Developed Countries

6. Tariff concessions granted by industrial countries at the conclusion of the Tokyo Round covered nearly 27,000 tariff lines, representing about three-quarters of all dutiable headings and sub-headings in agriculture and industry¹. This was a notable achievement but the overall figure conceals considerable variations in the level of concessions granted on the commodity processing chains of interest to developing countries. Depending on the distribution and depth of tariff cuts with respect to the different stages of processing, it seems likely that the Multilateral Trade Negotiations increased rather than diminished the degree of protection in these products.

1. See General Agreement on Tariffs and Trade, The Tokyo Round of Multilateral Trade Negotiations, II-Supplementary Report, January 1980.

TABLE 2.1

The Structure of Developed Countries Imports of Selected Commodities in Raw and Processed Forms from Developing Countries and the World (Averages 1970-72 and 1978-1980)

Product by Stage of Processing	Percentage Distribution of Imports by Stage of Processing				Market Share of Developing Countries	
	Average 1970-72 From LDCs	Total Imports	Average 1978-80 From LDCs	Total Imports	Average 1970-72	Average 1978-80
1. Cocoa						
Cocoa beans (0721)	83.2	53.0	73.6	46.7	98.2	97.5
Powder (0722)	1.3	3.5	2.9	7.0	22.5	26.0
Butter & Paste (0723)	14.9	18.5	17.7	20.6	51.0	53.1
Chocolate (073)	0.6	25.2	5.8	25.7	1.4	13.9
2. Coffee						
Green, roasted (0711)	97.9	94.4	96.2	92.7	97.9	95.3
Extracts, essences (0713)	2.1	5.6	3.8	7.3	35.1	48.2
3. Coconut						
Copra (2112)	59.6	55.3	24.9	23.5	98.3	99.5
Coconut oil (4223)	40.4	44.7	75.1	76.5	82.5	91.8
4. Fish						
Fresh, simply preserved (031)	86.7	78.3	87.1	83.4	29.3	37.1
Prepared (032)	13.3	21.7	12.9	16.6	16.2	27.5
5. Fruit						
Fresh (051)	86.3	76.2	77.0	72.8	41.1	39.3
Preserved (053)	13.7	23.8	23.0	27.2	20.8	31.5
6. Groundnuts						
Groundnuts (2211)	54.3	58.8	32.3	56.5	68.8	27.6
Groundnuts oil (4214)	45.7	41.2	67.7	43.5	82.6	75.1
7. Meat						
Fresh, frozen (011)	77.2	81.6	71.8	85.6	20.7	9.8
Prepared (013)	22.8	18.4	28.2	14.4	27.2	22.9
8. Palm kernel						
Palm kernel (2213)	54.5	53.6	22.4	20.0	100.0	98.3
Palm kernel oil (4224)	35.5	46.4	77.6	80.0	63.5	85.3
9. Sugar						
Raw beet & cane (0611)	54.7	50.9	50.7	45.0	64.2	59.5
Refined (0612)	45.0	41.5	48.2	40.6	64.7	62.8
Sugar preparations (062)	0.3	7.6	1.1	14.4	2.5	4.0
10. Tobacco						
Unmanufactured (121)	96.1	79.7	94.4	68.3	33.7	44.5
Manufactured (122)	3.9	20.3	5.6	31.7	5.5	5.7
11. Vegetables						
Fresh (054)	88.4	72.7	86.6	72.6	27.9	29.3
Prepared, preserved (055)	11.6	27.3	13.4	27.4	9.8	12.0
12. Cotton						
Raw Cotton (2631)	45.6	24.4	16.3	11.9	69.7	52.0
Cotton Yarn (6513)	4.0	4.2	7.6	6.2	35.3	46.4
Cotton fabrics (652)	13.6	22.2	10.8	19.0	22.8	21.5
Clothing (8411/8412)	36.8	49.2	65.3	62.9	27.8	39.4
13. Jute						
Raw Jute (264)	29.7	26.5	13.3	11.1	92.0	87.2
Fabrics (6534)	62.0	59.0	58.9	53.9	86.2	79.6
Bags & Sacks (6561)	8.3	14.5	27.8	35.0	46.7	57.7
14. Leather						
Hides & Skins (211)	27.6	20.5	9.8	14.6	24.3	15.6
Leather (611)	34.1	18.8	25.7	15.6	32.7	38.4
Leather goods (612/831/851)	38.3	60.7	64.5	69.8	11.4	21.4
15. Rubber						
Natural rubber (2311)	98.0	34.4	90.6	29.6	96.4	97.9
Rubber products (629)	2.0	65.6	9.4	70.4	1.0	4.3
16. Sisal/Henequen						
Fibres (2654)	68.4	37.9	30.9	14.7	97.1	97.5
Cordage & manufactures (6556)	31.6	62.1	69.1	85.3	27.4	37.4

TABLE 2.1 (contd.)

Product by Stage of Processing	Percentage distribution of Imports by Stage of Processing				Market Share of Developing Countries	
	Average From LDCs	1970-72 Total Imports	Average From LDCs	1978-80 Total Imports	Average 1970-72	Average 1978-80
17. Wood						
Wood in the rough (242-2421)	60.9	30.6	55.0	28.6	52.8	52.7
Wood, shaped & plywood (243/631)	36.1	62.3	40.9	62.0	15.4	18.1
Manufactures (632)	3.0	7.1	4.1	9.4	11.1	12.0
18. Aluminium						
Bauxite (2833)	41.7	12.1	33.5	8.4	73.3	71.8
Alumina (5136)	38.9	25.4	36.8	26.8	32.5	24.6
Unwrought aluminium (6841)	17.4	38.3	25.8	35.5	9.7	13.0
Wrought aluminium (6482)	2.0	24.2	3.9	29.3	1.7	2.4
19. Copper						
Ores, concentrates (2831)	15.5	13.3	29.4	17.8	55.4	68.2
Unwrought alloys (6821)	83.6	69.1	68.7	52.6	57.3	53.7
Wrought alloys (6822)	0.9	17.6	1.9	29.6	2.5	2.6
20. Iron						
Ores, concentrates (281)	81.6	23.7	67.1	19.0	46.6	44.7
Pig iron (671)	10.3	7.4	17.5	9.1	18.7	24.4
Steel ingots (672)	1.1	9.5	3.4	11.3	1.6	3.8
Rolling Mill Products (673 to 676)	6.9	56.5	11.7	57.2	1.7	2.6
Special Steel Products (677)	0.1	2.9	0.3	3.4	0.3	1.2
21. Lead						
Ores, concentrates (2834)	53.7	33.8	64.9	35.3	40.4	44.4
Unwrought alloys (6851)	45.5	63.9	34.7	62.1	18.0	13.5
Wrought alloys (6852)	0.8	2.3	0.4	2.6	9.1	4.0
22. Manganese						
Ores, concentrates (2837)	93.0	60.2	86.0	48.1	56.6	46.7
Ferromanganese (6714)	7.0	39.8	14.0	51.9	6.4	7.1
23. Phosphates						
Rock (2713)	91.9	82.5	86.2	73.5	61.1	63.2
Phosphoric acid (51335)	2.2	6.7	8.1	14.1	18.2	31.1
Phosphate fertilizers (56129)	5.9	10.8	5.7	12.4	30.2	24.6
24. Tin						
Ores, concentrates (2836)	18.7	18.3	10.3	11.0	84.5	77.9
Unwrought alloys (6871)	81.3	80.3	89.1	86.3	83.9	85.7
Wrought alloys (6872)		1.4	0.6	2.7	-	18.8
25. Zinc						
Ores, concentrates (2835)	76.1	47.9	76.4	43.7	34.7	31.2
Unwrought alloys (6861)	21.3	48.2	23.0	50.1	9.7	8.2
Wrought alloys (6862)	2.6	3.9	0.6	6.2	14.3	1.8

Source: United Nations, Commodity Trade Statistics, Series D, as quoted in UNCTAD, TD/B/C.1/PSC/23, 24 Nov. 1981.

TABLE 2.2
Depth of Tariff Reductions and Post-MTN
Tariff Averages

Country/Group	<u>Raw materials</u>		<u>Semi-manufactures</u>		<u>Finished manufactures</u>	
	Depth of Cut	Tariff Average	Depth of Cut	Tariff Average	Depth of Cut	Tariff Average
	per cent		per cent		per cent	
United States	77	0.2	33	3.0	29	5.7
Canada	69	0.5	30	8.3	39	8.3
Japan	67	0.5	30	4.6	52	6.0
European Economic Community	15	0.2	27	4.2	29	6.9
Austria	9	0.8	19	4.7	13	16.1
Finland	60	0.3	13	5.9	22	6.1
Norway	39	0.0	21	1.4	25	4.2
Sweden	21	0.0	38	3.3	26	4.9
Switzerland	28	0.2	25	1.2	22	3.1
Group Average	64	0.3	30	4.0	34	6.5

Source: General Agreement on Tariffs and Trade, The Tokyo Round of
Multilateral Trade Negotiations, II - Supplementary Report,
January 1980, p. 33

7. The average reductions in duty under the Tokyo Round and the average tariffs resulting are presented in Table 2.2 for selected OECD countries. It is clear that average tariffs escalate with the degree of processing. The duties on the selected countries averaged 0.3 per cent at the primary product stage compared with 4.0 per cent and 6.5 per cent respectively for semi-manufactures and finished manufactures. Moreover, the depth of tariff reduction was twice as much on the raw material than at the manufactured stage, thereby raising the level of effective protection.

8. Table 2.3 shows, for the major industrial markets, the pre- and post-Tokyo Round average tariff facing developing country exports for twelve important processing chains. In calculating these averages, care was taken to include the duty rate (mfn or GSP) actually facing developing countries. These figures show the persistence of escalation after the Tokyo Round reductions have been implemented, the nominal tariff for the final stage exceeding that for the primary stage in all cases. Moreover, for some products

TABLE 2.3

Tariff Escalation in Tropical Products of Ten Markets ^a

stage of processing	Product description	CCCN	Applicable tariff ^b		% reduction in average applicable tariff	Changes in escalation as a result of MTN ^c		
			before MTN	after MTN		comparison of stage	absolute difference	relative position
1	Fish, crustaceans and molluscs	0301-3	4.3	3.5	18.6			
2	Fish, crustaceans and molluscs prepared	1604-5	6.5	5.5	9.8	2 with 1	increased	increased
1	Vegetables, fresh or dried	0701, 0704-6	13.3	8.9	33.1			
2	Vegetables prepared	2001-2	18.8	12.4	34.0	2 with 1	reduced	no change
1	Fruit, fresh, dried	0801-9, 0812	6.0	4.8	20.0			
2	Fruit, provisionally prepared	0810-11, 0813	14.5	12.2	15.9	2 with 1	reduced	increased
3	Fruit, prepared	2001, 2003-7	19.5	16.6	14.9	3 with 1	reduced	increased
1	Coffee	0901	10.0	6.8	32.0			
2	Processed Coffee	2102 ex	13.3	9.4	29.3	2 with 1	reduced	increased
1	Cocoa beans	1801	4.2	2.6	38.1			
2	Processed cocoa	1803-5	6.7	4.3	35.8	2 with 1	reduced	no change
3	Chocolate products	1806	15.0	11.8	21.3	3 with 2	reduced	increased
1	Oil seeds and flour	1201-2	2.7	2.7	0.0			
2	Fixed vege. oils	1507	8.5	8.1	4.7	2 with 1	reduced	reduced
1	Unmanufactured tobacco	2401	56.1	55.8	0.5			
2	Manufactured tobacco	2402	82.2	81.8	0.5	2 with 1	no change	no change
1	Natural rubber	4001	2.8	2.3	17.9			
2	Semi-manufactured rubber (unvulcanised)	4005-6	4.6	2.9	37.0	2 with 1	reduced	reduced
3	Rubber articles	4011-14, 4016	7.9	6.7	15.2	3 with 2	reduced	increased
1	Raw hides and skins	4101	1.4	0.0	100.0			
2	Semi-manufactured leather	4102-8, 4110, 4302	4.2	4.2	0.0	2 with 1	increased	increased
3	Travel goods, handbags, etc.	4202	8.5	8.5	0.0	3 with 2	no change	no change
4	Manufactured articles of leather	4203-5	9.3	8.2	11.8	4 with 2	reduced	reduced
5	Footwear	6401-5	11.6	10.9	6.2	5 with 2	reduced	reduced
1	Vegetable textile yarns (excl. hemp)	5706-7	4.0	2.9	27.5			
2	Twine, rope and articles; sacks and bags	5904-6, 6203	5.6	4.7	16.1	2 with 1	increased	increased
3	Jute fabrics	5710	9.1	8.3	8.8	3 with 1	increased	increased
1	Silk yarn not for retail sale	5004-6	2.6	2.6	0.0			
2	Silk fabric	5009	5.0	5.3	5.4	2 with 1	reduced	reduced
1	Semi-manufactured wood	4405, 4416, 4417, 4419	2.6	1.8	30.8			
2	Wood panels	4415	10.8	9.2	14.8	2 with 1	reduced	increased
3	Wood articles	4420-25	6.9	4.1	40.6	3 with 1	reduced	reduced
4	Furniture	9401, 9403	8.1	6.6	18.5	4 with 1	reduced	increased

Notes: ^a The ten markets are the EEC, Japan, Australia, New Zealand, Canada, Austria, Switzerland, Finland, Norway and Sweden.

^b Unweighted average of product averages in each market (Unweighted, GSP or MFN rates, including duty-free tariff lines).

^c Two indicators have been used as a rough measure of the extent of change in tariff escalation: the absolute difference in the average tariff on two successive stages of processing, and the relative position of the two averages (the tariff on the higher stage divided by that on the lower stage). reduction in either of these two indicators would demonstrate a decrease in the disparity between rates on different stages of processing, and can thus be taken as some indication of a possible reduction in tariff escalation. If both indicators have decreased, the protection afforded to higher stages of processing has most likely been reduced as a result of the post-MTN tariff.

Source: United Nation Conference on Trade and Development, "The Processing Before Export of Primary Commodities: Areas for Further International Cooperation", UNCTAD, May 1979.

indicators showed an increase in tariff escalation as a result of Tokyo Round reductions, for example in processed fish, sacks, bags and articles of twine and rope and jute fabrics. In other items, such as prepared fruits, processed coffee, chocolate products, rubber articles, wood panels and furniture, the indicators moved in opposite directions, hence the direction of change in tariff escalation was not clear. In manufactured tobacco and travel goods, there was no change in escalation, while it was marginally reduced in vegetable oils, semi-manufactured rubber, manufactured articles of leather, footwear, silk fabrics and wood articles.

9. Due to the persistence of tariff escalation and the erosion of preference margins in the Tokyo Round, it has been estimated that the potential losses of export receipts for developing countries are in the region of one billion U.S. dollars¹. It appears that if 'sensitive' processed products of export interest to the developing countries, such as leather, leather products and footwear, had been subject to tariff cuts, especially if they had been accorded full tariff reductions on the basis of the 'Swiss Formula', the potential losses could have been considerably reduced. A number of semi-processed and processed products were identified by UNCTAD as having considerable potential for expansion of exports to the three major industrial markets of the EEC, the US and Japan².

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1. Report by the Secretary-General of UNCTAD, "Assessment of the results of the Multilateral Trade Negotiations, Part II, Implications of the Tokyo Round Tariff Reductions for the Trade of Developing Countries", TD/B/778/Add.1., 26 February 1980.
 2. In the EEC the products potentially affected include semi-manufactures of pulp, leather and fur: semi-manufactures of rubber; furniture; paper pulp, paper waste, paper and paperboard; cotton fabrics; synthetic fabrics; made-up textile articles; clothing and accessories; semi-manufactures of steel; metal manufactures; chemical compounds; plastic materials; non-electrical machinery; electrical machinery and apparatus; instruments; apparatus, cameras, clocks and watches; and toys, games, etc. The corresponding list for Japan includes furniture; paper and paperboard; made-up textile articles; clothing and accessories; non-metallic mineral products; the entire chemical sector; non-electrical machinery; electrical machinery and apparatus; instruments, apparatus, cameras, clocks and watches; and toys, games, etc. In the United States the corresponding products are semi-manufactures of leather and fur; the entire rubber sector; wood-based panels; furniture; paper pulp, paper waste, paper and paperboard; non-metallic mineral products; glass and glassware; articles of precious and semi-precious stones; metal manufactures; the entire chemical sector; non-electrical machinery; electrical machinery and apparatus; motor vehicles; instruments; apparatus, cameras, clocks and watches, toys, games, etc. and miscellaneous manufactures.

(c) Effective Protection

10. The degree to which developed countries' nominal tariffs escalate with processing provides an insufficient explanation of the full extent of tariff protection afforded to processing activities in developed countries. In order adequately to examine the incidence of tariff escalation, it is necessary to analyse the effective rates of protection. These indicate the amount of protection which nominal tariffs provide to the value added by an industry rather than to the price of the protected industry's output¹. The published data on effective protection, though dated, show that effective rates are usually several times higher than nominal rates and sometimes reach extremely high levels². Estimates of effective protection done for a joint Commonwealth Secretariat/World Bank project on processing in respect of cocoa and coconut oil, based on post-Tokyo Round nominal tariffs and recent United Kingdom input-output coefficients (Table 2.4), show rates of

TABLE 2.4
Nominal Tariffs and Effective Rates of
Protection on Coconut Oil and Cocoa in the European
Economic Community
(per cent)

Processing Chain	MFN Rate	Effective Rate	GSP Rate	Effective Rate
(A) 1. <u>Coconut oil</u> (Technical or industrial purposes)				
(a) Crude	5		2.5	
(b) Processed	8(3)	28.0	6.5(4)	33.2
2. <u>Other Coconut oil</u> (for food uses)				
(a) Crude	10		7	
(b) Processed	15(5)	48.3	13(6)	53.0
(B) <u>Cocoa</u>				
1. Cocoa beans	3.0		0.0	
2. Cocoa liquor	15.0(12)	70.0	11.0(11)	57.0
3. Cocoa butter	12.0(9)	53.0	8.0(8) ^a	40.0
4. Cocoa powder	16.0(13)	75.0	9.0(11)	57.0

Notes: The figures in parenthesis represent the nominal increase in the rate of duty for processing stages over raw materials.
a Subject to a ceiling.

Sources: (A) See J.J. McNerney, Industrial Processing of Primary Products, Coconut Oil Refining, Commonwealth Secretariat, 1981 (Mimeo); and
(B) M.V.D.J. Karunasekera, The Economics of Industrial Processing of Cocoa, Commonwealth Secretariat, 1981 (Mimeo).

1 For a formal definition of effective protection, see Herbert G. Grubel, "Effective Tariff Protection: A Non-Specialist Introduction to the Theory, Policy Implications and Controversies", in Robert E. Baldwin and J. David Richardson (ed.), International Trade and Finance, Readings; Little, Brown and Company, 1974.

2 United Nations Conference on Trade and Development, "The Kennedy Round: Estimated Effects on Trade Barriers", TD/6/Rev.1, Appendix Table A.

effective protection to be somewhat lower than published data, yet still significant. A study on selected rubber products indicates still lower effective rates (truck tyres 6.4 per cent, bicycle tyres 4.4 per cent, condoms-6.3 per cent, rubber footwear 21 per cent, and swimming caps 11 per cent)¹.

11. In the case of minerals, tariff barriers in developed countries (particularly in Japan) appear to be one of the main constraints to the development of new smelters and refineries in mineral producing countries. For example, although Japan's mfn tariff on copper concentrates is only 4.8 per cent in nominal terms, in 1980 prices the effective rate was equivalent to 32 per cent (Table 2.5). This is due to the fact that raw material inputs enter Japan duty-free and the value added in smelting and refining is low relative to the final product price. Effective rates on more highly finished copper products, such as tubes, brass shapes and wire, are considerably lower, at 5 to 6 per cent². This would favour the export of these goods to Japan in preference to copper wirebars but for the non-tariff barriers and marketing and distribution problems which would be encountered.

TABLE 2.5
Post-Tokyo Round Tariff Rates for
Selected Metals in Japan

Metal	Nominal tariff MFN Rate	Effective Rate
	per cent	
1. Refined copper (concentrates)	4.8	31.6
2. Refined zinc (concentrates)	3.7	14.3
3. Refined lead	4.3	25.6

Note: According to 1980 price/cost relationships.

Source: Canada, Department of Energy Mines and Resources, Mineral Policy, December 1981.

1. R.C. Wanigatunga, Processing of Natural Rubber in South Asian Countries for the Export Market: Tyres and Selected Rubber Products, Commonwealth Secretariat, 1981 (Mimeo).

2. Source, as for Table 2.5.

12. Another disturbing aspect of tariff escalation is that effective protection is significantly and positively correlated with labour intensity and is therefore higher in industries in which developing countries are more likely to have a comparative advantage¹. The highest trade barriers imposed by developed market economy countries are to be found in industries based on fibres and hides and skins where labour intensity is high and where developing countries can most effectively utilise their labour resources.

(d) Importance of Depth of Cuts in Assessing Effective Protection

13. The structure and depth of tariff cuts are a major concern to the developing countries, since deeper reductions on production inputs can result in higher effective rates of protection for processed goods. This can be illustrated by comparing mfn and GSP nominal and effective rates of duty on two processing chains, coconut oil and cocoa, in the EEC (see Table 2.4). The most interesting feature to emerge from these data is that effective protection of refined coconut oils is higher under the GSP rates than under the mfn in spite of lower nominal rates of duty under the former. This arises from the greater differential in the rate of duty on processed oil over crude under the GSP (an 86 per cent increase) as compared with the mfn (a 50 per cent increase) due to the deeper reduction of GSP rates for crude oil (the primary input in this chain).

14. The GSP rate has been used for purely illustrative purposes; it could be the case that deeper cuts in mfn rates have been granted to the primary rather than to the processed product. For example, under the Tokyo Round essentially unchanged US and Japanese tariffs for processed meat coupled with a reduction for

1. See Bela A. Balassa, "The structure of protection in the industrial countries and its effects on the exports of processed goods from developing countries", The World Bank, Economic Department, Report No. EC-152.

fresh meat undoubtedly resulted in increased effective protection for processed goods, as did the European Community tariff cut for fish¹.

(e) Import Demand Elasticities

15. Information on tariff escalation by itself does not take into account the way in which demand conditions change from one stage to the next. Where import demand elasticities also increase with fabrication, these accentuate the discriminatory effect of tariff structures. The overwhelming evidence from numerous studies that have empirically estimated developed countries' import demand elasticities shows that these parameters also increase with fabrication, thereby reinforcing the protection provided by escalating nominal tariffs on processed goods imports (Table 2.5).

TABLE 2.5

Increase of Import Demand Elasticities
in Six Major Developed Country Markets

Type of Goods	United States	Canada	EEC (6)	United Kingdom	European Free Trade Association ^a	Japan
Crude materials	-0.39	-0.20	-0.29	-0.25	-0.22	-0.29
Semi-finished manufactures	-1.63	-0.82	-1.42	-1.06	-0.90	-1.42
Finished manufactures	-4.12	-2.06	-3.09	-2.68	-2.26	-3.09

Note: ^a Original members excluding United Kingdom.

Source: Bela Balassa and Mordechai Kreinin, "Trade Liberalisation under the Kennedy Round: The Static Effect", Review of Economics and Statistics, 49, p.129.

1. UNCTAD, "The Influence of Protectionism on Trade in Primary and Processed Commodities: the Results of the Multilateral Trade Negotiations and Areas for Further International Cooperative Action", TD/B/C.1/207/Add. 2, August 1980.

(f) Escalating Non-Tariff Barriers

16. The preceding discussion was framed in terms of tariffs; but non-tariff barriers also have an important effect on the level and structure of developing country exports. Non-tariff barriers include quantitative import restrictions, licensing procedures, public and quasi-public procurement, health and sanitary regulations, indirect taxes and border adjustments. Evidence suggests that the effects of these barriers are particularly severe on imports from developing countries of processed agricultural products. Several studies conclude that developing country losses from these measures may be considerable¹. The application of non-tariff barriers affects exports not only from newly industrialising countries but also from smaller, poorer and less advanced developing countries where natural fibre products often make up a large share of exports. The operations of the Arrangement Regarding International Trade in Textiles (MFA) have increased protectionism for textiles and clothing. Outside the MFA sisal products are affected by voluntary export restraints. Japan uses non-tariff barriers to protect local sugar refiners. The variable levies under the European Economic Community's sugar regime thwart the import of processed fruit and chocolate with significant sugar content.

17. Non-tariff barriers of various kinds also restrict access for processed and fabricated mineral products. A common pattern involves duty-free import of ores and concentrates, tariffs and/or quantitative restrictions on imports of processed and fabricated products, public procurement policies favouring domestic suppliers, subsidies or tax incentives for exports and perhaps even direct subsidisation.

18. The pattern of mineral protection in Japan is of particular concern to other mineral producing countries efforts to upgrade export towards refined metals and semi-fabricates. The Japanese system of protection for copper metal, for example, is understood to consist of tolerance by the Japanese Government of a cartelised producer price

1. See particularly Alberto Valdes and Joachin Zietz, Agricultural Protection in OECD countries: Its cost to less developed countries, International Food Policy Research Institute, Research Report 21, December 1980; and A.J. Yeats, Trade Barriers Facing Developing Countries, Macmillan, 1979.

for refined copper which ranges from 5 to 11 per cent above the London Metal Exchange price; added protection by administrative controls, such as direct regulation of imports; and subsidisation of processing, for example by refunding of turnover tax to smelters. The system makes market penetration for refined and semi-fabricated copper exports most difficult and makes it possible for the Japanese smelters to pay a premium to exporters of ores and concentrates, so providing a disincentive to establishing smelters and refineries in copper producing countries.

19. A recent study by UNCTAD also demonstrates that the frequency of application of these non-tariff barriers increases as one moves along processing chains¹. Moreover the use of non-tariff barriers suggests that they are applied most frequently to the products in which the poor countries are developing a comparative advantage.

(g) Tariff Escalation and Transport Costs

20. The developing countries have contended that a wide variety of shipping conference practices, such as adoption of deferred rebates and various surcharges and the levying of higher charges on high valued goods, are designed to maintain monopoly control over their trade. These practices, it is argued, result in developing countries paying higher prices, receiving a lower quality of service and facing higher effective trade barriers than would be the case under alternative institutional arrangements.

21. Economists examining these arguments have concluded that it is a common practice of Conference operators to charge "what the traffic will bear" in formulating freight rates². The principle is based on assessing the purchasing power of each commodity exporter for buying the transport service.

22. Empirical investigations show that freight rates are often more important barriers to developing countries' exports than are

1. UNCTAD, The Processing Before Export of Primary Commodities; Areas For Further International Co-operation, UNCTAD, May 1979.
2. See J.J. Evans, "Liner Freight Rates, Discrimination and Cross-subsidisation", Mark. Pol. Mgmt, 1977, 227-233; H.B. Desai, "Liner Freight Rates", prepared for Jamaican Shippers Council (Mimeo); Jan Jansson and Jan Shneerson, "The Effective Protection Implicit in Liner Rate Shipping", Review of Economics and Statistics, 60, 1978; and Ingrid Bryan, "Regression Analysis of Ocean Liner Freight Rates on some Canadian Export Routes", Journal of Transport Economics and Policy, May 1974.

tariffs and that transport costs usually (though not always) rise with fabrication¹. However, the estimates relating to the commodity chains of coconut and bauxite indicated lower freight rates for the processed products. In products such as coffee and sugar the escalating freight rates appear to accentuate tariff structures of developed countries. The current practice of imposing nominal duties on the basis of cost, insurance and freight (cif) in importing countries, increases the import unit values (ceteris paribus) of exports of processors located in distant countries, due to higher freight costs, thereby reducing their competitiveness. This disadvantage can be minimised if nominal duties are imposed on the basis of free on board (fob) values in the exporting countries.

III. Conclusions

23. The escalating tariff structures of developed countries still persist in spite of Tokyo Round tariff reductions and seem to be of considerable importance in sectors such as textiles, agriculture (for example, sugar, coffee, oilseeds, etc), leather and other light manufactures where the developing countries have the advantage of relatively low-cost labour resources. In such sectors increased developing country export receipts will depend in large measure on co-operative international action to secure liberalisation of these government imposed barriers. However, escalation appears to be far less pronounced in some agricultural raw materials such as wood and rubber, and in metal processing, although escalation of tariffs and non-tariff barriers virtually prohibits the import of refined copper, lead and zinc into Japan.

24. To sum up, a wide variety of trade and commercial barriers influence the level and composition of developing countries' exports. Although escalation of trade barriers is by no means the sole factor inhibiting the expansion of developing country processing, the need to overcome it must be recognised in any valid policy proposals aimed at encouraging industrialisation in developing countries.

1. The following commodities have displayed escalating transport costs - cocoa, leather, rubber, wood and copper, according to A.J. Yeats, "Do International Transport Costs Increase with Fabrication? Some Empirical Evidence", Oxford Economic Paper Vol. 29, No.3, November, 1977.

Protection of Manufactures

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Protection of Manufactures

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Protection of Manufactures

I. Introduction

1. Some developing countries have enjoyed considerable success in the export of manufactured goods and a growing number of others are producing a wider range of these products competitively. However, international agencies - particularly GATT, the World Bank and the IMF - regularly warn of the growing danger which protectionism poses to both the international trading and financial systems. They have also chronicled a recent relapse, after the deterioration in the climate of trade policy in the period 1974-78 had apparently been stopped by the advances in trade liberalisation agreed in the Tokyo Round of negotiations: "protectionism (defined to encompass pressures for protection as well as policy concessions to them) continued to gather strength in the past year".¹

2. In making an overall assessment of the extent and significance of trade restrictions for developing country exporters we need to be able to quantify several elements: the volume of trade which is actually restrained; the extent to which trade restraint results in divergences between domestic prices in the country restricting trade and international prices; the effects of the measures, then, on demand and supply. Estimation of each of these poses considerable difficulties. For example, exporters are affected indirectly - by depressed expectations and the encouragement of cartelisation and other uncompetitive behaviour - rather than in any immediately quantifiable way.

Tariff and Non-Tariff Barriers

3. One of the most serious difficulties in estimating the significance of trade barriers is that those that are most visible are not necessarily the most important. In some cases - government purchasing policies, health restrictions, customs procedures, standards' specification, many types of subsidy - it is extremely

1. GATT, International Trade 1980/81, 1981, p.10.

difficult to establish whether difficulties arise from deliberate attempts to discriminate against non-nationals, let alone to quantify the effects; yet it is in these areas of non-tariff barriers (NTBs) that there is currently much concern. By contrast, tariff questions have become less important and this reflects the fact that once the Tokyo Round cuts have been implemented the average nominal rate for industrialised countries will be a mere 6.5 per cent for finished-manufactures and 4 per cent for semi-manufactures.

4. For developing countries, the question of tariffs is not however a trivial one, despite the existence of tariff preference schemes whose declared aim is to allow developing countries tariff-free access on a preferential basis. First, there are some industrial products with tariffs significantly above the average and the items correlate closely with areas of developing countries industrial comparative advantage, and also with 'sensitive' treatment under Generalised System of Preferences (GSP) schemes. In many cases these items were also exempted from full, or any, cuts in the Tokyo Round: many textile and clothing items; shoes; cutlery; consumer electronics (though other exemptions and relatively high tariffs - as on vehicles - mainly affect trade between industrial countries). Second, there is evidence that tariffs on products of primary interest to developing country exporters are not only higher but were due to decline less rapidly under the Tokyo Round; though any overall assessment is difficult because of the complexities of the various GSP schemes.¹ Thirdly, there is tariff escalation on processed goods, giving rise to somewhat higher rates of effective, than of nominal, tariff protection. GATT's own assessment is that tariff escalation on products of interest to developing countries was not eased under the Tokyo Round although the problem has been posed for many years². We shall nonetheless in this paper, concentrate on NTBs, looking in particular at those which involve quantitative control of imports.

1. GATT, The Tokyo Round of Multilateral Trade Negotiations, Vol.2, January 1980.

2. Ibid.

The Extent of Restrictions

5. Methodologically, the simplest way to monitor protection in all its forms - though one still fraught with problems - is to accumulate an inventory of changes in trade barriers using GATT, IMF and national data.¹ Franco notes that it is "unlikely to be a statistical artifact" that EEC safeguard, surveillance and anti-dumping actions rose from 24 in the four years 1971-74 to 41 in 1977 and 94 in the first eight months of 1978 (of which 74 related to textiles and steel).² Other surveys have shown evidence of an upsurge in petitions to, and affirmative findings by, the US International Trade Commission (ITC) (though many were then overruled by the President).³ There has also been a spate of anti-dumping and safeguard actions in smaller OECD countries. Straight counts may give some indication of trends over time but they could also be very misleading. They do not differentiate trivial from major restrictions, either in respect of products or suppliers.

6. One relatively sophisticated variant of the inventory method was applied by Olechowski and Sampson in comparing the extent of protection in the EEC, the USA and Japan.⁴ They used official, government and GATT notifications to estimate the frequency of incidence of NTBs at a very disaggregated product level. The frequency was then expressed as a percentage of the number of product categories in 15 broad industry groups (that is, unweighted by trade values). Roughly 20 per cent of categories in the USA and EEC were found to be subject to controls, 5 per cent in Japan.

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1. The main sources are GATT Surveys of Developments in Commercial Policy and IMF Annual Report on Exchange Restrictions. There is a recent review by the IMF in Trade Policy Developments in Industrial Countries, Occasional Paper No.5, July 1981.
 2. J. Franco, Current Trends in Protectionism in Industrialised Countries: Focus on Western Europe in G.K. Helleiner et al. Protectionism or Structural Adjustment, Atlantic Papers No.39, 1980.
 3. James Riedel, Monitoring Trends in Protectionism, World Bank 1979. The main source for actions taken is US Office of the Special Trade Representative: Trade Actions Monitoring System (various issues).
 4. A. Olechowski and G. Sampson, Current Trade Restrictions with the EEC, USA and Japan, Journal of World Trade Law May/June 1980.

Incidences substantially above this crude average of 20 per cent were found for chemicals (in the USA only), paper (in the EEC), and textiles, clothing and footwear (EEC and USA). Japan had relatively high protection of leather goods, chemicals, transport equipment and cement. Ninety per cent of the EEC controls discriminated between sources, but only 52 per cent of US controls.

7. A more up-to-date inventory for the late 1970s, also from the EEC, the USA and Japan, has been prepared by Gard and Riedel.¹ They found that outside of textiles, clothing and steel, there have been no significant official new barriers in the USA and the EEC while Japan appears to have been liberalising. They acknowledge that the story appears different if informal and unofficial restraints are considered. (One might add that a record only of official barriers is very flattering to Japan.) The same conclusion is reached by an IMF survey which also noted the rise in unofficial and secretive agreements, while this and other studies demonstrated widespread use of 'voluntary export restraints' (VERs) and 'orderly marketing arrangements' (OMAs).²

8. Developing the same theme, GATT noted that there had been a growth of measures in what it calls the "grey areas" which "have been growing in number and frequency. That there has not been more open violence to the rules is also partly explained by the increasing resort to privately agreed and officially tolerated, if not promoted, restraints on trade and competition."³ In the field of consumer electronics, for example, inter-industry VERs, rather than quotas, are the norm; these VERs replace, in some instances, expired patents which have limited the transfer of colour television technology. To take another "grey area", there has been strong pressure on retailers - especially in the USA and the United Kingdom - to

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1. L.M. Gard and J. Riedel, Safeguard Protections of Industry in Developed Countries: Assessment of the Implications for Developing Countries, Weltwirtschaftliches Archiv, 1980.
 2. B. Nowzad, The Rise in Protectionism IMF 1979.
T. Murray, W. Schmidt and I. Walker, Alternative Forms of Protection Against Market Disruption, Kyklos, 1978.
 3. GATT, International Trade 1980/81, p.11.

acquire shoes and clothes from national manufactures for 'patriotic' reasons. In this, there is a hankering for the kind of unofficial NTB presented to importers by the allegedly impenetrable Japanese retail system and, to a lesser extent, the French. Yet another "grey area" is industrial subsidies which, in the mid-1970s, had increased to the point that they accounted for 6 to 7 per cent of GNP in the more extreme cases (Norway or Ireland) and over 2 per cent of GNP in most OECD countries.¹ Not all of these subsidies were designed to influence trade performance but many did so, intentionally or not, and the evidence suggests that they have, in recent years, been directed not to 'infant' industries but primarily to those which attracted other NTBs.² The potential damage to the system of international trade rules by subsidy proliferation is well exemplified by the current USA-EEC conflict over steel. And, as developing countries increasingly develop more varied exports, of engineering goods for example, they enter another "grey area": barriers to trade in the form of standards' specifications - which differ considerably between countries³ - public sector procurement policies and safety requirements whose trade implications are often secondary but nonetheless real, as is recognised by the existence of the new GATT codes.

9. If we ignore the "grey areas" for the time being, it is possible to make a rough estimate of the amount of manufacturing trade which is 'managed' by importing countries through explicit NTBs. GATT's most recent figures (Table 1.1) suggest that of a total US \$61.0 billion of manufactures exported by non-oil developing countries to industrial countries in 1981, about a third was in categories subject to severe quantitative restraints: US \$17.5 billion of textiles and clothing and US \$2.2 billion of iron and steel. Other items, less seriously affected, are US \$5.5 billion of household

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1. GATT, Adjustment, Trade and Growth in Developed and Developing Countries, GATT Study in International Trade, No.6.
 2. G. de Carnoy, Subsidy Policies in Britain, France and West Germany in S.J. Warnecke (ed) International Trade and Industrial Policies, MacMillan, 1978.
 3. Sir F. Warner, Standards and Specifications in the Engineering Industries NEDO, 1977.

TABLE 1.1

Export Structure of non-oil Ldcs to Industrial Areas: Manufactures
(US\$ billion and percentages)

	1973		1977		1978		1979		1980		1981	
	US\$ bn	%	US\$ bn	%	US\$ bn	%	US\$ bn	%	US\$ bn	%	US\$ bn	%
Manufactures (all)	15.10	31.7	30.70	33.3	39.30	37.3	50.40	37.6	57.50	37.6	61.00	
of which												
Iron and Steel	0.49	1.0	0.90	1.0	1.25	1.2	1.80	1.3	2.00	1.3	2.20	
Chemicals	0.81	1.7	2.00	2.2	2.60	2.5	3.10	2.3	4.10	2.7	4.10	
Other	2.49	5.2	3.80	4.1	5.20	4.9	6.25	4.7	6.20	4.0	6.20	
Engineering Goods	3.61	7.6	8.50	9.2	11.15	10.6	15.60	11.6	18.50	12.1	20.50	
Textiles	2.10	4.4	2.80	3.0	3.50	3.3	4.65	3.5	4.90	3.2	4.50	
Clothing	3.23	6.8	7.30	7.9	8.80	8.4	10.70	8.0	12.20	8.0	13.00	
Other Consumer Goods	2.39	5.0	5.40	5.9	6.75	6.4	8.30	6.2	9.60	6.3	10.50	
Total exports (including raw materials and foodstuffs)	47.70	100.0	92.10	100.0	105.40	100.0	134.00	100.0	153.00	100.0		

Notes: 1. Derived from GATT tables: International Trade 1980/81, and UN Monthly Bulletin of Statistics.

2. The category of non-oil ldcs consists of non-European ldcs (i.e. excluding Turkey, Yugoslavia etc.) and excludes OPEC states.

TABLE 1.2
Shares of "Mainly Managed" Goods in OECD and EEC Trade
(per cent of total)

	All goods		Manufactures	
	1974	1979	1974	1979
OECD imports				
Total	34	41		13
From OECD	15	24		11
From Ldcs	54	62		30
EEC imports				
Total	34	41		12
From OECD (non-EEC)	14	20		11
From Ldcs	55	63		34

Notes: 1. Taken from Sheila Page, NIESR (see reference 3 in text).

2. Ldcs include Middle East.

appliances and US \$3 billion of footwear. One important study has built up a more complex picture of the extent of trade management. Sheila Page estimated (on the strength of restrictions applying in 1979) that of manufactured imports into OECD countries 30 per cent from non-oil developing countries were 'managed' against 13 per cent from all sources (Table 1.2). The former figure - but not the latter - was increasing over time.¹

The Severity and Effects of Protection

10. There is clear evidence that the extent of trade barriers in industrial countries facing developing country exporters of manufactures is greater than that facing industrial countries. The incidence is also more severe. We have already noted that the trade weighted - effective or nominal - tariffs facing many developing countries are greater than for developed countries even after preferences are allowed for, and in the Tokyo Round many high tariff items of concern to developing countries were exempted from full cuts. The severity of NTBs is however much more difficult to estimate. Roningen and Yeats tried to measure the effect of NTBs by directly comparing domestic producer prices with 'world prices' endeavouring, as carefully as possible, to eliminate quality and product differences.² They found that, on this measure, the tariff equivalent of NTBs could be as much as 70 per cent for all imports (for Sweden and Japan) and 35 per cent for the USA. The price differential is, however, almost certainly an overstatement of protection and reflects other factors, including the different distribution mark-ups between home-produced and imported goods, and consumer resistance to imports: influences which will also be

1. Sheila Page, 'The Management of International Trade', in R. Major, ed., Britain's Trade and Exchange Rate Policy, Heinemann, 1979.

'The Increased Use of Trade Controls by the Industrialised Countries', Intereconomics, No.3, 1980.

'The Revival of Protectionism and its Consequences for Europe', Journal of Common Market Studies, September, 1981.

2. V. Roningen and A. Yeats, Non-Tariff Distortions of International Trade: Some Preliminary Evidence, Weltwirtschaftliches Archiv, 1976.

different between countries. The study was, however, useful in suggesting not only that NTBs were probably very important as barriers but also that there was no discernible correlation between their level and either tariff levels or NTB incidence calculated by inventory methods.

11. Another, more reliable, method of estimating directly the tariff equivalent of NTBs is provided by quota premia. Where quotas are export administered and there is a free and efficient quota market, the premium gives an accurate measure of the tariff equivalent required to produce the same effect as the quota.¹ Unfortunately, since quota markets fluctuate wildly, reflecting temporary variations in supply and demand, averaging is a dangerous exercise. Some detailed work done on textile and clothing exports to Canada does, however, suggest, very plausibly that, while a good deal lower than indicated by direct price comparisons, the tariff equivalent of quotas is often greater than tariffs themselves. The combined protection of tariffs and quotas can amount to well over 30 per cent - nominal tariff equivalent - for most clothing items and can reach over 70 per cent (in nominal terms).² The Australian Industries Assistance Commission has calculated nominal tariff equivalents of over 100 per cent in these industries, although that is not to suggest that Australia is more protectionist, merely that it is one of the few countries where a public body exists to analyse trade policy effects.³

12. The cumulative effect of these relatively severe trade restraints in some product areas is to produce a bias in the protective structure of Western economies. A number of industrial cross-section studies of the levels, and changes in the level, of production - variously measured - in Western countries now show that there is usually a strong correlation with those industry characteristics associated with developing country comparative advantage: labour

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1. M.F. Mokre, Rent Seeking and Hong Kong's Textile Quota System, The Developing Economies, March 1979.
 2. Glenn P. Jenkins, Costs and Consequences of the New Protectionism, North-South Institute, 1980.
 3. Australian Industries Assistance Commission, Annual Report, 1980/81.

intensity; low wages; a high proportion of women or unskilled workers in the labour force; and numerous small nationally owned firms.¹ Inevitably, protective barriers, selectively applied, will reduce flows directly and divert trade to countries less severely restrained. Developing countries will also be diverted into industries in which they have less of a comparative advantage and which provide fewer opportunities for employment creation. There is corroborating evidence that those areas which still remain largely unprotected are those in which transnational corporations have strong interests in keeping freedom of trade; and while developing countries may find advantage in - say - a sub-contracting role, this will then involve trade management problems of a different but real kind.²

13. What, then is the effect on developing country exporters? The World Bank, which uses changes in market penetration in industrial countries from developing countries as a proxy for the effects of protection, notes that the growth rate of market penetration for manufacturing fell from 13 per cent per annum in the period 1970-74 to 7 per cent per annum in 1976-79, while acknowledging that it is difficult in practice to separate out the influence of slower market growth from that of market access barriers and that the rate of market penetration is not an ideal proxy for the degree of protectionist resistance.³ There is, from the same data, no clear cut evidence of some Western countries being 'more protectionist' than others: penetration rates are growing most slowly in some developed countries where the levels are highest (Sweden, Belgium and United Kingdom); in Japan, where few formal tariff or NTBs are recorded, the level and growth of penetration is relatively low (Table 1.3). There is rapid growth in some unfamiliar areas - machinery, printing, china and glass, chemicals - which may suggest some conscious diversification into unprotected categories as well as a more varied expression of comparative advantage (Table 1.4).

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1. The evidence is summarised in K. Anderson and R.E. Baldwin, The Political Market For Protection in Industrial Countries: Empirical Evidence, World Bank Staff Paper No.492, 1981.
 2. The line of argument is developed by G.K. Helleiner in Trans-national Enterprises and the New Political Economy of US Trade Policy, Oxford Economic Papers, March 1977, and Intra-Firm Trade and the Developing Countries: An Assessment of the Data, Journal of Development Economics, 1981.
 3. H. Hughes and J. Waelbroeck, Can the Growth of Developing Country Exports Continue in the 1980s, World Economy, 1981.

TABLE 1.3

Share of Imports in the Apparent Consumption of Manufactured Goods in Industrial Countries 1970-80: by Industrial Country
per cent.

Country	Share in Apparent Consumption of Growth of Import Shares		
	All Imports 1970	All Imports 1980	All Imports 1970-80
Australia	20.8	26.0	2.6
Canada	26.1	31.6	1.8
EEC (excluding Greece)	18.9	32.6	4.9
Belgium	61.7	84.6	3.4
France	12.1	23.2	3.7
German F.R.	19.3	31.2	5.0
Italy	15.1	31.7	6.9
Netherlands	41.2	62.2	2.1
United Kingdom	16.3	28.2	6.0
Japan	4.5	6.3	2.4
Sweden	31.0	38.0	2.5
USA	5.4	8.7	4.6
All (above) industrial countries	10.6	17.9	4.3

Source: World Bank Import Penetration Project (first run of 1980 data).

TABLE 1.4

Market Penetration by Ldcs^a of Industrial Countries Markets in 1979
per cent

	Value billion US\$	All Industrial Countries			EEC		USA		Japan	
		Level	Annual growth ^b 1970-79	Level Growth	Level Growth	Level Growth	Level Growth	Level Growth		
Textiles	7.57	8.2	9.7	8.3	11.1	1.7	8.2	5.8	7.4	
Clothing	11.83	14.1	17.6	21.2	16.8	9.6	19.9	9.9	13.5	
Leather goods	2.78	19.7	12.9	22.7	11.5	20.1	17.7	7.7	5.1	
Shoes	2.81	15.6	20.8	11.6	21.5	23.4	23.6	7.8	26.2	
Woollen goods	4.42	5.0	6.1	10.3	8.5	3.7	4.4	2.3	4.6	
Furniture	0.96	1.9	26.3	1.1	9.5	3.4	69.4	1.4	34.8	
Paper	0.58	0.4	13.2	0.9	13.1	0.2	19.3	0.3	8.9	
Printing	0.37	0.3	13.6	0.6	16.8	0.2	12.9	0.1	9.0	
Ind. chemicals	2.52	1.5	2.0	2.0	0.3	0.9	1.8	1.4	9.2	
Other chemicals	1.01	0.7	4.7	0.9	2.1	0.5	4.9	0.9	10.3	
Refined Petroleum	2.01	5.9	0.0	5.0	10.1	5.1	-1.9	8.7	-5.1	
Rubber goods	1.03	2.4	15.4	2.6	9.9	2.8	22.7	0.9	41.7	
Plastic goods	2.06	2.5	6.2	2.2	8.5	3.9	6.6	0.5	12.9	
China/Pottery	0.41	3.9	21.9	2.7	21.3	9.4	29.9	0.5	5.8	
Glass	0.28	1.0	8.4	1.1	11.6	1.0	6.9	1.1	3.8	
Misc. non-metal minerals	0.52	0.6	11.3	0.9	13.3	0.6	9.7	0.3	17.5	
Iron and Steel	3.41	1.5	9.7	2.1	8.0	1.3	14.5	1.1	8.8	
Non-ferrous metals	7.53	8.4	-0.2	13.3	-3.0	5.2	7.5	11.9	1.3	
Metal goods										
Cutlery	2.04	0.9	18.0	1.2	17.1	1.1	19.7	0.2	23.0	
Machinery	2.88	1.0	15.1	1.4	9.5	1.1	20.2	0.4	30.3	
Electrical	9.38	4.1	19.7	3.0	21.1	6.8	20.7	1.0	22.9	
Transport equipment	2.87 ^c	1.0 ^c	28.1 ^c	1.6 ^c	14.3 ^c	1.5	43.1	0.2	14.1	
Other machinery	1.84	3.2	30.4	5.8	25.0	2.9	38.2	1.2	32.2	
Misc. manufactures	2.84 ^d	7.7								

Source: World Bank Import Penetration Project (Based on 3-digit categories).

Notes: a Ldcs include Southern European NICs.

b Annual growth of market penetration: trend rate for 1970-79.

c Relates to 1977, some errors in 1979 data; and growth to 1970-77.

d Ratios excluded because of distortion introduced by jewellery (Value includes jewellery).

14. There appears to be little data available on how individual developing countries are affected, though in many cases - especially those which are mainly textiles exporters - a majority of manufactured exports is covered by protective measures in important markets. Often it is the relatively new entrants to world markets for manufactures who are most seriously affected, since they are unable to build up worthwhile volumes before restrictions are imposed. It has been argued that where industrial countries refuse to cede a growing market share to developing countries, a 'fallacy of composition' effect will increasingly operate to prevent these countries - usually the poorest - following in the path of newly industrialising countries (NICs).¹ There also appear to be variations amongst the NICs. Hong Kong and Singapore seem to be much less affected than Republic of Korea or Taiwan; Mexico less than Brazil. In the case of Singapore (and Mexico because of its border zone) a particularly high proportion of exports is sold through transnational corporations, especially in electronics products. Hong Kong traders now have a very varied export mix outside of textiles and clothing (Table 1.5) and have been particularly successful in identifying new market opportunities - for radios, watches, plastic and leather bags, toys and games, wigs, umbrellas - where there is little protectionist resistance. Both Singapore and Hong Kong are, of course, open unprotected economies with large imports and this may have further weakened hostility to them.

II. Textiles, Clothing and Footwear

15. The textiles and clothing family of industries has provided most developing countries with their earliest experience of manufactured exports and it remains a major component of the total: 11 per cent of all their exports in 1979, 25 per cent of their manufactured exports and 20 per cent of their manufacturing exports to developed countries. This trade has not, however, developed under free market conditions but under some degree of quota restraint, latterly under the Arrangement Regarding International Trade in

1. W.R. Cline, Can the East Asian Model of Development be Generalised? World Development, Vol.10, No.2, 1982.

TABLE 1.5

The Importance of Different Categories of Manufactures for Major Ldcs' Suppliers

Country	Value of Manufactured Exports US\$ billion	Percentage of						
		Engineering goods	Chemicals	Iron and Steel	Textiles	Clothing	Other Consumer goods	Other goods
Mexico	1.70 (1978)	42.4	21.8	5.3	6.5	1.7	7.7	14.6
Brazil	7.49 (1980)	48.9	10.3	7.7	8.7	1.9	8.7	13.8
The Argentine	1.88 (1979)	30.8	15.4	10.7	1.7	9.0	5.0	27.4
India	3.71 (1978)	18.6	4.8	7.3	21.6	11.0	6.2	30.5
Hong Kong	13.08 (1980)	33.1	0.9	-	7.0	35.5	22.5	1.0
Malaysia	1.94 (1979)	64.2	3.1	1.0	5.8	6.2	6.0	13.7
Singapore	9.05 (1980)	62.6	15.2	2.3	4.1	4.7	5.6	5.5

Source: GATT, based on UN trade tables.

Textiles (MFA) of 1974 and earlier under the Long Term Arrangement regarding International Trade in Cotton Textiles (LTA) of 1962.¹

It is the developing country experience of the MFA, particularly in the period after 1977 - with expanding country and product coverage, diminishing growth provisions, growing complexity and rigidity and apparent permanence - which has contributed most to their apprehension about 'protectionism'.

Trade Trends

16. Although exports of textiles and clothing are important for a growing number of developing countries and are a substantial influence in the markets of industrial countries, we need to keep the relative proportions in perspective. The share of developing country textiles and clothing exports in the markets of industrial countries was only around 10 per cent in 1979, and 14 per cent for clothing alone (in value terms) - see Table 1.5. The degree of overall penetration is somewhat higher in smaller OECD economies (Sweden and Netherlands, 20 per cent, Australia, 18 per cent) and in German F.R. and the United Kingdom (17 per cent and 13 per cent) than in the USA, France or Japan (all 6 to 7 per cent); but even the most open of these economies is very far from having ceded the bulk of its market to 'low cost' imports. Industrial countries still account for almost 70 per cent of the textiles' exports of all market economy countries and run a trade surplus with the rest of the world - though a declining one - in textiles (Table 2.1). In most types of textiles, excepting the weaving of 'cotton and allied' textiles, and even in some areas of clothing, such as hosiery, developing countries hardly feature as major international competitors. Their competitive advantage is more limited.

17. It can however be said that, even taking into account possible technical developments in the cutting and sewing operations of the garment industry, low wage economies will, under competitive conditions, continue to enjoy a significant cost advantage in many branches of clothing. The reverse is probably true in textiles

1. There is a comprehensive review of the history in D. Keesing and M. Wolf, Textile Quotas Against Developing Countries Thames Essay, No.23, TPRC, 1980.

TABLE 2.1
Balance of Textile and Clothing Trade
US\$ billion

	1963		1973		1978		1979		1980	
	T	C	T	C	T	C	T	C	T	C
EEC (9)										
-all	1.01	0.23	1.97	-0.89	1.62	-3.38	0.83	-4.92	0.78	-6.12
-with ldcs	0.29	-0.01	0.11	-0.95	0.05	-2.75	-0.55	-3.91	-0.47	-4.69
-with S. Europe	0.04	-0.01	0.09	-0.47	-0.17	-1.40	-0.28	-1.87	-0.25	-2.11
Canada										
-all	-0.24	-0.05	-0.63	-0.21	-0.91	-0.45	-1.11	-0.57	-0.97	-0.50
-with ldcs	-0.02	-0.01	-0.07	-0.14	-0.10	-0.35	-0.11	-0.41	-0.11	-0.42
USA										
-all	-0.19	-0.30	-0.36	-1.88	-0.11	-4.76	1.07	-4.77	1.25	-5.29
-with ldcs	-0.08	-0.06	-0.26	-1.31	-0.12	-4.02	0.06	-4.25	0.23	-4.82
Japan										
-all	0.86	0.19	1.32	-0.20	2.33	-0.75	1.97	-1.45	3.45	-1.03
-with ldcs	0.51	0.07	0.99	-0.36	1.67	-0.75	1.64	-1.08	2.66	-0.70
All industrial	1.14	-0.05	1.71	-3.89	2.54	-11.11	1.81	-13.95	3.43	-15.58
-with ldcs	0.70	-0.03	0.72	-2.93	1.52	-8.37	1.01	-10.25	2.28	-11.39

Source: GATT Tables: International Trade 1980/81.

where the evidence suggests that the process of capital deepening - achieved by investment in new generations of high-speed looms and knitting machines - has given the industry in some industrial countries a ratio of fixed capital to labour employed somewhat in excess of the manufacturing average.¹ It is a moot point as to whether companies took this route in response to the competition they faced from developing countries or because the existence or prospect of protection made investment of this kind commercially attractive. In any event, heavy investment in labour-saving equipment has not yet given textile industries in industrial countries sufficient self-confidence to operate without protection under the MFA (that is, of yarns and fabrics as well as garments).²

Extent of Protection

18. The degree of coverage of developing country exports to industrial countries by quotas, or tariffs well above the average, is very comprehensive. The American Apparel Manufacturers acknowledge that 85 per cent of the total US apparel trade is controlled through bilateral quotas while UK sources have claimed that around 98 per cent of 'low cost' textiles or clothing - including that from EEC applicant members - is now covered by MFA quota arrangements (the EEC's 'trigger' mechanisms are designed to ensure 100 per cent potential coverage).³ In some cases - Canada and some Scandinavian countries - all trade flows from developing countries including those of little more than one hundredth of one per cent of overall imports, are subject to quotas. With the exception of Japan and Switzerland, all industrial countries apply quotas or prohibitive tariffs and neither of those two countries have high penetration for other reasons. Few developing countries, even amongst the smaller suppliers, are now exempt from quotas while there are 'consultative'

1. There is a detailed analysis of these issues in an unpublished report by the OECD; Structural Problems and Policies to the OECD Textile Industries, 1980.
2. The experience of industrial countries is very different however, with German F.R., the USA, Switzerland, and Japan doing rather better in this respect than the UK, France, Canada or the Scandinavian countries. See Geoffrey Shepherd, Textile Industry Adjustment in Developed Countries, Thames Essay No.30, TPRC, 1981.
3. AAMA statement on 30/11/79. A good UK source is Department of Trade The Government and the Textiles Industry, September 1980. The system is described more comprehensively in V. Cable An Evaluation of the Multifibre Arrangement and Negotiating Options Commonwealth Economic Papers No.15, 1981.

agreements for potential but not actual exporters such as Bangladesh. The only significant exception now is 'offshore' assembly, for example by US firms in the Mexican border zone and some German and Dutch firms in Eastern Europe and North Africa. There are also separate protective arrangements for textile products not covered by the MFA. Jute fabrics, yarn and products have long been protected in the EEC, the main market for India and Bangladesh (the United Kingdom has retained jute quota protection since World War II, one of the incidental side effects being the precipitation of technological changes in the industry which have fundamentally altered its previously labour intensive character).¹

19. The quota controls are not only comprehensive but discriminatory, and do not in general apply to trade between industrial countries (exceptions are controls on Japanese exports to the USA and Canada, very shortlived UK quotas on US synthetic yarns, some French surveillance of other Community imports and global quotas operated under Article XIX by Norway). Tariff coverage is also relatively high and textiles and clothing experienced some of the smallest cuts in both Kennedy and Tokyo Rounds. Under The GSP schemes, product exclusions or quantitative limitations on duty-free access are consistently more severe in the textiles area. The high tariffs and GSP limitations are significant for the USA and Canada (21.1 and 21.2 per cent nominal tariffs respectively for clothing, post-Tokyo Round, as against 5.6 and 9.1 per cent for all manufactures) and for Australia which relies heavily on tariffs for protection. The elaborate GSP limitations, especially those in the EEC, represent a substantial degree of overkill since, clearly, preferential tariffs are largely redundant where quantity restrictions are used to regulate the trade of all potential beneficiaries.

The Effects of Textiles Protection

20. Despite the popular picture of 'floods' of cheap imports from developing countries, the evidence suggests that under the MFA quotas have, in fact, prevented developing countries realising the scope "for a greater share for them in world trade in these products" (Article 1:3). Their share of world trade has now stagnated at

1. The jute story is described (mainly as it affects the UK) in S. McDowall and P. Draper, Trade Adjustment and the British Jute Industry: A Case Study, ODI in conjunction with the Fraser of Allander Institute, 1978.

around 26-27 per cent for five years. GATT data also suggests that developing country signatories of the MFA have experienced in this period a declining share of the imports of developed country members, especially in the EEC (mainly at the expense of Southern European OECD countries). The picture is even clearer if we consider incremental trade. Developing country members achieved 62 per cent of the incremental share of clothing imports and 36 per cent of 'textiles' imports in the 1973-76 period, but only 43 per cent and 24 per cent respectively, in the 1976-79 period (Table 2.2). The most obvious explanation for the trends observed is that a tightening of quotas on MFA developing country members in the late 1970s has led to a process of export substitution, a switching from restrained developing country to non-restrained developed and developing countries suppliers.

21. The other criterion against which developing countries judge the experience of the MFA is its declared objective to "secure a substantial increase in their export earnings from textile products", which was to be achieved by guaranteeing 6 per cent real import growth within restrained categories. Data published by the Commission of the European Communities, however, acknowledged that in the 1976-79 period developing country exporters participating in the MFA achieved an average annual growth in volume of only 2.4 per cent under bilateral agreements and "low cost suppliers", as a whole, experienced growth of 4 per cent (in comparison, exports to the EEC of MFA products from industrial countries grew by 9.9 per cent).¹ Developing country textile and clothing exports to the USA grew in volume terms by only 3.8 per cent per annum in the 1971-79 period taken as a whole, although fell between 1976 and 1979. GATT figures for the 1976-79 period show that the real (constant price) growth rate of textile and clothing imports into industrial countries from all developing countries was 4.6 per cent (for both categories, jointly and separately), as against 8.4 and 9.2 per cent from Southern Europe and 6.5 and 5.3 per cent from other industrial countries (Table 2.3)

1. The Commission of the European Communities, The Multifibre Arrangement: Background Report, ISEC/B43/80, September 1980.

TABLE 2.2
Import Increments, Developed Country Members of the MFA

	1973-76		1976-79	
	US\$ billion	Share (per cent)	US\$ billion	Share (per cent)
<u>Textiles</u>				
Total	1.77	100	6.34	100
Dcs (excluding intra EEC)	0.76	43	3.15	50
Ldcs (members)	0.64	36	1.54	24
(non members)	0.24	14	1.15	18
E. Area (members)	0.04	2	0.10	2
(non members)	0.09	5	0.36	6
<u>Clothing</u>				
Total	4.77	100	7.64	100
Dcs (excluding intra EEC)	0.75	16	1.92	25
Ldcs (members)	2.98	62	3.31	43
(non members)	0.82	17	1.74	23
E. Area (members)	0.16	3	0.28	4
(non members)	0.77	1	0.34	4

Source: V Cable: An Evaluation of the MFA and Negotiating Options, Commonwealth Economic Papers No. 15 1981 based on ...

Note : Dcs exclude Southern Europe (treated as Ldcs).
GATT Statistics on Textiles and Clothing (COM/TEX/W/76).

TABLE 2.3

Real Growth Rates of Imports of Clothing and Textiles from Four Groups of Countries into Industrialised Countries of Western Europe and North America: 1963-73, 1973-76 and 1976-79
(per cent, per annum)

	Textiles			
	Clothing		Textiles	
	1963-73	1973-76	1976-79	1976-79
Developing countries	21.1	14.4	4.6	4.6
Southern Europe	28.8	6.4	8.4	-0.8
Centrally-planned countries	30.5	7.9	10.5	0.1
Developed countries	11.7	-0.4	7.3	-4.5
World	15.3	5.6	6.5	-3.6

Source: MFA Forever? Trade Policy Research Centre 1981 based on GATT trade flows and using a price deflator.

22. Some developing exporting countries find the quotas less restrictive than others. Many individual quotas are unfilled because of internal supply problems, disorganised quota markets or, simply, the inability of a system of detailed quantitative planning of international trade to accomodate rapidly changing fashion and changes in competitiveness. Nonetheless, in the countries that have geared production primarily to exports - mainly Hong Kong, Republic of Korea and Taiwan - import quotas are virtually always filled. Countries which have their export earnings and employment generating prospects most severely inhibited by quotas are the poorer 'labour surplus' economies - Philippines, India or Sri Lanka, for example - in the field of garments (if not textiles).

23. The MFA was originally envisaged as a means of heading off protectionism and a basic objective was to "achieve the expansion of trade, the reduction of barriers to such trade and the progressive liberalisation of world trade in textile products". But, in acceding to the MFA, developing countries also made important concessions: derogation from the GATT principle of non-discrimination; acceptance of an ill-defined concept of 'market disruption' resulting in 'serious damage'; explicit recognition of small developed countries' right to 'minimum viable production'; and, by operating in a GATT framework, they gave up the weapon of retaliation, accepting that negotiated agreements with quotas administered by themselves were preferable to unilaterally imposed import quotas. In 1977, renegotiating the MFA under strong duress, they accepted a further change, this time from the original MFA, in an amending protocol permitting "reasonable departures", albeit temporary and jointly agreed. Following this step, a set of bilateral agreements was concluded which reduced considerably the rate of increase in the volume of imports either by specifying lower growth in 'sensitive' categories or by reducing flexibility.

The Post-1981 MFA

24. The future nature of restrictions under the MFA will depend primarily upon the bilateral agreements negotiated under it. The most important of these - with the EEC and the USA - were still being negotiated, at the time of writing, to cover the period after 1982. There were, however, some significant changes also in the

protocol (or annexes to it) which was negotiated to extend the MFA until mid-1986. The objectives of the original MFA are reaffirmed. But, some changes are of a more restrictive character, while others are potentially liberalising. The balance to be struck between the sets of provisions will emerge in the course of the bilateral negotiations. The 'reasonable departures' provision from the 1977 protocol has been dropped. There is also reference to a strengthening of the definition of market disruption with an obligation placed on the importing country to provide additional factual justification and provision for closer monitoring by the Textiles Surveillance Body (TSB). To be set along side these innovations is a new 'anti-surge' provision for action against sudden increases (over 10 per cent per annum) arising from past under-utilisation of quotas (albeit with compensation to exporters). Another feature is introduced obliquely through a reference to 'dominant' suppliers but separate communications between the EEC and Hong Kong, Republic of Korea, and Macao make it clear that their quotas will, in particular, be cut back.

25. Any expectations that the protocol might herald an improvement in the position of textile exporters have to be set alongside the fact that protectionist attitudes in industrial countries are hardening, even amongst Ministers supposedly committed to free trade policies. The prospects for liberalisation of the MFA system are worsening. We should note, in particular, how the powerful combined influences of recession in Western economies and skilful and persistent lobbying by the European textiles lobby, in particular, now threatens to create an even more protective set of arrangements. In 1980 the Commission of the European Communities pronounced itself satisfied that "the rates of growth of imports from the countries covered by the policy have been reduced and a stable trend established while the community global ceilings have been observed", while Commissioner Davignon noted that "over the past few years the MFA has worked vis-a-vis the developing countries".¹ British trade minister and officials who, with the French, led the moves to toughen the MFA in 1977 acknowledged that the resultant controls

1. Commission of the European Communities, Report, COM(80) 438.

were highly effective: even "savage".² Yet the EEC - and particularly the United Kingdom, France and Italy - now threatens to withdraw altogether from the MFA unless the bilateral agreements being negotiated for the post-1982 period reduce substantially the overall level and growth of imports from MFA suppliers. The governments concerned are already under pressure from their textile lobbies for not being 'tough' enough.

Evaluation

26. The central intellectual justification for sectoral protection has been the concept of temporary 'breathing space' in which industries in relative decline can be given some time to cope with market adjustment pressures. After numerous extensions of "temporary" arrangements over a period of more than twenty years there is the danger that protection accorded by the MFA is becoming permanent. This contrasts with the declared objectives of the MFA (Article 1:4) that adjustment should be assisted by policies "required by changes in the pattern of trade in textiles and in the comparative advantage of participating countries, which policies would encourage businesses which are less competitive internationally to move progressively into more viable lines of production or into other sectors of the economy and provide increased access to their markets for textile products from developing countries". Under the new protocol to the MFA, 'adjustment' is to be monitored more assiduously and there is even reference to a phasing-out of 'restraints'; but neither is given firm determination.

27. Many of the worst features of present arrangements derive from the inflexible specification of enormous numbers of individual quotas. This partly arises because of the proliferation of product quota categories (over 130 in both the EEC and the USA) and the differential sensitivity applied to each. In addition, there has been a growing tendency for importing countries to ignore the MFA's injunction to allow "substantial flexibility", incorporated in swing (between products), carry-forward and carryover (between years) provisions. The USA has used cuts in swing and carry provisions as the main weapon in its 'anti-surge' action against major suppliers, reopening, in several cases, existing agreements.

1. Statement to United Kingdom Parliamentary Select Committee
8/3/81.

Other importing MFA members - Canada, Sweden, Finland - have eliminated or cut flexibility provisions in bilateral agreements. The adoption, now, of an 'anti-surge' mechanism within the MFA will further limit flexibility in the case of quotas. The objective, clearly, is for the use of flexibility provisions as a device to cut overall import growth, but one effect is seriously to erode the responsiveness of the textile trade to market forces, and, in particular, to demand changes caused by fashion. The same objective also probably underlays the ranking of products by sensitivity - with some, in the EEC, permitted an annual real import growth of under 1 per cent after 1977. Its incidental effect has been to accord maximum protection to the least efficient sectors within the industry. A further element of inflexibility in the EEC is the system of member state quotas superimposed on Community quotas for 'sensitive' items, according to a standard formula which ignores variations in market demand.

28. It was originally envisaged in the MFA that, within a framework of controls, importing countries would "provide more favourable terms (for developing countries) with regard to such restrictions... than for other countries". In practice the reverse is the case as we have seen from the trade statistics: developing countries in general and MFA signatories in particular have experienced less favourable treatment than other suppliers. The most explicit acknowledgement of this discrimination is the system of 'global' quotas applied by the EEC on 'sensitive' products to cover 'cumulative market disruption' by all 'low cost' suppliers (but not others). Within MFA negotiations it has also been a declared objective to favour small and new suppliers and - less formally - the poorer developing countries (Articles 6:2 and 6:3). In fact, small suppliers have been affected by quotas imposed on specific trade flows of well under 1 per cent of imports, preventing any sort of scale of operation from being established; while the "trigger mechanisms employed by the EEC are designed to ensure that growing but small quantities (0.2 per cent of imports of 'sensitive' items) can be quickly acted upon. The poorest countries - India and Pakistan for example - enjoy no preferential status and most of their handmade textile items are now subject to quota controls because of disagreement over the authenticity of handloom certi-

fication (or possibly because importing countries are in any event no longer willing to accomodate more-than-negligible volumes of handmade items).

29. One reason why textile exporters have, until now, accepted a high degree of trade regulation and limitation on market access is that the MFA did offer, at the outset, the prospect of reduced uncertainty and some clearly designed rules and obligations. Bilateral negotiations have certainly led to many stable four or five-year agreements, but there have been increasingly capricious and unpredictable elements. Perhaps the most important is the re-opening, annually, by the USA of agreements with major suppliers as part of its 'anti-surge' action; a precedent widened in significance by the incorporation of 'bilateral consultation' provisions (for 'anti-surge' action) in the post-1981 MFA. The use of the "trigger" mechanisms by the EEC has also created uncertainty over whether, and if so when, quotas will be imposed. The 'reasonable departures' formula in 1977 ushered in a period of innovation in protective devices within bilateral agreements which has certainly not ended with the formal lapse of the formula. The Textile Surveillance Body has not been allowed to develop judicial or arbitrating functions in a way which could have restored a sense of order and legality to proceedings.

30. This picture is a largely negative one, although it could be argued that, without the MFA, the restrictions would be worse, and even less disciplined. This is, however, water under the bridge and it should now be possible to envisage a gradual evolution to a more liberal and genuinely multilateral arrangement later in the 1980s. The MFA itself provides for such an arrangement were it possible to reinstate the primacy of multilateral safeguard procedures under a GATT safeguard code, rather than giving overwhelming emphasis to bilateral solutions. The issue is not, however, primarily legal or administrative but economic and political; namely, whether industrial countries will now - after a long period of protection designed to cushion the adjustment costs of import competition - allow the protective arrangements to be dismantled in stages, recognising instantaneous liberalisation to be an unrealistic goal.

31. This industry has some of the same characteristics of the clothing industry: the major operations in shoemaking involve labour intensive methods and batch rather than mass production processes.¹ Some developing countries should enjoy an advantage in labour costs. The growth of developing country penetration of the markets of industrial countries has been very rapid - by over 20 per cent per annum in the EEC, USA and Japan - and the level of penetration is approximately 16 per cent overall in value terms. Market penetration has gone particularly far in the USA (24 per cent by value in 1978 and 1979). Developing countries have built up exports initially mainly in non-leather footwear - slippers and shoes with textile and plastic uppers. There is, however, a growing share of leather shoes - particularly from Brazil and Republic of Korea - which are of relatively high quality.

32. The rapid growth of footwear imports has led to strong demands for controls in both the USA and Europe. The largest importer is the USA and an attempt was made in 1977 to restrain its imports through OMAs with Republic of Korea and Taiwan (on non-rubber footwear).² Overall, imports have subsequently stabilised at around the 1977 level (375 million pairs) and import penetration (in terms of quantities) stabilised at around 50 per cent. However, within these limits, imports from Republic of Korea and Taiwan were halved while those from Hong Kong and Philippines rose by 250 and 1250 per cent. As footwear was being re-cut and finished in countries outside of quota control the US government has sought to stop this trade through 'certificates of origin'. The exports also sought to offset the restrictive effect of the quota by shipping uppers without soles and switching to unrestrained rubber shoes. The Reagan administration subsequently accepted a recommendation by the US/ITC not to extend the OMAs for Republic of Korea beyond mid-1981. The decision was regarded as a step towards trade liberalisation.

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1. M. Szenberg, J. Lombardi and E. Lee, Welfare Effects of Trade Restrictions: A Case Study of the US Footwear Industry, Academic Press, 1977.
 2. The background is described in J. Mutti and M. Bale, Output and Employment Changes in a Trade Sensitive Sector: Adjustment in the US Footwear Industry, World Bank Staff Working Paper, No.430.

33. There is currently more pressure in the EEC for increased protection of the footwear industry. The European Federation of Footwear Manufacturers is seeking an MFA-type arrangement covering world trade as a whole. EEC imports from developing countries have recently risen rapidly - from 235 million pairs in 1978 to 320 million in 1980 (55 per cent of all imports from outside the Community). The main growth has been of slippers from China (P.R.) and of non-leather shoes from Republic of Korea and Taiwan. So far, action has been mainly confined to specific member states. France, the United Kingdom and Ireland have negotiated bilaterally or imposed quotas on imports from Republic of Korea and Taiwan. There are also widespread controls and extensive use of anti-dumping duties on imports from centrally planned economy countries. Tariffs are the main instrument used at Community level. Footwear duties are 8 per cent (leather) and 20 per cent (non-leather). All footwear is treated as highly 'sensitive' in the GSP and multilateral tariff cuts were not conceded in the Tokyo Round.

34. The level of protection is probably more severe in other OECD countries. Japan has a tariff on leather footwear of 27 per cent (and also strict quotas). Australia has a tariff of 34 per cent on leather shoes. Canada has quotas which were applied under Article XIX in 1977. Taking industrial countries together, however, the coverage and intensity of restrictions are generally rather less than for clothing and textiles and appear to provide for some continuing import growth.

III. Engineering Goods

35. The category of goods described as 'engineering' is vast and variegated, so generalisation is dangerous. The rapid displacement of mechanical by electronic processes is, moreover, changing its character away from a traditional concern with metal working skills. And, with major changes in methods of production and new products are coming new patterns of trade. It is in this broad and changing family of industries that world manufacturing trade, and developing countries manufactured exports, have risen most rapidly. Between 1970 and 1979 the share of all imports in the apparent consumption of industrial countries - that is, import penetration - rose by 8 per

cent per annum in engineering as against 5.1 per cent per annum for manufactures as a whole while developing country penetration of the same markets rose by 21.8 per cent per annum.

36. The rapid growth has occurred from a very low base. The engineering exports of developing countries, even now, account for under 2 per cent of apparent consumption in industrial countries as against 3.4 per cent for all manufactures. At US \$21.4 billion in 1979 they were heavily outweighed by the reverse flow (of US \$121.3 billion). Future potential is suggested by projections that - on a fairly optimistic scenario for the 1980s - developing country engineering exports could grow by 17 to 20 per cent per annum so as to constitute, by 1990, almost half of all their manufactured exports, far exceeding the contribution of textiles and clothing; "reflecting expected rapid increases in the imports of consumer electronics, machinery, motor vehicles and ships from developing countries, in particular the NICs, as well as the further extension of the international division of production process with rising imports of parts, components and accessories of various engineering products".¹ Even with this projected growth, the imbalance in engineering trade between developed and developing countries could grow from US \$90 billion in 1978 to US \$285 billion in 1990 (in constant 1978 prices). Yet for developing country exports to grow at the projected rate requires an assumption of liberal market access.

37. Within the wide engineering category there is much country and product variation (Tables 3.1 and 3.2). Engineering exports already account for half or more of the manufactured exports of some of the more industrially advanced developing countries, for example, Singapore, Brazil and Malaysia. The share is large and growing for others - Republic of Korea, Hong Kong, the Argentine and Mexico - while India has also built up substantial engineering exports in a short space of time. For several of these countries engineering exports are seen as a major means of diversifying from traditional textiles and clothing. A distinction needs, however, to be made between two types of engineering: the assembly of light engineering goods - radios, calculators, cameras, watches - and the manufacture

1. B. Balassa, Prospects for Trade in Manufactured Goods Between Industrial and Developing Countries 1978-90, Journal of Policy Modelling, September 1980.

TABLE 3.1

Developing Countries' Trade in Engineering Goods

Country	Value of Engineering Exports (US\$ billion)	Value of Engineering Imports (US\$ billion)	Share of Engineering Exports in Manufactures (per cent)	Share of Western countries Sales (per cent)
Non-oil Ldcs (1979)	29.00	87.10	13	66
India (1978)	0.69	1.52	18	21
Hong Kong (1980)	4.33	7.00	33	70
Republic of Korea (1980)	4.62	5.60	30	66
Malaysia (1979)	1.24	3.25	64	66
Singapore (1980)	5.67	8.23	63	48
The Argentine (1979)	0.58	2.43	31	24
Brazil (1980)	3.66	5.41	49	31
Mexico (1978)	0.72	3.82	42	67

Source: Derived from GATT Changes in the Structure of Production Employments Trade since 1963, 1982 and other GATT tables.

Note: Engineering goods are defined as those items in SITC 7 plus divisions 69 and 86 (minus 862 and 863) and sub-group 891.1.

TABLE 3.2

Engineering Goods Imports (by sub-product) into Industrial Countries

Category	Value of imports from Ldcs to 11 (a) industrial countries		Import penetration by Ldcs (per cent) (b)		of which Import penetration (b) by export orientated Asian NICs (c)	
	1979	1970	1979	1970	1979	1970
All machinery	US\$ billion					
	21.40	1.39	2.04	0.33	0.92	0.14
a) metal products	2.04	0.16	0.92	0.20	0.54	0.08
of which, cutlery	0.67	0.02	6.02	2.00	4.56	1.47
hand tools	0.51	0.04	2.46	0.50	1.47	0.15
b) machines	2.88	0.32	1.04	0.30	0.43	0.04
of which, typewriters	0.48	0.08	7.81	1.50	4.10	0.60
sewing machines	0.08	-	3.75	0.56	2.85	0.36
c) electrical	9.38	0.66	4.05	0.75	2.37	0.47
of which, radio and TV	7.19	0.50	6.10	1.13	4.01	0.76
d) motor vehicles	1.79	0.05	1.13	0.06	0.04	-
e) others	1.84	0.06	3.21	0.34	2.26	0.15
of which, photographic	0.05	-	2.49	0.46	1.68	0.27
watches	0.99	-	13.90	0.63	12.20	0.48

Source: World Bank Import Penetration Project.

Notes: (a) The 11 industrial countries are - USA, Canada, UK, German.F.R., France, Netherlands, Belgium, Italy, Sweden, Australia and Japan.

(b) Import penetration is imports divided by apparent consumption.

(c) The Far Eastern NICs are Hong Kong, Taiwan, Republic of Korea and Singapore.

of more complex capital goods - vehicles and ships - often for export to other developing countries. Hong Kong, Singapore, Malaysia, Mexico and Republic of Korea have mainly taken the first route while India, Brazil and the Argentine have taken the second (although Republic of Korea is well represented in both areas). These two routes to the development of engineering exports represent different aspects of developing country comparative advantage. The first derives from the relatively abundant supply of low wage manual labourers, although no doubt skilled to a degree; the second draws upon the more sophisticated technological base now possessed by larger developing countries with a substantial experience of industrialisation. Protection in Western markets is naturally of more concern in the former, although developing country exports of the latter are affected by other forms of market intervention: protection in a wider sense, in the form of export subsidies or tied aid.

38. Despite the absence of formal quotas and tariff restrictions there are, in the area of engineering goods, problems of a different kind arising from technical standards and government procurement policies in the industrialised countries. Although these may not be protectionist in intention, they may in some instances considerably limit market access for competing imports.

Metal Products and Light Engineering

39. As can be seen from Table 3.2 there are two products here of real importance to developing countries: cutlery and hand tools. Cutlery, in particular, has seen major market penetration by east Asian exporters, in particular Republic of Korea - in the United Kingdom, German F.R., Italy, Sweden, Canada and Australia. Competition has, however, been in the narrow area of mass-produced stainless steel tableware produced in large mechanised factories with, paradoxically, the more labour-intensive specialist work, and silver plating, remaining in the developed countries, which have also retained the bulk of the production of most other products of this type (for example, holloware, razor blades and industrial cutlery). There have been demands from manufacturers for protection. Tariffs are well above the average - 17 to 19 per cent in the EEC -

and were specifically exempted from Tokyo Round cuts; but the industry never acquired fully sensitive GSP treatment. In the USA, the President rejected an ITC recommendation for increased tariffs - the industry has enjoyed nominal tariffs of approaching 80 per cent.¹ There are also several VERs operated in the United Kingdom, German F.R., Denmark, Norway and the Benelux countries. However, the VERs are of an unofficial industry-to-industry basis with Republic of Korea, and are not regarded as particularly effective (in the United Kingdom, they are negotiated by manufacturing firms with major importing interests). Protective measures, so far, fall well short of industry demands for quotas. There has been some growth of imports of handtools from Taiwan and especially India. Despite some protests in Europe from manufacturers about the volume of imports and low safety standards, the products face no significant tariff or NTBs. This is true also of other base metal products such as cooking stoves and metal plumbing fixtures: an ITC recommendation for protective action against imports into the USA of these products from Taiwan and Republic of Korea was rejected. Industrial fasteners (nuts and bolts etc.) have been more problematic, with Indian and Republic of Korean exports to the USA being the subject of countervailing action.

Machinery and General Engineering

40. Some NICs have begun to export significant volumes of heavier engineering items; mainly from Southern European countries (Yugoslavia and Spain) but also from Mexico, Brazil, India, Republic of Korea, Taiwan and Singapore. Some are sophisticated items embodied in turnkey plant projects in third (and third world) countries. There is also evidence that developing countries are beginning to realise a comparative advantage in labour intensive and technologically standardised products with low transport costs (heating and cooling equipment, pumps and centrifuges, mechanical handling equipment, and ball and roller bearings) and in producing machinery components and parts.² Imports from developing countries

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1. C. Pearson, Protection by Tariff Quota: Case Study of Stainless Steel Flatware, Journal of World Trade Law, 1978.
 2. Y. Kawaguchi, Non-electrical machinery exports by ldc's, World Bank, 1978 (Mimeo).

of these products arise mainly from sub-contracting arrangements by Western companies which consequently view the trade favourably. There is, however, concern being voiced over NIC, as well as Japanese, competition in the field of machine tools - both standardised and more advanced microprocessor controlled lathes.¹

Vehicles

41. No significant friction has yet arisen over developing country exports of road vehicles and components. These exports are, of course, small in relation to world trade - about 1.5 per cent of the total. Another reason is that the major (NIC) motor industries which have any impact outside of narrow, national, import substitution are part of the multinational operations of the main Western - and non-Japanese - manufacturers: VW and General Motors in Mexico; VW, General Motors, Ford and Fiat in Brazil and, in Europe, the Ford complex in Spain. Exports from these plants are mainly in the form of components - contributing towards the concept of "world-cars" - or, as finished vehicles, to other developing countries. Most forecasts for the 1980s do not envisage the pattern greatly changing.² Although, on a 'product cycle' interpretation of trade patterns, the production of cars should become a 'mature' process which will drift to low wage cost locations, there is, to offset this, considerable progress being made in robotics and automated assembly. And economies of scale are a major barrier to entry for a new national car company divorced from transnational corporations. Some finished cars may be exported to Europe from Brazil but as part of a transnational corporation operation - by GM and Fiat - since Ford now incorporates Spanish made cars in its range. Past experience suggests that however much trade unions in Western countries may object to the growing multinational character of the car industry, the high level of reciprocal intra-industry trade makes it an unlikely candidate for national protection. By contrast,

1. The machine tool issues are reviewed in the UK and French case studies in Employment, Trade and North-South Co-operation (Ed. Geoffrey Renshaw), ILO, 1981.
2. The structure of the industry and recent trends are discussed in the OECD Interfutures study document: "Long-Term Perspectives of the World Car Industries", 1978.

there is a network of quantitative restrictions and VERs applied to Japanese cars (and those from Eastern Europe - on a much smaller scale) and these could well be extended to other Asian vehicles in which European or US manufacturers did not have a stake either in ownership or in component supply. The only other likely candidate for future protection in the foreseeable future - if this argument is correct - is the Republic of Korean (Hyundai) Pony as sales are expanded in Europe. There may also be resistance to components manufactured outside the major companies as there is, at present, to tyres from Eastern Europe.

Shipbuilding

42. The question of protection, in the normal sense of border controls, does not usually apply in shipbuilding because of the nature of the shipping business. Nonetheless, this is an area where major trade distortions occur - in the form of subsidies, export credits, tax exemptions, government procurement and finance for research and development. Shipbuilding is an industry in which some of the more industrialised developing countries have made a substantial impact on trade, since the assembly operation is labour intensive, even if skilled and complex. The context is one in which the industry, world wide, is in a severe slump, production having fallen annually from 34.2 million gross registered tonnage in 1974 to 12.2 million gross registered tonnage in 1980. Within that declining market, non-OECD countries - Republic of Korea, Brazil and Taiwan, and also some Eastern European countries, mainly Poland - have increased their share of production from 13.6 to 21.4 per cent, mainly at the expense of the EEC. Brazil and Republic of Korea are now the second and third largest producers of ships. These NICs' share of current capacity is probably larger than of current production and this is reflected in their share of orders by gross registered tonnage, up from 19 per cent in 1976 to a third in 1979. There have been attempts, within an OECD context, both to avoid ruinous export competition and also to manage cutbacks in capacity on an equitable basis. Nonetheless, there has been a spurt in direct subsidies for the construction of vessels amounting to, in some cases, around 30 per cent of the contract price and some tied aid programmes which have entailed ships being effectively

given away to recipients. It must be said, however, in general that major traditional OECD shipbuilding countries have accepted policies implying very substantial and painful cutbacks in capacity in attempts to adjust to future lower levels of new shipbuilding; in German F.R. and Netherlands by 50 per cent between 1975 and 1980 and in the United Kingdom, Japan, Sweden and Italy by over 30 per cent. Also, although it is possible to quote extreme cases of subsidy protection there is, through the transparency of the mechanism, a degree of domestic budgetary restraint on protection which does not apply in the case of other non-tariff measures.

Electronics

43. By far the most important area of developing country engineering exports is electronics and, in particular, the assembly of finished consumer appliances and components. Both of these categories of goods contain many processes (though these are constantly changing) for which labour intensive assembly in developing countries is economically feasible. The average annual rate of growth of exports of electrical goods (in value terms at current prices) - even for the largest exporters, for example Singapore, Taiwan or Republic of Korea - has rarely fallen below 50 per cent per annum in the last fifteen years.¹ In the period 1970 to 1978 the main NICs increased their exports to OECD countries from US \$0.7 billion (around 1 per cent of apparent consumption) to US \$5 billion (around 3.5 per cent of consumption). By contrast, Japanese exports to other OECD countries were just under US \$9 billion in 1978, having grown even more rapidly.

44. This very rapid growth of imports might be expected to have created adjustment problems and demands for protection. There have been some but to a lesser extent than elsewhere for several reasons. The industries are rapidly growing and changing. New products

1. The main trends (up to the mid-1970s) are described in P. Plesch, Developing Countries' Exports of Electronics and Electrical Engineering Products, World Bank, 1978. There is some updating in V. Cable and J. Clarke, British Electronics and Competition with Newly Industrialising Countries, ODI, 1981.

emerge when those whose technology becomes mature or standardised - for example, portable radios, black and white televisions and tape-recorders - and gravitate to 'low wage' locations. There is little by way of community and craft tradition amongst the labour force to be found in the traditional labour intensive industries. Many manufacturers have, moreover, succeeded in making imports complementary to their own requirements, by using overseas subsidiaries to meet home market requirements for particular products (as with the Philips smallscreen television set plant in Singapore), by acting as importers for products made under subcontracting arrangements in the Far East but using their own brands and by producing specialised components in low wage economies. Not all firms have necessarily 'internationalised' their operations to the same degree, but enough to prevent a common protectionist front. Even where intra-firm transactions are not involved, manufacturers have had some control over the pace of technology transfer to potential competitors through patent licensing, for example, Phase Alternation Line (PAL) licenses have acted as the major restraint on firms in the NICs - other than European owned subsidiaries - acquiring the means to assemble colour televisions for sale in Europe.¹

45. Trade policy problems have however arisen and there are trade barriers of some importance on televisions. The USA negotiated OMAs on colour televisions with Republic of Korea and Taiwan in 1979 following an earlier agreement with Japan. The two events were closely linked. The quotas on Japanese televisions had led to imports from Taiwan doubling within a year and those from Republic of Korea increasing nine times. The quotas on Republic of Korea and Taiwan were renegotiated for two years in 1980 but a quota increase of 36 per cent was allowed. The rapid influx of televisions from new sources (including partially finished units from Mexico and Taiwan) has, however, ensured that there has been no increase in the US price and any costs to consumers have been marginal.² The US also imposed, but has since reduced, additional tariffs on Citizen's Band radios.

1. The main papers are by E. Scibberas, Transfer of Technology in the Consumer Electronics Industry - The Television Sector OECD 1979 (unpublished) and Multinational Electronics Companies and National Electronics Policies JAI Press, 1977.

2. M.E. Mokre and D.G. Tarr, The Effects of Restrictions on United States Imports: Five Case Studies and Theory, Federal Trade Commission, 1980.

46. Protection of consumer electronics in Europe is somewhat uneven reflecting different national policies dating from pre-EEC days. European countries have now virtually ceased to produce battery radios, radio combinations and tape recorders, ceding the market to Asian NICs. The United Kingdom has also largely vacated the production of car radios and cassette combinations (although the two remaining producers are lobbying for protection). The United Kingdom and German F.R. - but not France and Italy, which maintain national quotas - have also accepted large import penetration of monochrome television sets. The United Kingdom has tried to arrest the process by imposing quotas selectively on imports from Republic of Korea and Taiwan. The action was particularly significant in that it was one of the very few uses of GATT's Article XIX, selectively, and, following a Republic of Korean submission to GATT, the quota was replaced by a VER. VERs have since been extended to new products ('music-centres') and other countries (Singapore and Thailand). The attempts currently being made to restructure the colour television industry - particularly in the United Kingdom - are also predicated on the assumption that trade restrictions will be introduced on Far Eastern exporters once PAL licenses lose their effect.

47. There are currently moves - so far unsuccessful - to regulate imports at an EEC rather than a national level. Anti-dumping action, against Republic of Korean monochrome televisions is being pursued at a Community level. EEC countries have also sought to retain tariff protection - the 14 per cent nominal rate was left intact in the Tokyo Round - and televisions and radios are treated as 'sensitive' under the GSP. In Europe this sensitivity applies also to components. Transistors and television tubes are accorded tariff quotas and there are, in some member states, quantitative restrictions as well. The situation is in practice, however, extremely complex and, using special customs regimes, a large multinational company, like Philips, could arrange for components made in several 'low wage' countries to be assembled in Europe without payment of duty on the imported inputs.

48. The various actions - national and Community - reflect the growing insecurity of even the largest European companies in the

face of Japanese, and (in some areas) NIC competition in both consumer products and components; insecurity which is partially shared in the USA. The picture, then, is a mixed one. In the field of televisions there are substantial barriers which are likely to grow as NICs start to export colour televisions. But this is unlikely to be an area in which developing countries find a strong or secure comparative advantage in any event since the process of manufacture of televisions is becoming highly automated, with a need for large-scale mass production and little labour content. Elsewhere, developing countries have found many product areas - components and consumer goods - where there are no barriers to speak of. Hong Kong, in particular, has expanded exports rapidly, encountering very little resistance, in less sensitive products than televisions: digital watches, calculators (though there is 'sensitive' tariff treatment for calculators in the EEC), many adaptations of basic portable radios, electronic games, and components. And in general, the involvement of large corporations gives developing countries powerful allies in keeping markets open.

IV. Semi-Manufactures: Chemicals, Metals, Paper and Board etc.

49. We turn now to a group of industries very different in character from those which have gone before. The manufacturing process here is usually very capital intensive and the involvement of some developing countries, as competitors, is limited although some of them may have a comparative advantage stemming from specific circumstances: local, and relatively cheap raw materials; cheap energy and petrochemical feedstock in oil producing states; the availability, at least in the richer OPEC countries, of capital to support major investments. The anxiety of established producers in developed countries about new sources of competition is due largely to the nature of the industries themselves: competition is usually on price rather than quality differences or brand, so new suppliers which are cost-competitive - after transportation - can break into unprotected markets relatively easily; semi-manufactures are more prone to business cycle variations than finished manufactures, and since the downturn in world economic activity in the mid-1970s there have been serious problems of excess capacity. But there is not strong evidence that developing countries are singled out for

protectionist treatment. Trade friction has arisen in petrochemicals, steel, non-ferrous metals and paper between OECD countries themselves and developing countries - who are in any event minor suppliers - have, for the most part, been involved only incidentally.

50. Chemicals is a particularly sensitive area, especially petrochemicals. Major chemical companies have been a major influence on the textiles MFA, since 'downstream' clothing and fabric imports have been seen as a threat to 'upstream' man-made fibres, a sector which has suffered serious excess capacity problems. The sensitivity has also expressed itself in increasing attention to tariff questions. Most of the products recently given more extensive 'safeguard' treatment under the EEC's GSP scheme are chemicals and several important items - synthetic fibres, fertiliser, urea, dyestuffs - were exempted from full, or any, Tokyo Round cuts. Although the GSP measures suggest a growing awareness of competition from some NICs the real friction has been in the much larger trade between industrial countries, particularly concerning US exports of petrochemical products to Europe - leading to quota action.

51. Developing countries account only for around 3 per cent of all chemicals consumption - overall - in the industrialised world and growth of penetration is not especially rapid (5 per cent per annum in the 1970-79 period). But there has been rapid growth, albeit at a very low absolute level, of imports of synthetic fibres, polymers and dyes. Bigger problems may arise in the late 1980s with the emergence of petrochemical exporters in the Middle East, but some authoritative estimates suggest that, because of inevitable time lags, Saudi Arabia - the leading producer - is unlikely to have more than 2 per cent of effective world ethylene capacity by 1990 or the whole Middle East more than 4 per cent.¹ More serious problems are threatening to arise from exports of petrochemicals by Taiwan and Republic of Korea to Japan but these developments do not appear to affect other countries.

1. J. Turner and L. Bedore, The Trade Politics of Middle East Industrialisation, Foreign Affairs, Winter 1978/79. (Recent news reports, however, suggest that progress is being made more rapidly than expected in these estimates).

52. Several NICs, particularly Brazil and Republic of Korea (as well as Spain and Eastern European countries), are being affected by the crisis in the steel industries of the USA and the EEC; although mainly as a by-product of conflict between the EEC, the USA and Japan. Developing countries have contributed indirectly to the crisis of profitability and employment decline in established steel industries by building up their own self-sufficiency - from 40 per cent in 1974 to 60 per cent in 1980 - but their share of industrialised countries' markets remains very small, amounting to 1.5 per cent in 1979, even if the countries of Southern Europe are included amongst the developing countries. Republic of Korea's Pohang complex (8.5 million ton capacity) probably contains the world's most efficient plant but projections suggest that Republic of Korea will remain a net importer into the 1990s, exporting only some steel items.¹

53. The USA has demanded VERs of Japan and the EEC since 1969.² NICs only became involved with the introduction of the 'trigger' mechanism in 1977, which was re-introduced after a temporary suspension in 1980, for a five-year period. The mechanism provides in principle for an automatic triggering of anti-dumping action if prices fall below a price floor. After 1980, there has been an additional 'anti-surge' mechanism to ensure effective anti-dumping or anti-subsidy action once import penetration ceilings are breached or domestic excess capacity exceeded. Brazil - which encountered countervailing action on iron bars in the 1970s - is currently at the centre of an enquiry, with other steel exporters, to establish the existence of export subsidies. Brazil accounts for 10 per cent of US imports and 2 per cent of the US market. If proven, the charge could lead to countervailing duties being imposed (and a bond is currently being exacted to cover estimated duties).

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1. The main reports covering the role of ldc's in the world steel industry are by UNIDO, The World Iron and Steel Industry 1978 and by UNCTAD (I. Walter), Trade and Structural Adjustment Aspects of the International Iron and Steel Industry: The Role of the Developing Countries, 1978. There is more recent data in OECD, The Steel Market in 1979 and Outlook for 1980, 1980.
 2. The background to protection is explained in I. Walter, Protection of Industries in Trouble - the Case of Iron and Steel, World Economy, 1979.

54. All EEC iron and steel trade is now regulated, inside and outside the Community, and production is also controlled. Brazil and Republic of Korea have been required to negotiate bilateral agreements, along with other countries which export to the EEC (although Republic of Korea keeps its exports well below the quota limit). There is also a minimum price system similar to that operating in the US. Despite the existence of import restricting measures and falling import penetration (from 18.1 per cent in 1978 to 13.0 per cent in 1980 in the USA, and from 12.0 to 11.5 per cent in the EEC) capacity utilisation has still fallen (from 86.6 to 71.0 per cent in the USA and from 65.6 to 64.6 per cent in the EEC). The pressure for import restrictions has grown and restrictions have been tightened in 1980 and 1981.

55. Non-ferrous metals is one of the few areas in which market penetration by developing countries has actually fallen in the 1970s, mainly because of import substitution by some OECD countries which were previously major importers - Belgium, Sweden, Italy and the United Kingdom. Developing countries have, in any event, made negligible inroads into markets in the industrial countries for two of the main non-ferrous metals: aluminium and copper. This can, in part, be attributable to tariff escalation which has raised effective protection on aluminium and copper semis and products to somewhat more than the - rather low - nominal rates. But the reasons which determine the production location of non-ferrous metals are complex, and are related more to the technological characteristics of particular products, to transport costs and to the heavy involvement by transnational corporations, especially in aluminium, than to the structure or level of protection.¹

56. Paper is possibly an emerging problem because of the rapid growth - albeit from a very low base - of exports of pulpwood for paper processing, mainly from Brazil. Paper has traditionally been a highly sensitive item particularly in the EEC in its relations with the European Free Trade Association (EFTA) and the USA, and the proposed tariff change on one paper item (kraft liner paper)

1. The issues are clearly discussed in M. Radetski, Where should developing countries' minerals be processed?, World Development, 1977.

almost caused the Tokyo Round negotiated tariff package to become unstuck. Of more direct concern to developing countries have been other forms of wood processing especially plywood and veneer. Some industrial countries - the United Kingdom and Denmark in particular - welcome these imports, but others in the EEC have used the sensitive provisions of the GSP system to protect their industries (the nominal tariff is 13 per cent and there is tariff escalation). Australia has also sought to protect this industry. Countries affected are Malaysia, Philippines, Republic of Korea, Taiwan and Brazil. Another semi-manufacture which is of considerable interest to developing countries is leather. There has, however, been strong opposition amongst European tanners to the limitations placed by some of the developing countries on the release for export of unprocessed hides, and the consequential pressure on hide prices. Pressure has been mounting (so far ineffective) for an EEC ban on hides exports. There is also anxiety about direct developing country competition in tanned leather and (indirectly) in finished leather goods. But, tariffs are low and market penetration by developing countries is well above 20 per cent in most industrial countries, there being exceptionally low levels only for France and Japan. The Japanese leather industry, unlike most others, has traditionally enjoyed strict quota protection for social reasons.

V. Other Manufactures

57. There is, in addition to those mentioned above, a substantial number of smaller industry categories in which developing countries have become important suppliers. Many of these are light assembly operations drawing upon developing country comparative advantage in labour intensive manufacturing processes. Some of the most important items in this category are toys (where imports from developing countries to industrialised countries amounted to US \$1,296 million in 1979), a market penetration level, overall, in industrial countries of 13.6 per cent; sports goods (US \$459 million and 6.5 per cent); personal accoutrements like, umbrellas and pipes (US \$484 million and 7.5 per cent); musical instruments (US \$142 million and 3.8 per cent); and some items which were touched upon under engineering but possibly have more in common with those here, for example, watch-making (US \$990 million and 13.9 per cent) and

photographic equipment (US \$472 million and 2.5 per cent). Common to all of these categories is exceptional growth of market penetration and relative freedom from trade restrictions. While toys and sports goods, for example, have to confront tariffs greater than the average, they were not exempted from the full Tokyo Round cuts and in the main consuming markets, the EEC, they do not suffer 'sensitive' GSP status. One explanation could be that manufacturers have been able to devise adjustment mechanisms which have given them an involvement - through direct investment and importing - in developing country exports. These are also relatively insignificant industries unlikely to be able to mount a substantial lobbying campaign. And the extreme cheapness of some items has created, in some instances, a mass market for what was formerly a speciality. There are, of course, exceptions: France has created quota barriers against some Far Eastern imports of umbrellas and toys.

58. In the future, developing countries will enjoy a much wider spread of exports and there is evidence of rapid increases in some products - glass and pottery, ceramics, furniture and other wood products, printing and plastic articles.¹ In several cases anti-dumping or other action has been taken (for example, on ceramics and furniture) but the scale of restrictions, like the trade itself, is, as yet, small.

VI. Conclusions

i. The concept of "protectionism" in manufacturing trade is an elusive one since many trade restrictions are informally agreed or secret. Some trade which is nominally 'free' is, in fact, regulated through intra-firm transactions or patents, albeit privately administered. Hence, measurement is difficult and interpretation sometimes ambiguous. Attention is inevitably directed to the most visible impediments to market access, particularly tariffs. In most product categories tariffs have been superseded in importance by quotas, VERs or less visible NTBs, though they remain significant for many items even after allowance for tariff preferences.

1. There is a detailed review of industry prospects in A. Edwards The Newly Industrialised Countries and their Impact on Western Manufacturing EIU Special Report No.73, 1979.

ii. To the extent that it is possible to quantify changes, there is evidence of an upsurge of protectionist measures in the period 1974-78. International agencies are now very concerned that the climate of trade policy has deteriorated again. Developing countries appear to have been differentially affected by new protectionist measures. The level of tariff and NTBs which they face in industrial countries is also significantly higher than that faced by industrial countries. The agreement of GATT codes, in principle to cover NTBs, offers some possibility of relief but so far precise definitions, easily enforceable, have not emerged.

iii. The growth of developing country exports to industrial countries, and market penetration by them, was very rapid in the 1970s, although the levels attained remain very modest for most products and overall. There was a distinct slowing down in market penetration by developing countries in the late 1970s to which protectionism has contributed, together with a generally less favourable environment for trade in the context of recession.

iv. The main problem concerns textiles, and clothing. This is such a significant area of manufacturing trade for developing countries, and increasingly so for the poorer and smaller countries, that they regard developments under the MFA as a barometer of industrial country protectionist attitudes in general. Their experience with the MFA since 1977 in particular has been discouraging. The single most important measure which could now be taken by industrial countries in manufactures is to set in train a trade liberalisation process in this sector. The worst step would be a tightening of restrictions, as the EEC, in particular, now threatens to do.

v. There have been some worrying signs of strong protectionist pressure in other sectors - shoes, consumer electronics, metals - although these concern trade among industrial countries primarily (steel and consumer electronics) or else have not led to severe controls (shoes). Part of the anxiety felt by developing country exporters is a result of fears that the textiles MFA could serve as a precedent for other sectors; though, so far, these fears

have not been realised to any great extent. There are, in addition many manufacturing product areas, notably in engineering broadly defined, in which spontaneous market adjustment has taken place to an encouraging degree, permitting developing countries to develop their comparative advantage in some branches of manufacturing trade.

Generalised Systems of Preference:

Evolution and Evaluation

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Generalised Systems of Preference:
Evolution and Evaluation

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Generalised Systems of Preference:
Evolution and Evaluation

I. Introduction - the origins of GSP

1. Tariff reform has proceeded on a reciprocal basis under the auspices of the GATT throughout the post-war period. Multi-lateral trade negotiations under the Kennedy and Tokyo Rounds of the 1960s and 1970s have led to tariff reductions, the last of which will be phased in over the period to 1987. It is however widely held that the developed countries have been the major beneficiaries of liberalisation. In contrast, special and non-reciprocal tariff treatment extended to all developing countries represents a different and to some extent conflicting path of reform.

2. The concept of preferential tariff treatment for imports from developing countries is far from new. Nations in the industrialised centre have long accorded preferences to the peripheral less developed country (ldc) suppliers with which they had some form of association (often due to colonial links). Special preferences following this pattern were given by the EEC from its inception. The beneficiaries - mainly former French colonies in Africa - had until 1975 to give tariff concessions in return. Most Commonwealth preferences were not phased out until the mid-1970s and even in the post-war period the United States continued to give special preferences to the Philippines and Cuba. In these cases the preferences were neither generalised nor non-reciprocal.

3. The system of generalised preferences as sponsored by UNCTAD, while employing some of the elements of economic theory inherent in the workings of special preferences (notably the infant industry argument for favouring ldc exports of manufacturers), marked a new departure in that preferences were to be "globalised". They were to be granted to all developing countries without discrimination. The beneficiaries were not to be required to offer reciprocal preferences in their own tariff structure. Moreover, the preferences were not to be negotiated on a quid-pro-quo basis but offered autonomously.

4. The GSP concept was all the more striking because it laid down a path of world trade reform not only divergent from the special preferences within North-South trading blocks, but also in contradiction to the main principle of the GATT. Without a waiver, this would have outlawed discrimination between groups of countries. In another sense, the intention that the rich world should act in concert to favour ldc trade, rather than in competition, was a further factor making generalised preferences a striking new proposal for world trade reform. The reality of GSP has however been less striking than the ideal concept and homogeneity in GSP schemes has yet to be achieved.

5. Schemes for privileged tariff treatment for all ldc's were proposed at the GATT ministerial meeting of May 1963; Prebisch argued the case for general tariff-cutting schemes in favour of developing countries' exports of processed goods and manufactures in his report 'Towards a New Trade Policy for Development' at the first UNCTAD conference in 1964; before the second UNCTAD conference, the OECD countries had conceded in principle the need to offer preferences,¹ and at UNCTAD II, in New Delhi, 1968, the principle of generalised tariff preferences was formally accepted by all UN members in Resolution 21 (II) entitled 'Preferential or free entry of exports of manufactures and semi-manufactures of developing countries to the developed countries'.

6. The resolution itself represented a major compromise, not surprisingly since it embodied such a fundamental departure from key GATT tenets, from US attachment to most-favoured nation (mfn) reductions in the Kennedy Round of Multilateral Trade Negotiations, and from EEC attachment to special preferences (with reciprocity) and enlargement of a free trade zone within Europe. General discrimination as between developed and developing countries was to be encouraged, but, within the GSP, discrimination between groups of developing countries would not be permitted. Its first article sets out the aims and expectations of GSP.

1. TD/56 of 29 January 1968.

"The objectives of the generalised non-reciprocal, non-discriminatory system of preferences in favour of the developing countries, including special measures in favour of the least advanced among the developing countries, should be: (a) to increase export earnings; (b) to promote industrialisation; (c) to accelerate their rates of economic growth.

The resolution established the Special Committee on Preferences as an UNCTAD organ, and charged it with negotiating the implementation of a uniform, global GSP scheme by early 1970.

7. At this early stage, however, three main anomalies were already apparent, which have considerable bearing on the future role of the GSP in the world economic environment of the 1980s.

First, as the title of Resolution 21 (II) indicates the GSP was originally concerned only with manufactured goods plus "semi-manufactures". Processed agricultural produce, soft commodities and industrial raw materials were not specifically mentioned. This is an indication that the GSP was a child of the trade thinking of the 1960s; the anomaly, however, has its repercussions in the divergences between current GSP schemes.

Second, although the resolution forbade discriminatory treatment between ldc's, an element of differentiation between them was included in the scheme from its inception with the mention of 'special measures' for the least developed countries. This has provided a basis for the drive for increased graduation and differentiation between ldc's in the GSP during the 1980s.

Third, once again a reflection of the 1960s debates, the resolution concentrated on tariff measures at the expense of market access. It emphasised the importance of preferences to ldc's over mfn suppliers but failed to consider the threat to them from more preferred suppliers or of quantity restrictions and other non-tariff barriers to developed country markets.

8. Between 1968 and 1970, the Special Committee on Preferences held consultations to draw up the details of the GSP system. The problem of non-discrimination was solved by the 'self-election' principle. Any developing country so declaring itself was to be entitled to GSP treatment, although donors ultimately devised their own systems of exclusion. The principle of non-reciprocity was adhered to, although the EEC - US disputes over reverse preferences in the Yaoundé Convention were used as one reason for delaying the introduction of a US GSP scheme. GSP beneficiaries were not guaranteed any fixed margins of preference over mfn suppliers, and the right to proceed with further multilateral mfn tariff cuts was reserved. Moreover, the GSP was specifically recognised as an autonomous offer on the part of the industrialised nations, not contractual, binding or even formally negotiable, which could be withdrawn, or within which donors could implement legitimate safeguard measures at any time, but which should be expected to run its course, in the first instance, of ten years. The GSP is thus now entering its renewal phase.

9. What emerged in the early 1970s was a succession of non-uniform GSP Schemes. Australia had been applying a modest system of ldc tariff preferences since 1966. The EEC-Six implemented the first major GSP scheme on 1 July 1971, followed by Japan one month later. Within the next three years, generalised preference schemes were implemented by Norway, Sweden, Denmark, Finland, Ireland, New Zealand, the United Kingdom, Switzerland, Austria, Australia and Canada. The UK, Denmark and Ireland converted to the EEC scheme on 1 January 1974, and the United States introduced its scheme on 1 January 1976.

10. The GSP now consists of 16 separate schemes involving virtually all the OECD countries¹ and five socialist countries of Eastern Europe. In this paper we concentrate on the three main schemes: those of the EEC, the USA and Japan which together account for about 90 per cent of preferential trade. They each represent autonomous GSP schemes offering at best controlled preferential trade access to developing countries.

1. Except Spain, Portugal, Turkey and Iceland.

II. The Main Provisions of GSP schemes

11. In this section we describe the distinguishing features of the three main schemes, summarised in Table 2.1. Annual revisions, the recently implemented ten-year renewal of the EEC and Japanese schemes, and a fifth-year Presidential Review of the US scheme have introduced several modifications. The most important changes have been in the area of safeguards against competitive ldc suppliers by the increasing use of mechanisms to apply differential treatment to GSP beneficiaries. As a result, differentiation has now become institutionalised within the GSP despite its founding principles of non-discrimination and generalised access for all ldcs.

12. Country coverage. Nearly all the Group of 77 developing countries are beneficiaries under the main schemes, but the USA excludes some ldcs on explicitly political grounds. Thus Kampuchea, Laos, Cuba and Vietnam are not covered in the US scheme and Afghanistan was withdrawn in 1980. All OPEC members were until recently excluded from the US GSP, though since 1980 Venezuela, Indonesia and Ecuador have been granted preferences after concluding bilateral trade agreements under the MTN. The USA and Japan include Taiwan, while the EEC grants GSP to P.R. China for a restricted range of items. Japan also added P.R. China to its GSP in 1980. All donors also offer GSP to a wide range of dependent territories. A breakdown of countries excluded from GSP schemes is shown in Table 2.2.

13. Product coverage. As a rough indication of coverage, the share of mfn dutiable products covered by GSP, by number of product lines is 87% for the EEC scheme, 86% for Japan and 61% for the USA. By value of GSP covered imports, the total GSP share of mfn dutiable trade falls to 61% (EEC), 12% (Japan) and 31% (USA).¹ These are very imperfect indicators of GSP product coverage, however, and the matter is taken up again in the evaluation sec-

1. TD/13/C.5/63.

TABLE 2.1 Principal features of GSP Schemes

Country	Product coverage	Main product exclusions	Depth of tariff cut Manu- factures	Agri- cultural products	Safeguards	Country coverage
EEC	All manufactures and semis; selected agricultural products.	Industrial raw materials	Duty-free	Partial duty reductions.	Tariff quotas and ceilings plus consideration of ACP suppliers' interests.	G77 plus dependencies.
USA	Most manufactures; some agricultural products.	Textiles, footwear, glass, watches, electronics, petroleum oils; products the concern of national security.	Duty-free	Duty-free	Escape clause; competitive need criterion permits withdrawal of benefits from successful ldc suppliers.	All ldcs except Communist-countries, members of OPEC, states which have expropriated US property; Taiwan included.
Japan	Most manufactures and raw materials; some agricultural products.	Textiles, clothing, leather, plywood, footwear, petroleum oils and gases, gelatin.	Duty-free or 50% reduction of mfn rates.	Usually partial duty reductions.	Tariff quotas and ceilings.	Most of G77, plus Taiwan.
Norway Sweden and Finland	Most manufactures and raw materials; some agricultural products.	Textiles, tyres, leatherwares, footwear, pottery, glass, cycles, m.cycles, furniture.	Duty-free	Duty-free	Only the autonomous donor's right to withdraw.	G77 plus Israel and Turkey.
Australia	Most manufactures and semis plus substantially transformed agricultural products.	Wines, spirits, some processed and fresh fruit and vegetables, chemicals, textiles, electrical goods, railway equipment.	Ten percentage points reduction of mfa rates or duty-free treatment where mfa below 12.5 per cent.		Tariff quotas for sensitive products.	G77 plus Israel, Turkey and Taiwan.
Canada	Most manufactures, some agricultural products.	Textiles, footwear, ships, railcars.	British preferential rate or one-third reduction on mfn rate whichever is lower.		Escape clause.	G77 plus Israel, Turkey, Portugal, Bulgaria and Romania.

Source: Weston Cable and Hewitt, op.cit. and TD/B/C. 5/71.

Note: 1 African, Caribbean and Pacific States.

TABLE 2.2. Exclusion from beneficiary lists

Developing countries excluded from beneficiary status ^a	OECD developing		Eastern Europe		Lldcs			OPEC	Other Africa and Middle East			Asia and Pacific							Caribbean							
	Spain	Greece	Albania	Bulgaria	Afghanistan	Laos	Uganda	Democratic Yemen	Yemen	Angola	Comoros	Mozambique	Oman	Cambodia	China	Hong Kong	Macao	Mongolia	N. Korea	Taiwan	Vietnam	Nauru	Tonga	Bahamas	Cuba	
Australia	x																									
Austria			x												x ^c			x								
Canada	x		x									x						x	x							
EEC			x	x														x	x	x						
Finland	x		x																							
Japan			x																							
New Zealand			x																							
Norway	x		x																							
Sweden	x		x																							
Switzerland			x																							
USA	x		x	x	x	x	x	x																		x
No. of schemes from which excluded	4	6	9	2	1	1	1	1	2	1	1	1	2	1	2	1	6	7	6	1	1	1	1	1	1	

a Developing countries are not counted as being excluded from the benefits of a scheme if the donor country concerned has preferential trading relations with that country under another arrangement which is at least as advantageous as the GSP.

b Only Libya and Saudi Arabia are excluded.

c Only some products are excluded

d Ecuador, Indonesia and Venezuela are included.

Source: Weston, Cable and Hewitt, P. 24, updated.

tion, below. The main differences can here be best presented descriptively. The EEC grants GSP to all manufactured products. Most manufactures are covered by the other schemes, but the USA and Japan exclude specific industrial products, of which the most important for ldc's are textiles (otherwise restricted under non-tariff arrangements by the EEC), leather and leather goods, footwear and petroleum products. Coverage of agricultural products is only partial under all the schemes but more extensive under the EEC and Japanese schemes.

14. Depth of preferential tariff cuts. The USA grants duty-free treatment on all products covered by the scheme, while the other countries use a combination of exemptions and partial duty reductions. For the EEC, all covered industrial products are duty-free, but agricultural products are granted only partial duty reductions. Partial cuts in the mfn tariff are applied by Japan to agricultural products and also to a range of forty-four selected industrial products (where GSP offers a 50% cut). On the other industrial products, Japan grants duty-free treatment.

15. Safeguards. Given that GSP schemes are autonomous, all donors have the right to withdraw or modify their schemes. However, safeguards are also built into the operations of the schemes. They fall into two categories: a priori limitations on the volume and type of preferential trade, implemented through predetermined tariff quotas and ceilings (the system used by the EEC and Japan) and the 'escape clause' embodied in the competitive need criterion, employed in the US scheme. This latter provides for withdrawal of preference for a product from a beneficiary in the year following a successful US import performance, defined as imports in excess of US\$25 million or 50% of total US imports of that article. The US\$25 million ceiling is raised annually,¹ and the 50% rule may be waived if imports are less than a certain amount.² The US mechanism penalises individual beneficiaries by withdrawing preferences for a year after a surge in imports of a product. The EEC and Japanese schemes, on the other hand, working according to predetermined limits, regulate preferential imports

1. US\$50.9 million in 1981

2. US\$1.21 million in 1981

both on a collective and on an individual basis and operate immediately in the current preference year. A major difference is therefore that the US scheme offers a greater measure of certainty as to the preferences available over the short-term.

16. Safeguards under the US scheme admit of having products entirely withdrawn from GSP for one year. This is accomplished through a petitioning procedure involving the Federal International Trade Commission. However, ldc exporters can also petition to have new products included under the same procedure. This renders the US scheme more public in its deliberations and more open to change than the other schemes where decisions are influenced by more covert lobbying. Under the petitioning procedure, 19 products had been withdrawn from the US scheme but 82 products added by March 1979 (although in terms of value the outcome was much less favourable to ldcs).

17. Whereas the US criterion applies across the board to all preferential products, the EEC and Japanese schemes require a preliminary classification of products into categories of sensitivity, prior to the application of tariff quotas, ceilings and butoirs. These limitations are applied to manufactured products (even non-sensitive industrial products are allocated a notional ceiling) while for agricultural products, the partial duty reduction is accorded without limitation, except for five products in the EEC scheme.

18. Ceilings, setting the maximum amounts of a preferential import from all GSP suppliers, are subdivided into butoirs or maximum country amounts in the EEC and Japanese schemes. These are purported to share the benefits more widely among ldcs. For instance, under the Japanese scheme a butoir is hit where a supplying country exceeds 50 per cent of the ceiling. Until 1981 some EEC butoirs were as low as 10 per cent and so resulted in

the 'sterilisation' of large parts of the preference offer in the case of some sensitive products. However, duty is not automatically imposed when ceilings or butoirs are hit for other products. Surveillance is less strict and reintroduction of the tariff discretionary. Both the EEC and Japan exercise flexibility in the case of products posing no identified threat to domestic industry.

19. This does not apply to sensitive products however. Moreover, in the EEC scheme, ceilings for sensitive products, known as tariff quotas, are further subdivided into member states' shares (paradoxically since the EEC member states themselves form a customs and economic union). Moreover, tariffs are reimposed automatically once member state shares are exceeded.

20. By 1980 the development of ever more elaborate safeguards had rendered the EEC scheme impossibly complicated and, for exporters/importers of sensitive products, highly unpredictable and wasteful (they resorted to competing for a tariff quota or ceiling at the beginning of the year). Under the new (post-1981) system, the EEC has replaced the global tariff quotas/ceilings with specific allocations for individual supplying countries, with the aim of offering more certain (if limited) benefits to highly competitive supplying countries and greater opportunity to gain access to preferences for newcomers. By introducing individual country quotas and ceilings the EEC has made its GSP scheme a little more bilateral and removed a further component from the scheme's original generalised, non-discriminatory principles.

21. Lastly, the systems based on a priori limitations have intricate mechanisms for regulating the annual increases in ceilings. The formulae employed in both Japan and the EEC (until 1981) nevertheless have tended to expand preferences rather less rapidly than the underlying rate of inflation, so many quotas/ceilings fall far short of current imports, i.e. large amounts of sensitive GSP imports fail to obtain preferential treatment. The Japanese system employs a slightly more generous formula for updating ceiling levels. Under the EEC's new scheme it seems that increases in ceilings will follow an ad hoc procedure rather than being tied to the formula used in the 1970s.

22. Least developed countries. Of the three main schemes¹, the EEC's has been the most generous in providing special measures for the 31 least developed countries (lldcs) on the UN list. They enjoy unrestricted duty-free treatment for all manufactures. The same applies to GSP - covered agricultural products with the exception of tobacco and canned pineapple, on which lldcs are still subject to the tariff quotas, plus fishmeal on which they are accorded a tariff cut rather than a complete exemption. The EEC also added two products (green coffee beans and raisins) hitherto excluded from GSP for the benefit of particular lldcs (Haiti and Afghanistan) as well as clover seeds. The EEC's special measures were introduced in 1977 (modified and improved since), while Japan inaugurated special measures for lldcs only in 1980, giving them unrestricted duty-free treatment on nearly all GSP - covered products². In contrast the US applies its competitive need criterion indiscriminately to lldcs and has not yet introduced special measures under GSP for these countries.

23. Rules of origin. Directly consigned imports qualify for GSP treatment if they have been wholly produced or have undergone "substantial" transformation in the beneficiary country. Japan and the EEC, like the other Western European preference-giving countries, define substantial transformation in terms of the process criterion: the tariff heading has to change as a result of the production process to qualify for originating status. There are however a mass of exceptions to this rule, and the matter is further complicated by the addition of minimum value-added requirements to the change of tariff heading rules in the case of some products, such as articles made of semi-precious stones. The other GSP schemes use the percentage value-added criterion to define substantial transformation. Domestic content (raw materials and value-added) usually has to represent 50%, (60% in the Canadian scheme) of the export's value. The US operates a more complex variation on this scheme, defining domestic content as domestic inputs plus the direct costs of processing, which must be at least 35% of the export value.

1. The Nordic GSP schemes give particularly favourable treatment to lldcs.

2. TD/B/5/73.

24. Some of the smaller GSP schemes (Australia and New Zealand) permit cumulation among ldc's for rules of origin purposes. This has long been requested by ldc's on the grounds that it would help foster South-South industrial and trade cooperation. The EEC and US schemes permit cumulation only in regional trading groups or customs unions, and also stiffen the qualifying requirements in these cases (to 50% minimum regional - domestic content in the US scheme). The EEC nevertheless manages to operate a rather more liberal set of rules of origin for the ACP states enjoying special preferences under the Lome Convention¹. There the ACP states are treated (with the EEC) as one area for purposes of origin. Lastly, the direct consignment criterion is normally waived, under all the main schemes, for landlocked countries.

25. Increased Differentiation. Since 1980 measures to differentiate between ldc's have been extended in the three major GSP schemes (EEC, US, Japan) and in two of the smaller ones (Australia, Canada). The changes in the EEC scheme have been outlined in para. 10 the important point to note is that no ldc has had the GSP removed from any of its products, no matter how competitive it is nor how sensitive the product is. Instead strict limits have been placed on the amount of GSP which sensitive imports from each competitive ldc can receive. (Nor has a previously GSP covered country been removed from the EEC's list of beneficiaries, the Argentine was not, at the time of writing, excluded from GSP despite a temporary trade embargo).

1. It could be reiterated here that the apparent benefits to ldc's as a whole of the EEC GSP scheme are eroded by the more favourable and hence discriminatory trade access terms accorded by the EEC to developing country groups under special agreements (Lome Convention for ACP states; preferential trade and cooperation agreements with Maghreb and Mashrek countries; association agreements with other Mediterranean countries), as well as by free trade agreements with developed countries (EFTA). This is in contrast to the US and Japanese GSP schemes which do not operate alongside special preferential agreements other than with de jure dependencies

26. In contrast in the US since 1980, the President has had the authority to withdraw altogether GSP treatment on imports of particular products from the more competitive ldc's. In 1982 this policy of graduation resulted in seven countries (Taiwan, Republic of Korea, Hong Kong, Singapore, Israel, Mexico and Brazil) having GSP withdrawn¹ on products which in 1981 had totalled US\$651 million (of this US\$597 million was of products on which they had not received GSP in 1981 on grounds of exceeding the competitive need limits in 1980, while the remaining US\$53 million was of products on which US interest groups had specifically asked that GSP should be withdrawn).

27. In Japan changes in 1981 in the legislation for implementing the GSP mean the government now has the power to exclude a beneficiary from the GSP for a particular product, whereas previously the more advanced beneficiaries had always received duty-free treatment on at least some fraction of all their GSP covered products, (i.e. up to the 'butoir' limit).

28. In Australia, however, procedures introduced in September 1979 mean that the more competitive ldc's will be given a reduced margin of preference rather than having any product withdrawn from the GSP.

29. In Canada, the question of increasing differential treatment was raised in July 1980. In the past if domestic injury resulting from GSP imports could be proven the only option open under existing safeguard measures was to remove competing imports from some or all beneficiaries from the GSP. Now, if injury is proven, there are three possible actions: (i) to reduce the preferential margin on competing imports from one or more countries (ii) to impose a tariff quota on competing imports from one or more countries or (iii) to remove the product from the GSP for one or more countries (i.e. as before).

30. What is worrying about these changes is that they make the receipt of GSP increasingly unpredictable and arbitrary. Exporters can no longer be certain from one year to the next

1. With effect from 1 April, 1982.

whether their goods will be duty-free, paying mfn duties or duties somewhere between mfn and GSP levels. The impact on investment planning and risk capital investments in ldc export industries is all the more unfavourable. The situation is further complicated by the fact that the criteria used for reduction of GSP benefits are likely to vary from one donor to the next. In some (the US, Canada) the petitioning procedure will allow a degree of transparency. Where graduation is less transparent there is a danger that it will be used primarily as a protectionist measure.

31. Before passing to the evaluation of GSP, it is appropriate to consider the role of ldc tariff preferences in the 1980s. GSP schemes are likely to be with us throughout the decade. The EEC scheme has already been renewed for a ten year period (with the possibility of a major revision after five years). Japan's scheme was extended in April 1981 and the US administration has announced its intention to extend its scheme beyond 1985. UNCTAD favours a commitment to maintain GSP schemes until the year 2000 and hopes to develop and introduce a GSP scheme among developing countries. There are nevertheless strong reasons to suppose that the significance of GSP schemes, characterised by their prominent characteristics of non-reciprocity, non-discrimination among ldc's and by their exclusive focus on the tariff, is likely to decline. Here we consider the factors influencing this judgement.

32. Firstly, the scope for offering meaningful preferential tariff advantages has been considerably reduced by the successful conclusion of the Tokyo Round MTN. Most of the agreed tariff cuts are to be phased in by equal annual instalments over the period 1981-87, though in the case of some of the most sensitive products the cuts are to be substantially postponed until the end of the period. US officials calculate that by 1987 average mfn duty on GSP imports will be only 4.5%¹, i.e. margins have been eroded, so there will be only limited scope for preferential reductions.

1. US House of Representatives, 1980. p.x.

33. However, developed countries benefit disproportionately from the Tokyo Round. The weighted tariff cut on ldc's industrial exports was 25% compared with a weighted tariff cut for all industrial products of 34%¹. For agricultural items the mfn reductions of interest to ldc's were even less important. It is calculated² that without preferences the post-MTN weighted tariff will remain higher for ldc's than for ldc's in finished manufactures (10.3% against 6.5% for all countries) and slightly higher even for raw materials (0.5% against 0.3%) due to the commodity and product composition of ldc trade. In other words, a justification for preferences remains despite general tariff liberalisation. An illustrative list of products of interest to ldc's where post-MTN tariffs will remain high is given in Table 2.3.

TABLE 2.3 Post-MTN rates of duty for selected ldc exports

<u>CCT No.</u>	<u>Product</u>	<u>Mfn tariff %</u>
64.01	Rubber/plastic footwear	20*
82.14A	Spoons/forks	17
82.09A	Knives	17*
87.09	Cycles	17*
92.11B	TV sets	14*
61.01 to .02	Outer garments	13
62.02	Bed linen	13
61.03	Under garments	13
82.09B	Knife blades	12
42.02A	Plastic travel goods	12
84.52	Calculators	12

*No change from pre-MTN tariff. For other products listed, reductions were less than MTN formula.

Source: Derived from Weston, Cable and Hewitt, p.154.

34. Second, despite the rise of protectionism, the failure of restructuring in most OECD economies and the desire among many governments in the West for 'managed' free trade, the tariff is no longer a principal means of applying protective measures. At least eight hundred non-tariff barriers have been identified

1. Weston, Cable and Hewitt, 1980. p.153.
2. Ibid, p.154.

which constrain ldc access to markets regardless of GSP. The recently renewed Multi-Fibre Arrangement, embodying a comprehensive set of quota restrictions, is indicative of the current trend. Equally ominous has been the recent spate of 'voluntary' export restraint agreements concluded bilaterally, which have the effect of legitimising discrimination. Non-tariff measures tend to relegate the significance of GSP concessions to a residual item and in severe cases end the GSP's function as a stimulus to trade (as is the case, for instance, for those schemes which offer GSP on textiles).

35. Thirdly, several recent developments can be identified which reinforce the trend towards the always latent discrimination within the GSP scheme. Rich OPEC countries, as yet with little manufacturing capacity, are accorded GSP under the EEC and Japanese schemes. The newly industrialising countries (NICs) are in some cases portrayed as squeezing out the less developed countries despite the regulatory mechanisms in all the schemes. One result of the considerable public impact of the Brandt Commission's North-South: A Programme for Survival has been a spate of allegations to the effect that the North-South division of the world is over-simplistic. This culminated in World Bank president A.W. Clausen's 1982 Tokyo speech which identified eight differentiated economic groupings in the world. Even at the level of the group of 77, this sort of analysis applied to the GSP has led to muted inter-state rivalry. Dismissing the generalised welfare benefits of GSP, ex-ACP secretary-general Tieoule Konate, now with GATT, has stated "the GSP is in any case only used by a limited number of ldc's, above all the most advanced among them". He went on to cite seven countries - Yugoslavia, Hong Kong, Republic of Korea, India, Malaysia, Brazil and Romania - to which accrue 60% of the benefits of the scheme.¹

36. Another approach favoured by some trade union interests in the West and also promoted by other producer interests particularly in times of recession has been the proposal to limit the range of GSP beneficiary states by making access to the scheme conditional on the acceptance of a social clause outlawing "unfair labour practices", thereby eliminating what is alleged

1. T. Konate: The Lome Convention and the non-associated countries. Paper presented to the Novib conference, the Hague, 26 February 1982.

to be the social dumping results of enterprise based on cheaper labour. No GSP donor has yet formulated a range of applicable labour standards, however, let alone developed a monitoring mechanism for applying them.

37. Nevertheless, it is clear that the generalised nature of the GSP scheme is gradually being eroded (though it never existed in its perfect form due to the least-developed country provision in the original GSP resolution and to the continued existence of special non-generalised preferences elsewhere). There will however remain a strong and possibly growing demand from ldc's for the maintenance of tariff preferences for manufactured goods in the 1980s, if only because of the lack of progress made so far on commodity agreements and the fact that commodity prices are currently at a 30 year low. Thus, enthusiasm for GSP continues despite the relatively minor past impact on ldc trade expansion which we assess in the following sections.

III. Evaluation

38. In this section we attempt to evaluate the GSP. Work in this area falls into three main categories:

- i) analysis of the utilization of the GSP
- ii) estimation of the static value of the GSP
- iii) estimation of the trade created by the GSP both on an ex ante and an ex post basis.

In addition we consider less well documented but important views on the GSP which have been expressed by representatives of ldc exporters as well as importers in the donor countries. The potential conflict between the GSP and mfn tariff cuts under the Multilateral Trade Negotiations are considered in the following section.

i. Utilization of the GSP

39. This is the simplest method of evaluation and one for which data is most readily available for all donor countries (though only to 1976 in some cases). It involves a comparison over time of imports to donors from beneficiaries which are covered by the GSP. The data available on this trade which is

presented in Table 3.1, confirms several of the points already made in Section II.

40. Agricultural products are less well treated by most GSP schemes with only 26% of mfn dutiable imports to market economies excluding the US covered in 1976 (the latest year for which nearly complete data are available from UNCTAD). In contrast 38% of dutiable industrial products were covered in that year. Nevertheless there has been some improvement, with 6 of the countries shown increasing their coverage of agricultural products during the 1976 to 1979 period, notably Sweden (7% to 65%), Finland (8% to 35%), Switzerland (9% to 19%) and Japan (13% to 19%). The proportion of agricultural goods covered by the GSP which actually received preferential treatment was on average as little as 39% in 1976, slightly more than the 37% of covered industrial goods which received GSP. This low rate of utilization of GSP was probably due to the low levels of tariff cuts for agricultural products¹ rather than to any ex ante limitations on the amount of agricultural goods receiving GSP.²

41. GSP coverage of dutiable industrial products has barely changed except in Finland where it rose from 56% in 1976 to 91% in 1978. Only one third of products covered actually received GSP - in contrast to agricultural products this was more likely to have been due to the restrictions applied to the amount of imports falling under GSP covered tariff headings which could receive GSP, than to an inadequate preferential margin.³ More than half of GSP industrial imports faced limitations.⁴ In a number of countries these limitations would appear to have

1. According to GATT the weighted tariff average under the GSP on covered agricultural products was 6.7% compared to a mfn tariff average of 13.2%, GATT (1980) page 40.

2. Only 17% of agricultural imports under the GSP faced limitations, *ibid.*

3. The weighted tariff average on GSP covered industrial products was 0.7% compared to a mfn average of 10.8%, *ibid.*

4. *ibid.*

TABLE 3.1 Imports of preference giving countries from beneficiaries

(US\$ million)

Preference giving countries and CCCN chapters	Year	Total imports (1)	Mfn dutiable imports (2)	GSP Imports		Shares (per cent)	
				Covered (3)	Preferential (4)	(3)/(2)	(4)/(3)
Australia							
1-24	1976	192.4	102.3	43.0	28.6	42.0	66.5
25-99	1976	1879.4	665.6	366.4	150.2	55.1	41.0
1-99	1976	2071.8	767.9	409.4	178.8	53.3	43.6
Austria							
1-24	1976	311.6	256.7	179.6	7.5	70.1	4.2
	1977	430.0	359.7	277.0	14.7	77.0	5.3
	1978	466.4	371.2	227.3	28.4	61.2	12.5
	1979	526.1	398.1	245.6	38.8	61.7	15.8
25-99	1976	1015.9	866.4	818.5	118.6	94.5	14.5
	1977	1042.7	885.6	826.4	157.4	93.3	19.0
	1978	1180.0	956.2	912.6	179.3	95.4	19.7
	1979	1792.2	1504.3	1438.1	244.1	95.6	17.0
1-99	1976	1327.5	1123.1	998.3	126.1	88.9	12.6
	1977	1472.7	1245.3	1103.4	172.1	88.6	15.6
	1978	1646.4	1327.4	1139.9	207.7	85.9	18.2
	1979	2318.3	1902.4	1683.7	282.9	88.5	16.8
Canada							
1-24	1976	561.2	278.4	84.4	56.1	30.3	66.5
25-99	1976	4027.3	925.8	602.2	246.9	65.0	41.0
1-99	1976	4588.5	1204.2	686.6	303.0	57.0	44.1
	1977	4005.9	992.8	571.5	428.9	57.6	75.1
	1978	4007.0	1125.1	684.3	527.9	60.8	77.1
EEC							
1-24	1976	12749.3	10326.4	3043.2	962.6	29.5	31.6
	1978				1231.6		
25-99	1976	65263.1	11415.3	10124.8	3483.5	88.7	34.4
	1978				4086.0		
1-99	1976	78012.4	21741.7	13168.0	4446.1	60.6	33.8
	1977				4217.6		
	1978				5317.6		
Finland							
1-24	1976	274.9	89.3	7.4	4.9	8.2	67.2
	1977	366.6	94.0	23.0	9.4	24.4	40.8
	1978	357.5	93.9	32.6	22.8	34.7	69.9
25-99	1976	447.3	38.5	21.7	15.9	56.4	67.2
	1977	485.6	27.0	22.1	15.9	82.0	71.9
	1978	464.0	30.8	28.1	21.4	91.2	76.2
1-99	1976	722.2	27.8	29.1	20.8	22.7	71.6
	1977	852.2	121.0	45.1	25.3	37.3	56.0
	1978	821.5	124.7	60.7	44.2	48.7	72.8
Japan							
1-24	1976	4031.1	3051.6	391.5	366.2	12.8	93.5
	1979	5966.3	4598.2	873.9	709.9	19.0	81.2
25-99	1976	9426.8	3317.7	3059.3	1423.3	54.1	46.5
	1979	19457.0	7161.1	6703.4	3607.3	93.6	53.8
1-99	1976	13457.9	6379.3	3450.8	1789.5	54.1	51.9
	1979	25423.3	11759.3	7577.3	4317.2	64.4	57.0

TABLE 3.1
Imports of preference giving countries from beneficiaries (Contd.)
(US\$ million)

Preference giving countries and CCCN chapters	Year	Total imports (1)	Mfn dutiable imports (2)	GSP Imports		Shares (per cent)	
				Covered (3)	Preferential (4)	(3)/(2)	(4)/(3)
New Zealand							
1-24	1976	88.2	44.7	36.0	23.9	80.5	66.5
	1978/79	94.9	14.2	3.8	n.a.	26.8	n.a.
25-99	1976	529.5	117.3	115.2	47.2	98.2	41.0
	1978/79	569.2	159.0	154.9	n.a.	97.4	n.a.
1-99	1976	617.7	162.0	151.2	71.1	93.3	47.1
	1978/79	664.1	173.2	158.7	n.a.	91.6	n.a.
Norway							
1-24	1976	195.4	23.7	7.6	2.1	31.9	28.3
	1977	267.0	30.4	12.0	4.9	39.3	40.6
	1978	274.2	35.4	11.7	3.3	33.1	28.3
	1979	303.2	42.2	15.8	4.7	37.4	29.7
25-99	1976	976.3	71.3	36.7	20.3	51.5	55.1
	1977	1017.2	148.2	57.2	30.6	38.6	53.5
	1978	912.5	106.0	59.4	30.2	56.0	50.9
	1979	953.8	137.1	75.8	39.6	55.3	52.3
1-99	1976	1171.8	95.0	44.3	22.4	46.6	50.5
	1977	1284.2	178.6	69.2	35.5	38.7	51.3
	1978	1186.7	141.4	71.1	33.5	50.3	47.2
	1979	1257.0	179.3	91.6	44.3	51.1	48.4
Sweden							
1-24	1976	569.4	462.6	32.9	28.8	7.1	87.6
	1977	622.2	51.1	36.0	30.7	70.1	85.3
	1978	662.0	67.7	45.2	37.1	66.8	82.1
	1979	721.2	75.8	49.6	40.6	65.4	81.8
25-99	1976	2163.4	478.9	156.2	116.0	32.6	74.3
	1977	2204.4	512.0	183.7	135.9	35.9	74.0
	1978	2070.8	500.2	208.2	150.1	41.6	72.1
	1979	3858.8	755.9	365.3	265.7	48.3	72.7
1-99	1976	2732.8	941.5	189.1	144.8	20.1	76.3
	1977	2826.6	563.1	219.7	166.6	30.0	75.8
	1978	2732.8	567.9	253.4	187.2	44.6	73.9
	1979	3858.8	755.9	365.3	265.7	48.3	72.7
Switzerland							
1-24	1976	499.8	410.1	36.3	26.2	8.9	72.1
	1977	718.5	623.6	101.6	81.3	16.3	80.1
	1978	751.9	640.2	128.1	107.4	20.2	83.9
	1979	799.1	701.8	135.6	116.2	19.3	85.7
25-99	1976	1041.3	1008.5	598.9	230.9	59.4	38.6
	1977	1359.5	1337.5	772.7	297.8	57.8	38.5
	1978	1576.3	1550.9	983.1	372.2	63.4	37.9
	1979	2030.1	1997.7	1152.8	444.1	57.7	38.5
1-99	1976	1541.1	1418.6	635.2	257.1	44.8	40.5
	1977	2078.1	1961.1	874.3	379.1	44.6	43.4
	1978	2328.3	2191.0	1111.2	479.6	50.7	43.2
	1979	2829.2	2699.5	1288.4	560.3	47.7	43.5

TABLE 3.1

Imports of preference giving countries from beneficiaries (Contd.)
(US\$ million)

Preference giving countries and CCCN chapters	Year	Total imports (1)	Mfn dutiable imports (2)	GSP Imports		Shares (per cent)	
				Covered (3)	Preferential (4)	(3)/(2)	(4)/(3)
USA							
1-24	1979	n.a.	n.a.	1889.2	818.1	n.a.	43.3
25-99	1979	n.a.	n.a.	9836.0	5461.9	n.a.	55.5
1-99	1976	27600.8	21076.8	6519.6	3153.7	30.9	48.4
	1977	34597.9	25654.2	7677.6	3878.0	29.9	50.5
	1978	41420.1	21641.4	9740.8	5204.1	45.0	53.4
	1979	52569.8	38163.8	11725.2	6280.0	30.7	53.6
Hungary							
1-24	1975	220.7	164.6	158.6	158.6	96.4	100.0
	1977	362.5	222.8	218.0	218.0	97.9	100.0
	1978	343.4	343.2	340.6	340.6	99.2	100.0
25-99	1975	306.0	101.3	94.1	94.1	92.9	100.0
	1977	142.2	87.1	71.2	71.2	81.6	100.0
	1978	153.5	153.4	146.1	146.1	95.2	100.0
1-99	1975	526.7	265.9	252.7	252.7	95.0	100.0
	1977	504.7	309.9	289.2	289.2	83.3	100.0
	1978	496.9	496.6	486.7	486.7	98.0	100.0
USSR							
1-99	1976	6215.9	n.a.	n.a.	1405.9	n.a.	n.a.
	1977	6624.9	n.a.	n.a.	1689.7	n.a.	n.a.

Sources: Derived from several UNCTAD documents (see bibliography attached). This Table necessarily has to incorporate some slight inconsistencies in the presentation of the data.

increased as the share of covered imports receiving GSP fell - from 74% to 71% in Sweden, from 55% to 52% in Norway - while in others the share rose suggesting an easing of restrictions - from 47% to 54% in Japan, from 73% to 76% in Finland and from 14.5% to 17.0% in Austria - though equally it could have been the result of businessmen's increased familiarity with the rules of the GSP.

42. Overall, the GSP in 1976 covered US\$26.3 billion or 34% of mfn dutiable imports to market economies from beneficiaries. Only 40% of these actually received GSP-i.e. US\$10.5 billion - less than 7% of all imports from beneficiaries. Comparing imports to countries for which data is available in 1976 and 1979 - i.e. Austria, Japan, New Zealand, Norway, Sweden, Switzerland and the USA which accounted for 46% of ldc imports in 1976 - it seems that GSP coverage and the share of imports receiving GSP increased but only slightly.

43. Use of the GSP has tended to be quite concentrated with ten ldc's accounting for 70% of preferential imports in the EEC in 1977, 78% in the US and 72% in Japan (in 1976). This is not surprising given that a handful of ldc's account for the majority of ldc exports, and especially of manufactured exports. Nevertheless it is partly because of this concentration (and partly because of protectionist pressures) that many donors have introduced measures in their GSP schemes which discriminate between ldc's and attempt to redistribute the benefits towards the less developed amongst them. In the EEC scheme a gradual lowering of butoirs helped to reduce the share of the top ten suppliers from 87% in 1973 to 70% in 1977. But in the US there has been little change - in 1978 and 1979 the top ten suppliers actually accounted for 82% and 81% respectively of all imports receiving GSP. Restrictions in the form of competitive need limitations in the US and maximum country amounts in Japan helped to lower the share of most of the major suppliers in GSP receiving imports below their shares in GSP covered imports - but not significantly.

44. In fact a large number of countries hit by such restrictions under each of these schemes fell outside the group of

TABLE 3.2 Major GSP Suppliers

EEC (1977)	US (1977)	Japan (1976)
<u>% share of GSP</u> <u>receiving</u> <u>imports</u>	<u>% share of GSP</u> <u>covered</u> <u>imports</u>	<u>% share of GSP</u> <u>covered</u> <u>imports</u>
Yugoslavia 11.3	Taiwan 17.6	Rep. of Korea 33.0
Malaysia 9.4	Rep. of Korea 10.4	Taiwan 11.8
Hong Kong 8.9	Hong Kong 15.1	India 4.1
India 8.4	Mexico 16.2	Spain 3.5
Rep. of Korea 7.9	Brazil 6.6	Singapore 3.7
Brazil 7.9	Israel 2.0	Malaysia 2.8
Romania 6.4	Yugoslavia 2.0	Hong Kong 6.2
Philippines 3.5	Singapore 2.5	Israel 2.2
Venezuela 3.3	Philippines 4.7	Brazil 2.0
Singapore 3.2	Dominican Republic 2.7	Zambia 4.3
70.2	79.8	73.6
	77.7	71.5

Sources: Weston, Cable and Hewitt (1980), p.149; UNCTAD, TD/B/C5/30/ Add.14, Table 1, and UNCTAD, TD/B/C.5/PREF.6,

TABLE 3.3 Countries most affected by restrictions¹

Country	Per Capita income, \$ (1979)	% GSP covered imports excluded by competitive need criteria in US (1977)	No. of products affected by butoirs in the EEC (1980)	% of GSP covered imports not receiving GSP in Japan (1976)
Burma	160	-	-	97.9
Afghanistan	170	-	-	99.6
India	180	14.4	21	20.3
Sri Lanka	230	-	2	47.2
Haiti	260	30.6	-	-
Zaire	260	-	ACP	98.1
Tanzania	270	-	ACP	70.4
Pakistan	270	-	4	50.9
Madagascar	290	22.0	ACP	62.5
Sudan	370	-	ACP	46.3
Egypt	460	-	-	96.0
Zambia	510	76.7	ACP	86.1
Cameroon	560	-	ACP	70.7
Guyana	570	58.2	ACP	-
Thailand	590	45.9	8	38.2
Philippines	600	76.1	8	32.0
Nicaragua	660	67.9	-	-
El Salvador	670	65.5	-	95.6
Botswana	720	-	ACP	46.3
Peru	730	66.7	6	69.9
Mongolia	780	-	-	91.5
Dominican Republic	990	82.9	-	-
Guatemala	1020	40.4	-	78.5
Ivory Coast	1060	48.2	ACP	11.3
Paraguay	1060	-	-	78.5
Rep. of Korea	1150	22.0	46	53.9
Jamaica	1240	43.6	ACP	-
Malaysia	1320	36.6	2	14.5
Turkey	1330	14.8	-	19.4
Panama	1350	78.9	-	98.5
Taiwan	1400 ^a	25.2	na	42.8
Mexico	1590	40.3	5	61.3
Chile	1690	78.1	1	66.6
Brazil	1690	26.0	20	53.5
Romania	1900	0.1	13	50.9
Uruguay	2090	-	1	95.3
The Argentine	2280	42.6	2	34.1
Yugoslavia	2430	10.7	-	61.1
Singapore	3820	18.9	4	26.8
Hong Kong	4000	48.7	39	78.5

^a 1978

na not applicable

1. The three columns are not strictly comparable - only the US publishes figures showing the impact of competitive need restrictions on the share of GSP covered imports actually receiving GSP. The Japanese figures overstate the impact of its maximum country amounts; there may be other reasons why GSP covered goods did not receive GSP-for example, failure to meet rules of origin, or even that the GSP ceiling open to all countries was exhausted. The column for the EEC merely shows the number of times a country was affected by butoirs or maximum country amounts: for some countries the effect of reaching butoirs on two products may be as severe as for other countries reaching butoirs on many more products.

Sources: UNCTAD, various documents and Weston (1982).

major suppliers, underlining the arbitrariness of the restrictions; as Table 3.3 shows, there is little relationship between those countries which are affected and one development indicator, namely income per capita.

45. Imports from least developed countries (lldcs) covered by the GSP have generally increased, particularly following special improvements on their behalf, but the proportion actually receiving GSP is still low. In the US, for instance, in 1979 only 37% of GSP covered imports from lldcs received GSP, compared to an average for all ldc's of 54%. About a quarter of the shortfall was the result of application of the competitive need criteria, while the remainder was the result of failure to meet the rules of origin or even just to supply the appropriate documentation.¹

ii. Static value of the GSP

46. Another method of evaluating the GSP is in terms of the tariff revenue foregone by the donor countries, which may in principle be transferred to the exporting countries and used as a subsidy to cut export prices. It is calculated as the product of the value of exports receiving by the GSP (i.e. making allowances for any restrictions on GSP use) multiplied by their preferential tariff margin. This measure is frequently used for instance by the EEC in official commentaries on its own scheme. It has certain drawbacks, however, notably it assumes that the full value of the tariff reduction is returned to the exporting countries - whether or not this actually happens will depend on the relative bargaining strengths of the importers and exporters, in effect on the shape of the demand and supply curves. In addition it ignores the dynamic effect of preferences as the value is weighted by the existing trade structure. For many sensitive products, however, imports at the margin will pay mfn tariffs and so the GSP will have little trade stimulating effect on them.

1. UNCTAD, TD/B/C.5/PREF/8, page 3.

47. Table 3.4 shows how the fiscal value of the EEC scheme has grown over time, more than doubling from 1974 to 1977; though it fell subsequently in 1978, to 318 million ua roughly 5% of imports eligible for the GSP and 3.5% of all dutiable imports from beneficiary countries. Data on the average tariff cut under each of the other GSP schemes is not available - but for 9 Western markets¹ GATT has calculated it to be 6.5 percentage points on agricultural products worth US\$4.6 billion in 1977² and 10.1 percentage points on industrial products worth US\$22.5 billion, giving a total fiscal value of US\$2.3 billion. To put this into perspective, it was equal to 4.1% of dutiable imports to these nine markets from beneficiaries in 1977, or 2.7% of all imports from beneficiaries. In contrast net official development assistance from these donors in 1977 was US\$15.3 billion.

TABLE 3.4 EEC estimates of fiscal value of GSP concessions

<u>Year</u>	<u>Value eligible</u> (million ua)	<u>Utilisation</u> (%)	<u>Average duty concession</u> (%)	<u>Fiscal value</u> (million ua)
1974	3,250	65	8.3	178
1975	3,680	50	8.5	156
1976	4,600	62	9.3	287
1977	6,720	55 <u>a</u>	9.1	385
1978	6,800	55 <u>a</u>	8.5	318
Total				1,324

a Estimate

Source: Weston, Cable and Hewitt (1980) page 134.

48. Some studies have used this method to measure the benefits of the GSP to particular countries. Langhammer (1981) calculates that, on this basis, the EEC's GSP was worth US\$74 million to ASEAN countries in 1978, i.e. 2% of the value of their total exports

1. Austria, Canada, the EEC, Finland, Japan, Norway, Sweden, Switzerland and the US.

2. For Austria, Canada and Norway the figures were for 1976. GATT (1980) page 40.

to the EEC in that year. Only 34.8% of ASEAN exports to the EEC in GSP tariff headings actually received GSP - if all their exports eligible for the GSP had received it the gains would have tripled to US\$225.4 million or 7% of the value of their total exports to the EEC in 1977. The details for each ASEAN member are shown below in Table 3.5.

TABLE 3.5 The fiscal value of the EEC's GSP to ASEAN
(US\$million, 1978)

	<u>Actual</u>	<u>Potential</u>
Indonesia	7.6	46.1
Malaysia	25.3	46.3
Philippines	13.6	57.7
Singapore	14.0	41.6
Thailand	13.7	33.7
	<hr/>	<hr/>
ASEAN	74.2	225.4

Source: Langhammer (1981) page 66.

49. Similar calculations by Cable and Weston (1979) had a slightly different objective, namely to evaluate whether the EEC's GSP fully compensated four South Asian countries for the loss of Commonwealth Preferences when the UK joined the EEC in 1973. These showed that gains from improved access to the EEC more than compensated for losses in the UK market for Pakistan, Sri Lanka and Bangladesh, although the net gain was only small, while India suffered a small net loss.

iii. Trade creation

50. Various attempts have also been made to assess whether or not the GSP has helped to stimulate ldc exports to donor countries, using methods ranging from constant market share analysis to multiple regression. Constant market share analysis is perhaps one of the simpler techniques as it is based on a comparison of only four variables over time: 1) exports from beneficiaries to the donor market, 2) their exports to the world, 3) exports from

non-beneficiaries to the donor market and 4) their exports to the world. In effect if the growth of exports from beneficiaries to a donor market deflated by the growth of their exports to the world is greater than the growth of exports from non-beneficiaries deflated by their exports to the world, then this would suggest that, ceteris paribus, preferences were having a positive effect. A major problem with this method is that in practice the ceteris paribus clause does not hold, so that a change in market shares may reflect factors other than the GSP.

51. For example, Cable and Weston comparing Indian and Pakistani exports of manufactured goods (excluding unworked minerals, metals and gems) to France, German F.R. and the UK in 1971 and 1975 found that there were signs of a positive preference factor, especially for exports of carpets, chemicals, clothes and leather to France and German F.R. while for the UK it was negative (as a result of lost Commonwealth preference).¹ But in some cases the positive preference factor was found to exist in the pre-GSP period (1968-71) showing that it was not mechanically related to tariff changes. For instance the above normal growth in German imports from India in the pre-GSP period reflected a growing interest by German and Indian businessmen in mutual trade.

52. In Weston, Cable and Hewitt the same method was applied to exports in 3 major product groups - chemicals, machinery and miscellaneous manufactures - from all ldc's to the EEC for the period 1972 to 1977, which were compared with exports to the US, Japan and the OECD. In addition the performance of exports from 14 individual ldc's were examined. The results shown in Tables 3.6 and 3.7 generally suggest that the EEC's GSP has promoted its imports from beneficiaries of machinery, but has had little effect on miscellaneous manufactures, which is perhaps not surprising as the major items under the latter heading either face tariff quotas (footwear, leather goods) or quantity restrictions under the MFA (clothing). Imports of chemicals seem to

1. Cable and Weston (1979) page 76.

TABLE 3.6 Measurement of effects of preferences: percentage annual average import growth (1972-77)

	EEC	US	Japan	OECD
<i>(1) Chemicals</i>				
Growth of imports from (i) world	22.1	22.0	21.2	21.5
(ii) Idcs	21.4	17.5	40.8	21.4
of which:				
Korea	48.7	106.3	46.4	53.5
Singapore	40.8	39.8	135.9	83.7
Taiwan	32.5	inf.	49.7	53.5
(ii)(i)	0.97	0.79	1.92	100.0
<i>(2) Machinery</i>				
from (i) world	19.5	16.0	12.5	18.3
(ii) Idcs	38.3	29.0	39.4	33.0
of which:				
Korea	76.5	46.9	57.9	56.6
Singapore	44.9	25.8	35.8	35.3
Taiwan	48.7	inf.	76.8	79.3
(ii)(i)	1.96	1.81	3.15	1.80
<i>(3) Miscellaneous manufactures</i>				
from (i) world	20.8	16.7	19.5	19.6
(ii) Idcs	32.8	26.1	42.9	30.0
of which:				
Korea	67.8	33.5	59.4	44.3
Singapore	39.1	22.0	41.0	32.3
Taiwan	37.1	inf.	34.0	64.3
(ii)(i)	1.58	1.56	2.20	1.53

Notes: Growth rates are in current, not constant, prices.
SITC 6 is excluded since the major items in this category, metals and non-metal minerals, are not subject to preferences.
inf. infinity and implies growth from a zero base.

Source: Weston, Cable and Hewitt (1980) page 138.

TABLE 3:7 : Performance of Idcs in the EEC market by major product (%)

	<i>Chemicals</i>				<i>Machinery</i>				<i>Miscellaneous manufactures</i>			
	(1)	(2)	(3)	(4)	(1)	(2)	(3)	(4)	(1)	(2)	(3)	(4)
All Idcs	100.0	21.4	37.0	1.00	100.0	38.3	24.0	1.16	100.0	32.8	31.0	1.09
Asia	11.5	27.1	17.5	0.71	13.0	62.7	22.3	1.30	84.3	31.8	30.2	1.05
S. America	23.0	18.1	39.9	0.97	11.5	39.2	31.0	0.85	3.9	50.4	30.3	1.30
Subsaharan Africa	11.2	21.2	57.4	1.27	2.6	13.8	71.6	—	1.4	54.2	86.5	1.10
N. Africa	16.1	36.7	83.2	1.08	2.1	41.0	99.2	—	5.1	56.7	97.4	1.06
Yugoslavia	8.0	11.9	67.8	1.20	19.8	22.4	76.1	1.61	11.0	17.1	71.4	0.91
Rumania	8.6	12.4	46.6	1.72	5.0	29.2	50.5	1.05	6.7	22.9	70.8	0.87
Mexico	6.8	18.9	27.0	0.75	2.1	24.8	3.4	0.93	0.4	46.5	4.7	2.14
Brazil	5.6	22.9	45.5	1.14	8.9	43.2	28.2	0.83	2.1	46.6	31.7	1.48
Argentina	6.8	18.9	27.0	0.75	1.2	24.9	36.7	0.89	0.5	42.2	27.5	0.89
India	3.1	30.1	39.3	1.09	3.0	38.9	61.9	0.96	5.6	55.5	58.9	1.20
Pakistan	0.1	24.4	18.1	0.45	0.1	11.2	56.8	—	1.1	24.5	64.0	0.96
Malaysia	0.3	43.2	21.3	1.14	4.4	121.2	17.4	1.03	1.7	63.9	48.6	1.11
Singapore	0.6	40.8	7.5	0.49	16.7	41.9	31.1	1.27	3.7	39.2	44.2	1.21
S. Korea	2.4	48.8	14.7	0.91	8.9	76.5	15.7	1.35	16.8	67.8	23.4	1.53
Philippines	0	1.2	1.3	0.02	1.3	67.2	18.0	0.55	2.2	63.9	29.2	1.10
Thailand	—	—	—	—	0.1	47.1	6.6	0.37	1.1	82.9	40.5	1.61
Hong Kong	0.2	20.6	12.2	1.40	15.6	31.8	29.1	1.33	36.6	19.5	36.8	0.92
Taiwan	1.6	12.7	11.7	0.67	11.8	48.7	15.9	0.61	11.7	37.1	18.8	0.58

(1) Share of individual Idc in exports of all Idcs to EEC (1977).
(2) Annual average growth of exports to EEC (1972-77).
(3) Share of EEC in Idc exports to OECD (1977).
(4) Growth of Idc exports to EEC (1972-77) divided by the growth of Idc exports to OECD (1972-77).

Note: Idc total does not include Yugoslavia and Romania
Source: Weston, Cable and Hewitt (1980) page 140.

have been stimulated by the GSP but the disaggregated data show that the major suppliers are in fact beneficiaries of more preferential treatment under the Lomé Convention and other agreements. The exclusion of Taiwan from the EEC scheme would appear to have led to lower growth rates in its exports to the EEC than exports from Republic of Korea or Singapore. Countries whose exports seemed to have benefitted from preferences include for chemicals - Brazil, India, Malaysia, and Hong Kong; for machinery - Malaysia, Singapore, Republic of Korea, and Hong Kong; and for miscellaneous manufactures - Mexico, Brazil, India, Malaysia, Singapore, Republic of Korea, Philippines, and Thailand.

53. A closer examination of EEC imports of 19 products at a more disaggregated level including some agricultural items, semi-manufactures as well as manufactures showed evidence of a positive preference effect for 8 products (handtools, ceramic bricks, electrical machinery, valves and diodes, watches and clocks, travel goods, tobacco, and other vegetable oils) but little effect for 4 products (handknotted carpets, cutlery, radios and toys) and a negative effect for the remaining 7 (crustaceans, rice, footwear, sports goods, plywood, non-electrical machinery and calf leather). But it was not possible to evaluate how much of this effect was due to the GSP rather than other factors.

54. Other studies have attempted to estimate the value of trade created by the GSP both ex ante and ex post. These usually postulate that the reduction of tariffs under the GSP will have two effects, firstly it will increase the demand in donor countries for imports from beneficiaries at the expense of domestic production, which is known as trade creation, and secondly it will divert trade from less preferred countries (mostly developed) to beneficiaries, known as trade diversion. To avoid confusion here the sum of these two effects will be referred here to as trade expansion.

55. The most comprehensive estimates of trade expansion have been made by Ginman, Pugel and Walter (1980) for ldc exports of manufactures to the US, the EEC and Japan, which account for 90% of ldc exports to OECD countries. Their results, shown in Table 3.8, suggest that as much as US \$4.5 billion of ldc trade in 1976 was stimulated by the GSP, i.e. as much as 15% of EEC and 23% of Japanese dutiable industrial imports, though only 3.8% total imports. Murray (1977), applying the provisions of the 1976 schemes to 1970 trade data was less optimistic about the likely impact of the GSP on ldc trade. As the Table shows,

TABLE 3.8 Trade expansion under the GSP

(a) Ginman et al (1980)

(US \$ million, 1976)

	(1) <u>Trade expansion</u>	(2) <u>Total imports</u>	(3) <u>Mfn dutiable industrial imports^a</u>	(1) (2)	(1) (3)
EEC	1762	78012	11415	2.2%	15.4%
Japan	755	13458	3318	5.6%	22.8%
USA	2016	27601	na	7.3%	
	<u>4533</u>	<u>119071</u>		<u>3.8%</u>	

a i.e. in Chapters 25-99

Sources: Ginman, Pugel and Walter (1980) page 89 and Table 2.1 above.

(b) Murray (1977)

(US \$ million, 1970)

	(1) <u>Trade expansion with GSP restrictions</u>	(2) <u>Trade expansion without GSP restrictions</u>	(3) <u>Total imports</u>	(4) <u>mfn dutiable industrial imports</u>	(1) (3)	(1) (4)
EEC	89	303	18175	1629	0.5%	5.5%
Japan	23	72	6906	3344	0.3%	0.7%
USA	169	233	7846	3152	2.2%	0.5%
	<u>281</u>	<u>608</u>	<u>32927</u>	<u>8125</u>	<u>0.9%</u>	<u>3.5%</u>

Source: Murray (1977), pages 97 and 106.

he estimated that the trade expansion effects would be equivalent to only 3.5% of dutiable industrial imports to the US, Japanese and EEC markets combined, though this was more than one quarter (27%) of imports actually receiving GSP. If restrictions on GSP use under the three schemes were removed the trade expansion would double. Moreover his method probably overestimated the effects of the GSP as it assumed that all goods eligible for GSP within the restrictions would receive it, yet often this is not the case because of failure to comply with rules of origin, non-tariff barriers, or even just inability to supply the goods.

56. The two studies also differ in their conclusions about which scheme is the most beneficial for ldc's as a whole. Both sets of results suggest that the US scheme offers the largest expansion relative to total imports but Ginman places Japan second and then the EEC, whereas according to Murray the Japanese scheme is least effective. Relative to dutiable industrial products, however, Murray puts the EEC first and the US third.

57. Ginman et al's result for the EEC is broadly supported by the work of Sapir (1980). Using regression analysis he estimated the impact of the EEC's GSP on imports from 10 leading beneficiaries¹ by comparing the value of their imports of manufactured goods to the original 6 EEC members over the period 1967-78 (i.e. 5 pre-GSP years and 7 GSP years) with EEC imports from a similar number of developed countries and with imports to four non-EEC countries from both groups. He found that, for the 10 beneficiaries, the trade expansion under the GSP over the seven years was as much as US \$8,249 million or 44.8% of their manufactured exports to the EEC in those years, a proportion which increased over the period in consideration. The effect was pronounced for products in SITC 7 and 8, i.e. particularly labour-intensive products, which had high elasticities of demand as well as high post Kennedy round mfn tariffs (in the range 10 to 20 per cent).

1. The Argentine, Brazil, India, Republic of Korea, Malaysia, Mexico, Pakistan, Peru, Singapore, and Yugoslavia.

Leading products in this group were office machines (SITC 714), telecommunications apparatus (724), transistors (7293) and clothing (841). For products in SITC 6 (less 65 + 68) the GSP effect was not found to be significant probably due to the fact that mfn tariffs on these products were low, from 0 to 5 per cent. One problem with this study is that its sample included only the more developed ldc's, and for these countries other factors, such as foreign investment flows and subcontracting arrangements, might explain the effect which was attributed to the GSP. Had less developed ldc's been included the GSP effect would probably have been much less significant.

58. Murray (1980) shows that two factors in particular - inflation and a change in competitive position due to factors other than the GSP such as relative production costs - may account for a larger proportion of increased ldc trade than the GSP. On the basis of a sample of agricultural and industrial products covering 20% of ldc imports to the US (excluding leather products, copper and sugar, which were significantly affected by the competitive need criteria) in 1974 and 1977 he calculated that of the the total increase of US \$1,537 million in US imports from ldes (excluding leather, etc.) inflation accounted for as much as 65%, or US \$1,000 million. The change in competitive position accounted for US \$547 million, while the income effect was small but negative (-US \$18 million). The GSP alone was responsible for only 14% of the change in the volume of imports, or US \$485 million (at 1977 prices), i.e. less than one quarter of the trade expansion calculated by Ginman et al. In other words had the GSP not existed the volume of trade in these goods would have been 14% less.

59. The less well documented opinions of the GSP held by ldc exporters and developed country importers¹ suggest there are dangers in attributing too much importance to the GSP, in particular because it may divert attention from other factors stimulating or preventing trade. For instance importers in the EEC

1. Discussed in Weston, Cable and Hewitt (1980), US House of Representatives (1980) and Kjellberg (1979).

stress that tariffs play a very minor consideration in their choice of suppliers and may often be outweighed by other factors such as reliability, quality control, credit terms and even freight costs. Many exporters even in the more advanced ldc's are still unaware of the tariff margin their goods receive under the GSP; their concern with their goods often ends once they have been despatched with the appropriate certificate of origin required for the GSP. For items on which tariffs are particularly high (i.e. 10% or more) and where GSP might be relatively important, there are usually restrictions on the amount of goods which may receive GSP. The uncertainty over whether goods will receive GSP or not, which arises from the way in which the restrictions are imposed, as well as uncertainty over the long-term future of the GSP means that even in these cases it can have little impact on investment.

iv. Impact on donors

60. Two major concerns of the donors have been to ensure that the 'burden' of the GSP is shared equally between them, and secondly to minimise the 'damage' caused by the GSP to their economies. The extent to which GSP constitutes a burden, other than in terms of foregone tariff revenue (discussed in para. 9 above), is a matter of debate. The damage to domestic producers can be measured from the amount of trade creation. According to Murray (1977) some 88% of the trade expansion under the GSP was due to trade creation rather than trade diversion, i.e. at the expense of domestic rather than less preferred exporters in other countries. But not all trade creation is at the expense of domestic producers; some reflects increased consumption resulting from the lower price of imports. Unfortunately the two effects have not been separated. Ginman et al (1980) found that the reverse was true - trade diversion accounted for 77% of their estimated trade expansion. In terms of employment Murray calculated that the cost to donors from increased imports in their own markets (import displacement) and their export markets (export displacement) was less than 25,000 or about 1% of the annual change in jobs in these countries.

TABLE 3.9 Estimated jobs displaced by GSP trade

	<u>Jobs displaced</u>
EEC	5,217
Japan	9,550
USA	3,057
Others	6,586
	<hr/>
	25,410
	<hr/>

Source: Murray (1977) page 110.

61. The US House of Representatives (1980) found no measurable impact of GSP imports on the US economy in terms of production, employment, or balance of payments. In fact the US is the only country where there is any systematic attempt to establish an association between these indicators and the GSP, and then only at the special hearings for the removal (or additions) of products to the overall list. More generally the withdrawal of the GSP on ldc's meeting the competitive need criteria in the US, on hitting the ceilings in the EEC and Japan, is automatic - even when there is no causal relationship between the GSP imports and injury to domestic industries.

IV. The GSP and the Tokyo Round

62. A major concern of many ldc's in the Tokyo Round of negotiations was that the mfn tariff cut would erode the benefits accruing to them under the GSP. Their dissatisfaction with the way in which tariffs were handled may be one reason why so few ldc's have signed the agreement to date. On average mfn tariffs are to be cut by one third over the 1980-87 period, though for some sensitive products the reductions were to be held over to 1982. For traditional ldc exports the cut will be one quarter but if potential ldc exports are included it amounts to 35%. According to GATT (1980)¹ mfn cuts would affect nearly one fifth of agricultural items covered by the GSP but 87% of ldc exports of

1. Page 40.

industrial items. In addition two thirds of trade in both agricultural and industrial goods not covered by the GSP would benefit from mfn cuts, as Table 4.1 shows.

TABLE 4.1 Ldc trade affected by mfn cuts (US \$ billion)

	<u>Agricultural goods</u>		<u>Industrial goods</u>	
	<u>Pre-MTN</u>	<u>Affected by mfn cuts</u>	<u>Pre-MTN</u>	<u>Affected by mfn cuts</u>
Total	31.0	11.6	52.9	28.4
Mfn free	10.7	0.2	18.3	0.6
Mfn dutiable	20.3	11.4	34.6	27.8
Non-GSP	15.7	10.5	12.1	8.2
GSP-covered	4.6	0.9	22.5	19.6

Source: GATT (1980)

63. There has been a long debate over whether or not mfn cuts will benefit in the long run. Calculations by Baldwin and Murray (1977) and Cline et al (1978) on the basis of a full across-the-board 60% tariff cut (excluding textiles, footwear and petroleum products) suggested that ldc's would gain two or three times respectively in increased exports as much as they would gain under existing GSP schemes. Estimates of the effect of mfn tariff cuts on ldc's depend on how the GSP is expected to develop. For instance if the GSP were to become very liberal, the lost trade diversion resulting from mfn cuts would be much higher than if no change in the GSP were expected. This may explain why Ginman et al (1980) using 1976 trade data found that both the static and the dynamic effects of the MTN for ldc's would be negative. According to them the 5.2 percentage points average cut on US \$12 billion of non-GSP items was insufficient to offset the cut in preferential margin by 3.2 percentage points on GSP trade worth US \$16 billion. (In fact using the fiscal value approach discussed above, there would appear to be a net gain to ldc's of about US \$110 million.) In the longer term they calculated that the tariff changes would lead to a diversion of trade from ldc's to mfn trading partners of US \$19.1 million (or US \$1.0 billion if textiles are not included), i.e. 0.4% (5.1%) of GSP covered imports to the EEC, Japan and the US. In other words trade creation of US \$0.6 billion (or US \$1.6 billion) resulting

from mfn cuts on products not covered by the GSP as well as on products subject to limitations would be less than trade diversion of US \$1.7 billion on goods fully covered by the GSP.

64. One problem with this argument over the results of the MTN is that it considers ldc's as a whole, whereas in practice the costs and benefits are likely to be unevenly distributed between ldc's. Countries benefitting little will be those with exports of non sensitive industrial products on which GSP treatment has not in the past usually been restricted and agricultural goods on which no GSP or mfn cuts have been made. These will tend to be the middle income and less/least developed ldc's.

V. Conclusions and recommendations

65. Recommendations for the future of the GSP range at one extreme from the UNCTAD position calling for abolition of all duties on all imports from all developing countries, while at other there is the view that the GSP is no longer worth maintaining, partly because the average preferential margin is so low and partly because the countries who use it the most, need it the least. The recommendations considered here fall into a middle camp, based on the premise that donors are unlikely to accept the first position, while beneficiaries are unlikely to accept the second.

66. Even within this middle ground there is a wide range of options open for consideration.

i. Harmonisation and simplification

At present the GSP schemes differ in many ways - notably coverage, depth of tariff cut, rules of origin and safeguard mechanisms. These differences are confusing, particularly for the less advanced exporters and can act as a form of non-tariff barrier. The documentation required to qualify for the GSP (certificate A) has been made uniform for most schemes. Further steps are needed in this direction perhaps beginning with common rules of

origin. Meanwhile donors should be addressing the need for simplification of their own schemes. The EEC's scheme, despite a recent attempt to make it more transparent is still complicated by four different types of restrictions on GSP treatment for imports according to their degree of sensitivity. For importers it can be very confusing. One peculiar feature of this GSP is that duty-free treatment of textiles and clothing is often less than the volume of imports allowed under the MFA. Allowing all quantity restricted textiles and clothing in duty-free would not affect trade flows, but ldc exporters would benefit from the duty removed.

ii. Controls on the use of safeguards

The issue of controls on the withdrawal of the GSP, which is often arbitrary, is somewhat more difficult. All three major schemes have established methods whereby the GSP may be withdrawn whether or not there is any link between duty free access and damage to domestic industries. The system used by the US of open deliberations for the addition or removal of product headings should also be used when curtailing concessions at country level. A more open system should be adopted by other GSP schemes - in the EEC and Japan this would require the establishment of GSP information centres on the US model. Such centres would, through a more careful monitoring of the GSP, help to improve its use and its evaluation. A major problem will be in determining what constitutes grounds for removal of GSP. Measurements of damage have proved difficult in the context of other trade issues (particularly textiles) and the question remains what should be done once damage has been established. In the US, countries hitting the competitive need criteria in one year face GSP withdrawal in the second and if in that year imports fall below the criteria, the ldc is reinstated in the third year. But other donors may favour longer term withdrawal.

iii. Graduation

There is a general feeling amongst donors that even if damage to their economies cannot be proven withdrawal of GSP may be justified where a ldc accounts for a major share of GSP imports, to allow other ldcs a larger share of restricted GSP benefits - or even just to give exporters in less developed ldcs a margin over those in the more advanced who may be their major competitors. This argument has elements of truth; what is disturbing is that it may be used by protectionists to restrict competition - i.e. reducing GSP coverage of imports from the more advanced ldcs may merely result in less GSP trade overall in the short term. In the longer term, however, imports from the less developed ldcs may grow, particularly if they are given guarantees that no restrictions will be placed on their access to GSP (in effect that the GSP is made binding). The risk of low uptake may be necessary if the present deadlock in the GSP is to be broken. The EEC's system of graduation which involves giving more advanced ldcs GSP for a fraction of their exports of sensitive products is unsatisfactory - the importers regard it as a lottery with little impact on their decisions. Eliminating some highly competitive ldcs altogether at a product level seems preferable for this reason - if it allows restrictions on others to be removed - though in some respects it increases the overall complexity of the schemes. An alternative would be for countries, such as Yugoslavia, Romania, Spain, Portugal and even Hong Kong, which many no longer class as ldcs, to be removed altogether from the GSP and in return GSP access for other ldcs liberalised. Although it would be difficult to decide the initial list of countries to be excluded the end result would be simpler to administer than the alternative of partial product coverage or partial tariff reductions.

iv. Special measures for less developed ldc's

A more positive form of graduation, from the view-point of ldc's, would be to extend the favourable treatment of the least developed ldc's. This could be done in a variety of ways, each with different implications for the donors: one option would be to extend duty-free coverage for all imports of agricultural and industrial items from ldc's, though for the latter to have any meaning the rules of origin would also have to be relaxed. At the other extreme, this treatment could be extended to all less developed ldc's.¹ At the very least the EEC's exemption of ldc's from restrictions on GSP should be followed by other donors, notably the US whose competitive need criteria have seriously affected some ldc's in the past.

v. Increased agricultural coverage

The GSP's coverage of agricultural products remains limited, even after the Tokyo Round in which some donors chose to make tariff cuts on agricultural goods only for GSP suppliers. Tariffs, and moreover effective tariffs, on a number of processed agricultural items are still very high, even though few interests in the importing countries seem to be affected. Sometimes where goods are covered by the GSP, the GSP tariff which remains is small but nevertheless constitutes a nuisance. In both cases improvements in the GSP should be considered, especially if the system is to benefit the less developed ldc's many of whose exports fall in the agricultural sector.

vi. Non-tariff measures

With the declining importance of tariffs as a barrier to trade additional measures to promote ldc exports will need to be considered. On the supply side, particularly in the less developed exporting countries, assistance in the form of a transfer of technology or even investment subsidies may be required, while at the importing end governments should commit themselves to removing non-tariff barriers. In the long run it may be found that the major barriers are in fact commercial, arising from the structure of production and distribution in the importing countries, and therefore beyond the scope of inter-governmental negotiations.

1. I. e. all ldc's eligible for IDA terms.

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The GATT "Codes" on "Non-Tariff Measures"

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The GATT "Codes" on "Non-Tariff Measures"

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The GATT "Codes" on "Non-Tariff Measures"

I. Introduction

1. The purpose of this paper is to evaluate the "codes" on "non-tariff measures" (NTMs) negotiated in the Tokyo Round of Multilateral Trade Negotiations (MTN) and now being applied by the main industrialised countries. In this paper we shall briefly note the scope and coverage of these arrangements, the impact of these new, detailed understandings on the trade relations system, and more particularly, we shall note how these codes affect the trade policy relationships of the smaller countries, particularly the developing countries. We shall, in the process of evaluation, be considering what can be learned from the process of negotiation which produced the codes, and what can be concluded from the short experience of administering or managing them. Throughout the paper the text and context of the various codes are taken as given - because there exist readily available texts and commentaries which, accordingly, need not be reiterated here.¹ The emphasis in this paper is on assessment and evaluation, in terms of the impact of the NTM codes on the trade relations system and on the interests of the developing countries.

2. The terms "codes" and "non-tariff measures" have been put between quotation marks in the first paragraph because both these terms should be put in context, for both are somewhat misleading. To take the concept of "code" first: commercial policy arrangements between countries can vary as between say, a set of "guidelines" adopted in the OECD by a consensus in the committee concerned, or a code of conduct setting out norms of

1. For the texts of each of the MTN agreements, see GATT: Basic Instruments and Selected Documents, 26th Supplement, March 1980; for a commentary, see GATT: The Tokyo Round of Multilateral Trade Negotiations, April 1979, Chapters VIII and X of Part I and III and V of Part II.

behaviour in a particular policy area, such as the UNCTAD arrangement concerning restrictive business practices, and a more contractual arrangement. The GATT itself, which in its language and style is derived from standard pre-World War II trade agreements, is cast in a contractual form. Signatories acquire rights and obligations, and are subject to sanctions for non-compliance. The NTM "codes" are also cast in what is more or less a contractual form. They are concerned with stating obligations and rights, rather than norms of behaviour. However, the difficulty of reaching agreement in some of these areas was such that there was some recourse to declaratory or normative language, designed to obscure the fact that agreement could not be reached on a balance of rights and obligations with regard to certain issues. Nor are all the agreements equally clear. The Procurement Code, for example, is relatively precise in its prescription of procurement procedures, but it covers very little of the total area of government purchasing. The Subsidies/Countervailing Agreement, at the other extreme, is replete with declaratory, normative statements, and obscure and ambiguous phrases. Much of the ambiguity was much negotiated, virtually none of it is accidental; the language masks the inability to advance in certain key areas regarding subsidy policies and practices. Moreover, there are a number of written, although non-contractual, statements which provide glosses on the code language in regard to certain issues. But nevertheless, it would be correct to say that the NTM codes are essentially contractual arrangements, meant to reflect a balance of rights and obligations which the principal negotiators, and the countries they represented, intended to be enforced by the imposition of retaliatory sanctions; these enforcement provisions, imported into each of the codes, were taken from the GATT itself, i.e. GATT Articles XXII and XXIII, and adapted to the subject area of the various agreements.

3. The term "non-tariff measures" also requires clarification; it is an inherently unsatisfactory term but has been used so generally in regard to the results of the MTN that it will be used here. The conventional usage is to put into one category the tariff as a form of intervention in trade (as a mechanism by which governments regulate the price competition between imports and domestic production) and to lump all other measures into the category "non-tariff" measures. This is open to two objections. First, valuation for customs purposes is clearly part of the tariff structure; it is simply confusing to treat it as being a "non-tariff" device. The same comments can be made in regard to other aspects of the customs system - such as problems that relate to procedures or nomenclature. Second, it is necessary to divide the measures which are distinct from the tariff and customs structure into different categories, in order to better understand what was being attempted in the MTN. One way to approach this problem of developing a meaningful classification is to categorise measures as to whether or not they are applied at the frontier, and whether or not they are part of the commercial policy system. Thus import quotas, anti-dumping duties and countervailing duties are applied at the frontier; government procurement rules requiring a preference for domestic products in such purchasing are not applied at the frontier. But these are all commercial policy devices; product standards and food and drug regulations may be applied to imports at the frontier but they are not part of the commercial policy system; they are measures devised in regard to other policy objectives, but may be used, perhaps deliberately, to have an unduly restrictive effect on trade. Another useful distinction is the difference between measures that relate to price (tariffs, anti-dumping duties, countervailing duties, import surcharges or import deposit requirements for balance of payments purposes and price preferences for domestic products in procurement rules) and non-price devices, such as import quotas, "voluntary" export restraints, product standards, which of course may well have a discernible impact on prices, but which are not expressed in

price terms. It should be noted that while a wide range of measures were examined during the preparatory stage, the negotiators in the MTN concentrated much of their effort on price measures which are explicitly part of the commercial policy system: namely, anti-dumping duties, countervailing duties, subsidies, procurement and valuation. In the non-price area, attention focussed on import documentation and other consular and customs procedural barriers, on product-related restrictions, and on product standards (called "technical barriers to trade"). The attempt to deal with this last area resulted in an agreement designed to create procedural obligations which would preclude product standards being used to restrict trade, although, of course, it is accepted that product standards inevitably have an impact on trade. This is, potentially, an important extension of the practical authority of the GATT.

4. One of the aspects of the so-called "non-tariff measures" codes which puzzles commentators is how "reciprocity" is achieved in the negotiation of any one of such codes. How is a balance of rights and obligations established? How does one measure reciprocity? In a sense the concern about reciprocity is mistaken, it is a transfer of the traditional quantitative technique of presenting the results of a tariff negotiation to a policy area where a quantitative formulation of the outcome of negotiation is even less relevant than it is in regard to tariffs. The problem of working out a balance of rights and obligations - which is a better description of what is required than the term "reciprocity" - in regard to the development of a detailed agreement regulating the use of a non-tariff device, had been faced in the Kennedy Round of trade negotiations - in the working out of the code on anti-dumping practices. The experience gained in that negotiation was drawn on in the MTN and that code was a model for important parts of the NTM codes,

particularly the sections of the Subsidies/Countervailing Agreement that relates to the use of countervailing duties. In the Kennedy Round negotiations regarding the use of anti-dumping duties it became apparent that, from one perspective, reciprocity meant that all trading countries could improve their position. They did this by agreeing in detail on how what could be a punitive device, a device which could be used to harass legitimate trade, could properly be used, and by setting up international procedures to scrutinise the use of the device. Moreover, each major participant in such a negotiation is bound to have a number of precise objectives in regard to the practices of other countries, and a number of precise objectives in regard to its own practices, which it wants reflected in the international agreement. Sometimes there are conflicts as between the objectives of the various participants; if there are serious conflicts the result is likely to be either a trade-off or, all too frequently, an exercise in ambiguity. In any event, in this sort of context, the question of whether one country was "contributing" more than another to the agreement (i.e. having to alter its practices to a greater degree) was not a question of great priority.

5. An example in the MTN where a major difference between the objectives of the various participants was "papered over", or hidden in ambiguous drafting, is Article 10 of the Subsidies/Countervailing Agreement, which deals with export subsidies on agricultural products. These particular paragraphs have now become the subject of disputes in the GATT; it is not unreasonable to argue that the existing provisions of the GATT (Article XVI:3) have been weakened rather than reinforced or made more precise by this particular code provision.

6. Not all countries concerned with the use of anti-dumping duties found that they could accept that reciprocity lay in all participants adapting their anti-dumping regimes to an agreed international format and agreed administrative guidelines. A number of developing countries concluded that the new system was biased against them. For reasons of development policy and

in order to conserve foreign exchange reserves, they maintain regimes which raise domestic prices above world prices; hence, when such products are exported, they can be held to be dumped. There was extensive discussion on this issue, between the end of the Kennedy Round, in mid-1967, and the Tokyo Round. The developing countries, as a group, preferred to advance their views on the anti-dumping code in meetings of the Contracting Parties and in various groups in the MTN negotiating committee structure. At the end of the Tokyo Round this issue was still outstanding. We should note that the developing countries did not choose an alternative course which was in fact open to them - that is, to sign the Anti-dumping Code and thus become full members, as of right, of the administering committee (The Anti-dumping Practices Committee) and use that as a base from which to recommend the changes required in the code. Unlike some of the NTM codes (for example, procurement) the Kennedy Round Anti-dumping Code did not require a signatory to put in place a fully-fledged anti-dumping regime, but only to undertake that if it did legislate an anti-dumping system, such a system would conform to the code. Thus countries without anti-dumping systems could sign the code and participate in its administration. For some MTN negotiators, this was perceived as a potential hazard, and accordingly efforts were made to ensure that the NTM codes, while providing for "special and differential" treatment in developing countries, did so only in a manner which required a developing country signatory to assume meaningful positive obligations (see, for example, Article 14 of the Subsidies/Countervailing Agreement).

7. The issue of "reciprocity" for a developed country in the MTN in relation to the non-tariff codes had a number of other dimensions. It is important to recognise that for one major participant - the United States - what the MTN involved was not so much a negotiation to achieve trade liberalisation as a negotiation to bring about a substantial measure of reform of the rules. After all, the legislative mandate for the United States negotiators, the Trade Act of 1974, was originally called the Trade Reform Bill. It was apparent from

the beginning of the Tokyo Round discussions on non-tariff issues that, subject by subject, the United States representatives had clearly in mind how they proposed to draft the relevant domestic legislation, and that their negotiating objectives were, in part, to ensure that the new international agreements were consistent with what they planned in their domestic laws, and, indeed, that international cover or international sanction would be provided for their proposed legislation. Other negotiating countries understood this; however, they too had provisions or practices which they felt had to be reflected in the international agreements, in order that suitable international legal cover be provided for what they considered to be essential elements of their systems. Reciprocity was secured, in a sense, by accommodating these various demands in the texts of the codes. This produced a result which certainly could have been foreseen, and no doubt was by some negotiators and commentators; we can call this the perverse result. In any negotiation to set limits to the restrictive use of a given non-tariff measure - a negotiation which, on the surface, might appear to be aimed at trade liberalisation - if a number of participants each succeed in getting into the agreed text cover for their particular restrictive practice, then each signatory acquires the right to use all these practices. A signatory may then devise a new legislative scheme, and a set of administrative practices, which in some particular respects, if not in total, may be more restrictive than existed before the negotiation. There are numerous examples of this perverse phenomenon. One example: the Canadian anti-dumping system, which was strongly criticised by exporters prior to the Kennedy Round, became more restrictive, in certain respects, after the system was revised to bring it into line with the Kennedy Round code. Another important example: prior to the MTN the United States did not levy countervailing duty retroactively (that is, the duty became payable on imports entered only after the final decision to impose a duty); however the NTM code allows for a provisional duty to be levied in a period of 120 days before the final decision is taken. This has been adopted in the new United States law. In this important regard, the new United States system is significantly more restrictive than the system

in place before the code was negotiated. Another example: in the Kennedy Round Anti-dumping Code there was provision for duties to be applied retroactively for an additional period to counter so-called "sporadic" dumping, or what could be called "hit-and-run" dumping. This provision was drafted to deal with a Canadian problem in the textile and clothing sectors; however, this provision in the Anti-dumping Code (Article 11) was translated into the Subsidies/Countervailing Agreement to deal with "hit-and-run" imports of subsidised exports. The United States insisted that the code had to allow for quick and punitive action against such potentially damaging imports. Article 5, para.9 of the code therefore provided for a special measure of retroactivity for the application of countervailing duty when there are found to be massive imports of subsidised products. The code thus provided international cover for a type of restrictive action which, prior to the MTN, no country had taken, and indeed, which was not provided for in the domestic legislation of any signatory. (This "perverse result" problem should be taken into account in any further negotiation to codify administrative practices in regard to the use of some device of intervention or in regard to trade in some particular sector or sectors, for example, services).

8. We can turn, after these introductory remarks to some brief comments on each of the major NTM codes, and to comment on the unresolved issue of "safeguards", which in an intellectual sense, is related, on the one hand, to some of the code concepts, and, on the other, to the varying experience of participants under the Multifibre Arrangement.

II. The "Standards Code" (Agreement on Technical Barriers to Trade)

9. The purpose of negotiating this code was to try to provide a procedure, backed by possible sanctions, to deal with those cases in which product standards unduly restrict trade. Admittedly the consultative and adjudicative provisions of the GATT (Articles XXII and

XXXIII) could be used for such a case, but it was felt necessary to provide a more specific set of procedures and a more detailed administrative apparatus. It was soon recognised that the GATT agreement could not impinge on the right of signatories to develop product standards and to enact food and drug standards, for example, which they would apply equally to domestic production and to imports. Clearly there would be an impact on trade; what was at issue was dealing with unduly restrictive action, whether deliberate or not. The NTM code does not in any sense provide for the drawing up of technical regulations or standards; that is the function of other bodies. Instead, the code endeavours to get at the trade-restricting impact of such standards. Accordingly, the code provides, inter-alia, that governments will avoid unnecessary obstacles to trade, that they will give non-discriminatory, indeed, national treatment to imported products with respect to product standards, that, in order to avoid the creation of unnecessary obstacles, they shall endeavour to use international standards, where they exist, and that governments should work towards the creation of international standards. In order to administer these arrangements, governments are required to give notice to other countries of proposals to establish standards and to provide for information. In regard to standards established by voluntary bodies or by other levels of government, the signatories accepted a "best endeavours" clause (the so-called "second-level obligation"). The provisions of Articles XXII and XXIII of the GATT were translated into the specific framework of the standards code and a committee of signatories established. There are a number of provisions in the code directed at meeting the special needs of developing countries; a number of these are directed at their special requirements for information as to the standard practices of other countries to which they expect to export, and more particularly there is provision for technical assistance from developed countries to developing countries under the aegis of the code. (see Article 11 of the code). Under Article 12 of the code, specifying measures of special and differential treatment for developing countries, developed countries are required to take into account

the "special development, financial and trade needs" of developing countries in the implementation of the agreement, and in the formulation and application of standards. Moreover, developing countries may adopt special standards designed to preserve their own technology. It was apparent at the end of the MTN that it would take some time for the new international rules to be put into effect and for countries, particularly federal countries, to establish the internal administrative mechanisms required by the code. It is as yet too early to say, therefore, whether the code will be successful in restraining the tendency to manipulate product standards to restrict trade, and whether the various provisions regarding special and differential treatment are of any particular value.

III. Import Licensing Procedures

10. Import licences are sometimes used for essentially statistical purposes, but of course in any such so called "automatic" system it is feasible to delay or obstruct the issue of a licence in order to effect a restriction on imports. If import licences are used to implement an import quota (or to allocate the quota among importers) or to reinforce the administration of "voluntary" export restraint measures, they may increase sometimes to a marked degree, the restrictive effect of an agreed quantitative control measure. The various provisions of this agreement are designed to mitigate, and to provide for scrutiny of, the unduly restrictive application of licensing provisions. The code does contain some limited provisions covering "special and differential" treatment for developing countries; for example, a two-year delay is allowed in regard to the obligations concerning the administration of "automatic" licensing procedures. While, in general, application by developed countries of the criteria and practices of the code should remove some, although perhaps only minor, obstacles to trade, it is apparent that it is developing countries themselves which rely significantly on licensing techniques. In that sense the provisions of the code are directed

at developing countries. On the other hand, it is of importance that in the negotiation the developing countries which faced restrictions on their exports of manufactured goods did not use this occasion, and this text, to press the claim that "voluntary" export restraint arrangements (and preferential tariff quotas) should be administered, through the usual permit or licensing procedures, by exporting countries, not by the developed importing countries. It is only in this fashion that the price increase caused by the agreed restriction (the rent of restriction) accrues to the exporting country rather than to the importer or the importing country.

IV. Customs Valuation

11. As noted above it is only by conventional usage that the methods by which customs officers calculate the base to which ad valorem tariffs are to be applied is referred to as a "non-tariff" measure. The essential element in the NTM code is acceptance that all countries should value all imports at the actual value of the import transaction at issue and not by reference to other transactions. This approach was designed to outlaw valuation techniques based on the prices ruling in sales in the domestic market of the exporting country for like products (the method used by Canada) or on prices ruling in the market of the importing country (the method used in the United States for certain products: the so-called American Selling Price (ASP) method). However, the true transaction price is not necessarily the same as the stated price on a commercial invoice; accordingly much of the code is taken up with rules to determine what should be added to and subtracted from the commercial invoice price to derive the correct transaction price, and with rules regarding how the true transaction price is to be determined when the transaction has taken place between related parties. It is said that in this fashion the scope in using valuation to increase the protective effect of a given ad valorem rate of duty will be minimised. More specifically, countries (such as Canada) whose valuation systems were closely related to their

anti-dumping systems recognised that these existing systems allowed them to require that duty be paid on a value which represented an undumped price (although the actual invoice price could be at a dumped price); in the new system the dumped price is the transaction price. The result could be to throw rather more of a burden on anti-dumping systems, if the resulting lower ad valorem duties create difficulties for domestic producers. This is not necessarily an improvement in the commercial policy system taken as a whole.

12. One aspect of the MTN valuation agreement should be made clear: it was not intended that such changes in valuation as were necessary to adopt the new transaction price system would reduce the protective effects of ad valorem tariff rates. In the Kennedy Round negotiation regarding the ASP system of valuation, which was applied by the United States to imports of certain chemicals and rubber footwear, it was contemplated that the existing ad valorem rates for the items with ASP would be applied to the basic United States valuation technique. This would have lowered the protective effect of the existing ad valorem rates. However, in the MTN the United States authorities calculated what would be the effect of the change in the base for ASP items (and for others - the so-called "final list" items), and indeed for the items which had specific duties which were to be converted to ad valorem equivalents. The purpose was to ensure that the adoption of a new valuation technique would not, in itself, result in any reduction in protection, as expressed in ad valorem terms, but merely in a simplification of customs entry procedures, and a reduction, it was said, in the scope for harassment of importers. (There were problems created for a number of countries by these "conversions", particularly where there was a specific duty component involved; the average ad valorem equivalent of these specific duties in a representative period might be higher for some classes of imports than the rate which had applied for imports from a given country). This decision by the United States made it inevitable that other countries would follow this example. The Canadians, who

considered that in switching from a valuation system based on "fair market value" in the country of export (a base very similar to the concept of "normal value" under the Anti-dumping Code) to a transaction price system, they would be agreeing, for certain products, to a drastic reduction in values for duty, insisted that their implementing of the agreement be dependent on the conclusion of negotiations (under Article XXVIII of the GATT) to restore the ad valorem equivalents of their various tariff rates as applied to their existing valuation base. Another way of putting the Canadian problem is that, particularly during the current recession, many exports are made at prices much lower than the prices obtained in the domestic markets of the exporter - i.e. that there is a great deal of dumping. In any event, it is important to note that the valuation agreement was not intended to bring about a reduction in the protection afforded by existing tariff rates.

13. In one respect the valuation agreement differed from other NTM codes: it involved the use of a body outside the GATT to assist in the administration of the code. Like the other codes, the valuation code provided for a committee made up of signatories to the agreement. However, in order to involve the Customs Co-operation Council, which has long had competence in regard to valuation, a technical committee was established, apparently subordinate to the committee of signatories, but under the "auspices" of the Customs Co-operation Council. This Technical Committee has detailed administrative authority (Annex II to the Code) and it would not be surprising if, over time, it became the key administering body.

14. Developing countries had special difficulties with the draft code when it got to the stage that the major developed countries could accept it. There were, of course, provisions for special and differential treatment - for example, that developing countries could delay for five years their implementation of the agreements, and could delay the coming into force of certain articles (notably, the provision for the use of "computed" value) and there was provision for technical

assistance. But these did not go far enough. Accordingly, developing countries tabled an alternative text and both the texts were formally open for signature. However, later negotiations (concluded after the end of the Tokyo Round, in November 1979) effected technical amendments to the developed countries' text; in particular the amending protocol envisaged the possibility of a delay in implementation by developing countries beyond five years, and opened the possibility for a number of technical reservations which, if made by a developing country, would have to be accepted by the signatories.

15. The technical difficulties raised by developing countries were addressed to major components of the transaction price system; there were developed countries which shared the views of developing countries on such issues as to how to treat transactions by transnational corporations (i.e. trade between related parties) and as to how to deal with prices which are offered only to the importer concerned (the "not fully offered" problem). Essentially, the valuation code involved an understanding between the European Economic Community and the United States in an area in which each of the two major trading groups had an interest in securing an international agreement, primarily in order to provide a framework or cover for domestic reform. In these circumstances representatives of other countries could have no more than a marginal impact.

16. The difficulties faced by developing countries with certain provisions of the code, and the partial resolution worked out in late 1979, should not obscure the fact that the adoption of the transaction price system by industrialised countries should be, in itself, a gain for developing countries. Systems of valuation, such as the Canadian, which were based on prices ruling in the country of export, brought about very high values for duty in regard to imports from those developing countries which, for various reasons, sometimes for fiscal considerations, maintained severe import restrictions and high import tariffs and in which domestic prices for such manufactured products as

might be exported are much higher than world prices. The change to a transaction value system, which rules out such techniques of valuation, should thus be of considerable value to developing countries. We have, however, emphasised the term: in itself, above - because what is not yet clear is to what extent the change in valuation will bring about increasing recourse to anti-dumping proceedings or increased use of export restraint measures (or import quotas) under the Multifibre Arrangement.

17. We have commented on the valuation (and, indeed, on the other codes) without describing the code in any detail; to do so would require a very extensive paper. The valuation code is already the subject of one full length book, and that account is not in any sense as detailed as is required to properly understand the working of this complex arrangement. The most that can be done in this short paper is set out a point of view, and to draw attention to some important features.

V. Government Procurement

18. Article III of the GATT provides, in effect, that, apart from import tariffs (and apart from such import quotas as may be permitted under other articles of the agreement), imported goods are to be treated in all other respects in the same manner as domestically produced goods. This is the "national treatment" concept as it figures in the GATT. However, the exception to this rule is that national treatment is not required in relation to government purchases of goods for use by government ("procurement"). Two points should be made clear. First, this exception does not cover so-called "state trading" arrangements; the GATT provides that state trading firms should act in accord with commercial considerations, that is, as though they were private entities. Second, the exception covers purchases by governments of goods for their own use, or goods for the manufacture of goods for use by government. Thus in one legal case in the United States a state law requiring an electricity generating authority to apply a preference for domestic goods

was struck down, on the basis that electricity is a good, and that therefore the procurement exception to Article III did not apply. It is the case, nevertheless, that in many developed countries public utilities which sell goods (or services - on which the GATT is, in the main, silent) either apply a domestic preference in procurement, or are required by law to do so. Prior to the MTN, there had been discussion (for some 14 years) in the OECD about working out an agreement on procurement. This discussion was transferred to the MTN, and in due course a code on government purchasing was agreed by the major developed countries. This discussion took place in parallel with discussions within the European Economic Community about creating a common internal market for procurement within the Community. These discussions ran into difficulties, because many member states wished to be free to use government purchasing for various purposes - to promote high-technology industries, to aid disadvantaged regions, etc. There was one important difference between the efforts being made within the Community and the discussion in Geneva. Within the Community abolishing procurement preferences in regard to any category of purchases would have meant that goods from some other member state would be competing on the same terms as domestically produced goods; in Geneva what was at issue was trying to remove preferences in domestic goods which apply over and above customs duties.

19. The agreement that emerged provides, in summary, for the abolition of procurement preferences in all purchases in contracts over a threshold of Special Drawing Rights 150,000 by the entities specified by each of the signatories. The agreement sets out rules regarding tendering procedures, information requirements, transparency requirements, dispute settlement and so forth. However, once the format of the agreement was settled (drawing on the discussions in the OECD) the real negotiation took place over the list of entities, the purchases of which were to be covered by the agreement. It should be noted that only central government entities are involved, although there was some discussion of how entities of state or provincial governments might be included. On balance, it is fair to say that major areas of procurement, that is, in product terms - such as railway rolling stock, signalling equipment, electricity

generating and distributing equipment, telecommunications equipment, urban mass transit equipment - are not covered by the agreement. That is to say, the entities which purchase such products are not covered by the agreement. It is in part because of this, that it is provided that three years from the entry into force of the agreement there are to be further negotiations, to see if the scope of the agreement can be widened, and, inter alia, to see if service contracts can also be covered.

20. Because the subject area of the agreement is an exception to the GATT, the agreement re-states a number of GATT concepts and provides for a number of exceptions and deviations from the otherwise general rules of the agreement that would not be necessary in regard to an area which was not outside the GATT. Thus the national treatment concept has to be explicitly stated, and there is provision for such standard exceptions as national security.

21. The provisions for developing countries are extremely detailed. In a sense they state, in terms of procurement, the various special provisions for developing countries that are set out in Article XVIII and Part IV of the GATT. Moreover there is provision, as in many others of the codes, for technical assistance to be made available. Developed countries which become parties to the procurement code are to take account of the development, financial and trade needs of developing countries, and moreover, the least developed countries are to be given especially favourable treatment. Developing countries may adhere to the code yet remain free to take a number of special procurement measures (in regard to their entities covered by the code) to assist their economic development; however, it is important to note that important changes proposed by a developing country - such as any proposal to change the list of its entities, the purchases of which are covered by code procedures - require the approval of the committee of signatories. Moreover, aside from regional arrangements or arrangements that apply only as between developing countries, it is contemplated that developing

countries will apply the most-favoured nation rule - i.e. they will not favour suppliers from one party over suppliers from other parties. It is noteworthy too, that developing countries are free to insist on incorporation of domestic content, to require so-called "offset" procurement and to require the transfer of technology as criteria in awarding contracts. By and large, developed countries are not free to take such action (although on certain of these points the agreement language is equivocal).

VI. Subsidies and Countervailing Duties

22. We have already set out some comments on the changes in countervailing duty practice that resulted from this key agreement. This code is particularly difficult to summarise because it is two separate agreements which are included, for historical and presentational reasons, in one document. From the beginning of the negotiations, the United States, which did not have an injury test in its countervailing duty provisions (save in regard to duty-free goods) insisted that it could not agree to give up its rights under the Protocol of Provisional Accession, which allowed an exception to the GATT rules for pre-existing mandatory legislation, unless it got in return some improvement in the GATT rules on subsidies (as set out in Article XVI). Accordingly, the code, as it developed, provided for a set of procedural rules regarding countervailing duties modelled on the Kennedy Round Anti-dumping Code, but with some important changes, and for a set of provisions on subsidies. The latter were little more than declaratory, and did not advance from what the GATT already contained.

23. Taking subsidies first, the code makes clear that countries may, quite properly, use subsidies for a wide variety of national and economic policy purposes - to assist development in areas of less than full employment, to aid research and development, etc. However, in their use of subsidies, countries should seek to avoid adverse impacts on other countries. In so far as such subsidies affect exports, the importing country may

apply its countervailing duty provisions. If injury is caused by the displacement of imports by subsidised domestic production, or if the result of subsidisation is to replace the exports of another country to a third country, then that other country may take the issue to the committee of signatories. That committee may apply procedures and rules modelled on GATT Article XXIII; if there is material injury caused and the matter cannot be resolved otherwise, compensatory action may be authorised. From the point of view of some commentators, particularly from the United States, it appears that the recognition that domestic subsidies could be countervailed, if the result was the subsidisation of exported goods, even if the bulk of the subsidised production was not exported, was an important gain (this is an important example of the general rule that the MTN was more about reform of the rules than about liberalisation). However, in United States law there had been cases of domestic subsidies - that is, not export subsidies, as such - being countervailed, and the precedents established that if even a very low proportion of the total product was exported there could be countervail. From the point of view of several countries that exported to the United States (the only country with an active countervailing duty system) there was thus nothing new in this provision of the code. With regard to export subsidies, the attempt was made to modernise the existing GATT provisions. The GATT, in Article XVI, provides that, in regard to primary products, contracting parties are to avoid granting export subsidies which would result in them obtaining a more than equitable share of world export trade. These undertakings were restated in slightly revised language in the code; some asserted this was at least a modest improvement, from the point of view of increasing the discipline over subsidies. Others have asserted that the relevant GATT sentences, being thus re-interpreted, were weakened. At the present time these particular provisions of the code are a matter of considerable controversy, as between the European Community and the United States (There is an interpretive letter from the United States to the Community which, it is understood, is relied upon by the latter.

This letter, of course, has no standing in the GATT nor any authority for other participants in the negotiation). With regard to export subsidies on non-primary products, the GATT provides, for those developed countries which accepted the obligation, that export subsidies that reduce export prices below domestic prices are prohibited (the "dual pricing" requirement). There is an "illustrative list" of such prohibited subsidies; in the code this list was modernised. In particular, the new list attempts to include the provisions of the so-called "gentleman's agreement" on export credit, and to deal with export subsidies through tax systems. In particular, the list incorporated a sort of settlement of the disputes between the Community and the United States regarding certain provisions in the United States, French, Dutch and Belgian tax systems regarding the taxation of profits from export activities. These disputes had been triggered by the United States introduction of a special provision within its tax structure regarding income from exporting (the Domestic International Sales Corporation or "DISC" provisions). These arrangements have more recently become a matter of controversy in the GATT Council, despite the attempt to resolve the issue in the context of the MTN. It is important to note that the agreement does not state the "dual pricing" requirement; it is silent on this subject, which of course is still contained in GATT Article XVI (as noted above, there is a consultation and dispute settlement mechanism, modelled on the existing GATT Provisions, but particularised for the subsidy - and countervailing duty - area and relying for an ultimate sanction, on the authorisation of compensatory action). On balance, it is fair to say that there are no very detailed rules as regards subsidies, there is no detailed framework of rights and obligations, and that it is clear that the existence of the agreement has not prevented the major industrial countries from paying substantial subsidies to various industries (automobiles, steel). With regard to subsidies for primary products (for example Community "restitutions" for agricultural exports) disputes are now developing which will make clear whether or not the code provides for any discipline additional to that in GATT Article XVI.

24. With regard to countervailing duties, as noted above the code provisions were modelled on the Kennedy Round Anti-dumping Code, but with two major changes. Because countervailing involves one government applying a compensatory tax to offset the policy of another, there is provision for early and frequent consultation between governments. This is in contrast with the anti-dumping understandings for the reason that was at issue in an anti-dumping proceeding is not the policy of the government of the exporter, but only the pricing practices of a particular firm. The code provided an occasion for the United States to accept an injury test for countervail, although congressional opposition to such an injury test ensured that the code language does not impose a particularly high threshold of pain. In the working out of language regarding the test of injury, attention focussed on the concept of causality. Article VI of the GATT requires that the subsidised imports must be causing (a threatening) injury to the domestic industry if countervailing duty is to be applied. The Kennedy Round code had specified that only when the dumped imports (in this code, the subsidised imports) were the principal cause of injury could action be taken. This wording implied that "injury" is synonymous with the total illness of the industry and that only if the imports at issue are the most important of all the various causes of that ill-health can action be taken. However, the illness or "injury" had to be of the degree that could be called "material", whatever that might be. It was conceivable that the total "injury" might be material, but that portion due to its principal cause might be less than material. In any event, an alternative reading of GATT Article VI was that what was required was a showing that injury had been caused by such imports as were dumped or subsidised, and that injury alone was shown to be "material". This was what was called the concept of "separable" injury, by some negotiators. Following this logic, the Kennedy Round language was abandoned, and the code does little more than restate the Article VI language on causation. A number of observers have argued that this was a weakening of the language agreed in the Kennedy Round; others have felt that that language was

not very rational, and not in accord with the GATT (Neither Canada nor Australia accepted the anti-dumping code language in their post Kennedy Round legislation; both stayed with language based on the GATT proper. The United States language on causation, in the dumping area and now in regard to countervail, also follows the GATT language).

25. Another feature of the countervailing code in which the Kennedy Round model was amended was in relation to the definition of a regional market. The 1967 code contemplated that if there was an industry serving only part of the national market, but that that industry and that market was sufficiently isolated from the rest of the national market, anti-dumping action could be taken if dumping affected that regional industry. In the Kennedy Round, however, the criteria were drawn so carefully that it seemed no such regional industry could be found to exist. This tight language suited exporters who dumped; however, the United States Congress objected to this and to other features of the Kennedy Round agreement. Accordingly, when the same issue was addressed in the countervailing negotiation it was decided to rewrite the criteria so that a genuinely regional industry could get the protection of countervailing duties, but not to go beyond what would be sensible economic characteristics of a really distinct and separate regional industry. These revised criteria appear both in the countervailing duties code and in the revised anti-dumping code; from some points of view this seemed to be a weakening of the previous international agreement, in that it allowed for restrictive action that had not been permitted hitherto. On the other hand, the earlier provisions had been found not to be workable; a judgement has to be made in terms of the detailed criteria and of how they are applied in national legislation (there is a current case in the United States in which these criteria are being applied; the finding being reviewed by the US Court of International Trade).

26. It is important to note that the code does not define material injury. It does say that in assessing injury the matters to be looked at are the volume of subsidised imports, their effect on prices for like products in the import market, and the consequent impact of these imports on domestic producers. Moreover, it makes clear that the evaluation of this impact is to be in terms of all relevant factors and indices, such as declines in output, sales, market share, profits, return on investment etc. This guidance to administering authorities stands in place of a definition of injury. Moreover, the modifying work "material" used in the code only in a footnote, is not anywhere defined. This has made it possible for these to be definitions in natural legislation on this point, as other issues on which the code is silent.

27. The subsidies/countervailing code (and the revised anti-dumping code) gives considerable attention to the possibility of resolving issues by the giving of an undertaking - to stop subsidising, to raise prices, to fix a limit on the quantity of exports (or to cease dumping, by raising prices or by ceasing to export). It is envisaged that by entering into an undertaking on contract, a countervailing duty proceeding or an anti-dumping proceeding can be terminated, but that national legislation may provide for severe penalties for the breach of an undertaking. Some commentators have seen this concept of dealing with questions of damaging export subsidies (or of damaging dumping) by negotiating understanding as a highly interventionist, highly discretionary form of trade regulation, very much in contrast with the notion of trade being regulated only by a published and "bound" tariff rate. Others see this as a most practical method of dealing with "unfair" and disruptive pricing practices. It is quite evident that the European Economic Community favours the use of negotiated undertakings to deal with these issues; in the United States the law provides a very detailed set of requirements that narrow the scope for the exercise of discretion by officials in working out such arrangements.

28. As will be evident from the above comments, the Kennedy Round anti-dumping code was revised in the MTN as a by-product of the negotiations on countervail. The European Community made United States acceptance of the anti-dumping code a condition of the MTN; however, the changes necessary in the Kennedy Round code, in the event, were arrived at in the context of considering causality, injury, regional industry and the concept of undertaking in the countervail discussions.

29. The subsidies/countervailing code incorporated an attempt by the key developed countries to deal with the special needs of developing countries in the subsidy area in a manner which would enable a number of such countries to adhere to the code. There were detailed negotiations with certain developing countries over the special provisions embodied in Article 14 of the code. The need of developing countries to use subsidies, including export subsidies, was acknowledged, and if they wished to adhere to the code they need not immediately accept the obligation not to pay export subsidies on non-primary products, but subject to working out a "commitment" with developed countries to reduce and to eventually eliminate these export subsidy practices. If a developing country made such a commitment, then these subsidies could not be the subject of compensatory action by other parties, except for countervailing duties, but of course applied with an injury test. It had been made clear that the developing countries would accept countervail if there was a meaningful test of injury. In regard to subsidies other than export subsidies, it was proposed that no action against such subsidy be authorised, if the result was additional exports to a third market; however, if the subsidy created production that replaced imports, that would be the basis of a complaint to the Committee. As noted above, exports however subsidised, could be the subject of countervail proceedings. All this was intended to provide a measure of discipline and of international scrutiny of developing country subsidy practices, but much less rigorous than that which developed countries were accepting for themselves.

30. The United States - the main trading country with an articulated countervailing duty provision - took the position that it would not extend the injury test to countries which did not sign the agreement; this was believed by some others to be a breach of the GATT most-favoured nation provisions (Article I). Moreover, the United States took the view that a developing country signing the code had to enter into the commitment envisaged in Article 14. This dispute was complicated by the fact that the United States decided that a number of countries not signatory to the GATT, and not, of course, signatory to the code, had most-favoured nation treaties with the United States in which the obligation was so phrased that they could not be denied the benefits of the code in United States law. It thus appeared that there was most-favoured nation treatment better than the GATT most-favoured nation treatment. The controversy this generated has not been concluded; there have been a number of countervail proceedings in the United States involving imports from non-signatories, and consequently, without involving a test of injury.

VII. Other Accords and Arrangements

31. This completes the brief set of comments on the main non-tariff agreements negotiated in the MTN. There are, however, a number of accords and arrangements which fall outside the description of "non-tariff measure codes" which should at least be listed. A number of them concern specific products: the Arrangement Regarding Bovine Meat, the International Dairy Arrangement, the Agreement on Trade in Civil Aircraft; there were also a number of Declarations, many of which dealt with the trade policy interests of developing countries, such as the "Enabling Clause" regarding preferences, "safeguard" action for development purposes, and the "understanding" which partially codified the GATT notification, consultation and dispute settlement measures. These latter declarations are not codes or contracts, although the declaratory language was highly negotiated, but certainly they do add substantially to the body of GATT law. In the context of a study of the non-tariff codes the one other area we should consider is the attempt to work out

a new or revised "safeguard" understanding; this work did not reach a conclusion in the MTN and is still continuing in the Contracting Parties.

VIII. Safeguards

32. By "safeguards", in this context, we mean measures to deal with imports of particular products that cause or threaten injury to domestic producers of like goods (Article XIX), not comprehensive import control measures taken for balance of payments purposes or for development purposes. Reform of these provisions was high on the priority list for the negotiations. There were three major objectives, which were not entirely consistent. The United States emphasised that many safeguard actions were being taken outside the rules and criteria of Article XIX, aside entirely from the elaborate set of derogations from XIX tolerated under the Multifibre Arrangement. Their objective was to establish procedures under which all safeguard actions would be reported and scrutinised in terms of Article XIX - such as, for example, the existence of a threat of serious injury, the application of import measures on a non-discriminatory basis, and the measures being maintained no longer than justified. Thus the United States wanted to bring into the open, and under surveillance, the wide variety of restrictive measures negotiated by other governments - and sometimes on an industry-to-industry basis; it was not clear whether the United States thought that identifying and illuminating these measures would cause some of them to be abandoned or whether fuller knowledge of the extent of these restrictive actions would provide a justification for restrictive actions by the United States (many measures in force in other countries to restrain imports, such as industry-to-industry understandings, could not be legally instituted in the US). The European Economic Community, in contrast, wanted it accepted that measures applied under Article XIX could be applied "selectively", that is on a discriminatory basis, and not in accord with the most-favoured nation obligations of Article I of the GATT. Thus, they wished to turn Article XIX into something more like the Multifibre Arrangement, in which discrimination is allowed in return for certain arrangements about orderly growth in export levels. Developing countries,

and other smaller trading countries, wanted to improve the statement of criteria and of conditions for taking restrictive action in Article XIX, and they wished to improve international procedures for surveillance. However, they strongly opposed the Community's concept of "selectivity"; in their view (and in the Japanese view) this meant giving the Community the right to restrict imports from them while not restricting imports from the United States and other European countries. At one point in the negotiations it appeared that some developing countries would accept "selectivity" in principle, but only on condition that there be prior international approval. This condition was not acceptable to the European Economic Community. All that now appears to have broad support is that surveillance mechanisms should be improved. It may be that if the safeguards issue is reopened in any further negotiation, the Community proposal for "selectivity" will reappear (the word, "selectivity" has also come to mean, in discussions outside Geneva, the use of measures on particular products rather than across-the-board import restrictions; in Geneva, during the MTN, the term was a synonym for discrimination, in the sense of restricting imports of a given product from one source but not from others). From the point of view of developing countries, the MTN discussions were not a defeat, in that, while they failed to improve the international machinery, they successfully resisted the intense pressure to agree to discrimination. Statements that the safeguard discussions were a failure should be evaluated in this light.

IX. Conclusions

33. This completes our brief survey of the codes themselves. We can turn now to state some general conclusions or considerations about the GATT trade policy system as it looks now that the MTN tariff reductions and the codes are being implemented.

(i) The Style of Negotiation

34. Developing countries have frequently alleged that they were not drawn into the negotiations sufficiently, that they were presented by deals already worked out, and then that they

were confined to the effort of refining the provisions regarding "special and differential" treatment. This view of the MTN procedure is largely correct, and it is not a sufficient reply for the European Economic Community and the United States to note that they each had a large number of bilateral consultations with developing countries. A number of the smaller developed countries also concluded that they were not being allowed to play a full part in making a number of the key decisions, that the essential issues were being settled by the Community and the United States alone - occasionally with Japanese concurrence. Of course, particular representatives of particular smaller developed and developing countries did from time to time play active roles in regard to particular issues. However, on balance, it is impossible to avoid the conclusion that in the main the MTN was negotiated between the "Big Two". This has implications for the rules for any further set of negotiations; developing countries may wish to consider what procedural rules might help ensure their fuller participation in the substance of negotiations.

(ii) The Character of the System

35. The GATT as originally drafted seem to envisage a system of trade relations in which the tariff was to be the central instrument; other devices for regulating trade were to be abolished or minimised. True, anti-dumping and countervailing duties were permitted, and there was the "escape clause" or "safeguard" provision (Article XIX). However, for countries not in balance of payments difficulties, the GATT regime was to be a tariff-centred regime. We can now see that the emphasis has switched and that the post-MTN system relies much more on measures of "contingency" protection - such as safeguards, measures of managing trade (such as the Multifibre Arrangement) more extensive use of anti-dumping proceedings (and of techniques of managing trade based, in a legal sense, on the anti-dumping system - for example, the Trigger Price Mechanism); such as the countervailing duty system, now being adopted in the European Community, Japan and Canada (UNCTAD refers to the distinction we make here as between a tariff-centred system and a system centred on "contingency" measures as being the

switch from reliance on "fixed" measures of protection to greater reliance on more "flexible" methods of protection). With hindsight, we can now see that the switch in emphasis began in the years before the Kennedy Round, with the increasing use of anti-dumping measures by the United States; it was followed by the growing pre-occupation with "unfair" trading practices in United States Congressional circles and was reflected in the detailed revision of the "escape clause" (the domestic equivalent of GATT Article XIX) and in the drafting of the Trade Act of 1974.

36. It is not clear that a system of low or zero tariffs, combined with elaborate legal and procedural arrangements under which an elaborate attack can be mounted against imports, is a more liberal system than a régime of moderate, "bound" tariffs. In the emerging highly discretionary system, you can get protection if you can make a case for it; of course, it does take resources, in terms of money and management time, to make a case; and it takes money and management resources to defend a case. Moreover, the proliferation of techniques of administering trade - for steel, for agriculture, for fisheries, for textiles and textile products - is clear evidence that important areas of trade are being "administered", rather than taking place within a straightforward tariff-centred regime as pointed in the GATT. All this constitutes a fundamental change in the character of the trade relations system.

37. One important feature of the emerging systems is the virtual collapse of the most-favoured nation principle. There are two quite different senses in which one can say it is being abandoned, or has collapsed. One sense is that tariffs and quotas are now being applied by many countries, not on a most-favoured nation basis, but on a preferential basis. In Europe the thrust of commercial policy has been, first to create a customs union (which to outsiders involves tariff discrimination), then to work out tariff preference arrangements with those other European countries not part of the Community (the industrial free-trade agreements), and then to build around this central area a variety of discriminatory arrangements, of various sorts

and of various durations - with the Mediterranean basin countries, with the Mahgreb, with the African, Caribbean and Pacific countries, etc. These all involve tariff preferences and, whatever their justification, are not exercised in most-favoured nation treatment. Among developing countries the thrust of trade policies has been not to apply most-favoured nation rates, and not to insist on most-favoured nation treatment, but rather to seek preferential tariff treatment from developed countries (under Generalised System of Preferences and under Lome) and also within groups of developing countries (ASEAN, ANDEAN, etc.). In North America, Canada and the United States have in place a preferential agreement in the automobile sector, involving many billions of dollars of trade annually. Thus, as a practical matter, for many countries the bulk of exports goes to tariff preferential markets, and the bulk of imports enters under some kind of tariff preference. Whether this is good or partly good, or partly bad, or all bad, it is certainly not the most-favoured nation concept of Article I of the GATT.

38. The GATT most-favoured nation clause is set out in the unconditional form; that means that a GATT signatory gets, as a matter of right, the benefits of tariff concessions, and of other concessions regarding import regimes, which any other GATT signatory accords, perhaps as a result of negotiation with only a limited number of other GATT countries. This is the unconditional form of the clause, in contrast with the older, conditional form which required some reciprocity from each participant in the system for each new concession. It is important, in looking at the NTM codes, to note that one major industrial country is applying two of these codes (Procurement and Subsidies/Countervailing) on the basis of "conditional" most-favoured nation or "reciprocity". The United States proposes not to extend the benefits of the procurement code to countries which have not signed the code (other than to the least-developed countries), despite the provisions of Article I of the GATT; we have already noted that the United States will not extend the injury test in countervail to countries which do not sign the subsidies/countervailing code. The history and the current emphasis (in

the United States) on the concept of "reciprocity" requires a separate examination; what is important to understand here is that the concept of "conditional" most-favoured nation (or "reciprocity") was born again in the negotiation of the MTN non-tariff codes. It has, of course, been a feature of domestic legislative and administrative practice in the services area.

39. There are many aspects or facets of the new system sanctioned by the NTM codes which could be examined in detail. One of the key matters is the role of the concept of injury (to domestic producers or to a domestic industry). This concept is not the central concept of international trade relations law and policy. It appears in a number of GATT articles and instruments: material injury (Article VI, anti-dumping and countervail, and the relevant codes); serious injury (Article XIX, the safeguard article); damage and undue damage (Article XVIII); prejudice to the interests of another country (Article XVI, regarding subsidies); adverse effects, (in the GATT Subsidies agreement); market disruption (in the Multifibre Arrangement). What is important to note is that negotiations have not succeeded over the years in giving these concepts significant economic content. The thrust of GATT law is that "injury" is for the government of the importing country to determine, and that the onus is on the exporting country if it wishes to show that this determination is incorrect. There is no onus on the importing country to establish its case before any international surveillance body (except to a very limited extent under the Multifibre Arrangement provisions). At the same time, by legislation and by case law, the concept is being given detailed legal content. This is a serious weakness in the "contingency" trade policy system, from the point of view of trade liberalisation. The question arises as to the utility of extending the use of this concept to trade in other products before there is substantial international agreement as to the economic meanings of the various "injury" formulations.

40. Another feature of the "contingency" system is that a number of measures central to such a system operate to the advantage of the larger industrial countries and to the disadvantage of smaller countries. Countervailing duty systems are an example. Given that all countries are subsidising industrial development, and that firms in a small country export proportionally more than comparable firms in a large country, the firms in a smaller country are much more threatened by countervail by the large country than vice versa. Countervail by a large country can have a significant impact on the willingness of firms to locate in a small country, if to produce there they must export a significant part of their production. In contrast, the use of countervail by smaller countries is little more than an irritant. This essential asymmetry in countervail, as a trade-regulating device, explains why few (if any) countries have applied countervail to United States exports; it is not that the United States does not subsidise industry, rather, the contrary. In this context it should be noted that in the subsidies/countervailing agreement there is no provision as to how to measure the extent of a given subsidy; however, United States legislation did address this issue, and the result is that United States countervail is, in respect of the calculation of a net subsidy, more punitive now than it was before the MTN (this is the so-called "offset issue"). As for anti-dumping, it is commonly accepted that these systems work against the interests of developing countries which for a variety of reasons maintain fiscal regimes and/or import regimes which have the effect of maintaining domestic prices higher than world prices. The anti-dumping system, some would say, is the centre-piece of the "contingency" system, and it is therefore a major concern that, within the context of the anti-dumping system as sanctioned by the GATT code, a stricter (i.e. more trade restrictive) régime is being applied to price discrimination in import trade than in domestic trade (this issue is now being examined, in terms of broad legal policy and economic policy, by some scholars in the United States and Canada). This question is, in fact, another aspect of the "injury" concept; it is the lack of any requirement that "injury" from dumping must involve an "anti-competitive" effect that is at issue.

41. If we look at the new trade policy system, centred on and sanctioned by the GATT codes, according to the criteria or point of view set out above, certain objectives for developing countries (and indeed, for all smaller countries dependent on trade) become evident. In summary, and not necessarily in order of economic importance, developing countries might well address the following NTM code issues:

- (a) Develop criteria regarding the various "injury" formulations, with the aim of establishing international norms, with economic content, for this central concept.
- (b) Develop effective reporting and surveillance mechanisms for all "safeguard" type actions, but without reopening the question of "selectivity".
- (c) Attempt to get agreed rules as to the meaning and scope of the GATT most-favoured nation clause, and agreement as to what sorts of undertakings and rights should be dealt with on a "conditional" or "reciprocal" basis; this issue should not be dealt with unilaterally. This has particular relevance to countervail and procurement.
- (d) Revise the anti-dumping and countervailing duty arrangements to mitigate the "big power" bias inherent in the use of these central agreements on "injury" will be one component; another will be a meaningful definition of "material" (in the phrase "material" injury); another will be rules to calculate subsidies in countervailing duty proceedings; yet another will be to contemplate changes in the relationship between domestic rules regarding price discrimination and the international rules (this may involve introducing the concept of "anti-competitive" effect into the anti-dumping system and also limiting the right of cartelised or monopolised industries to seek protection under anti-dumping systems).

(e) There are of course, other issues which developing countries should address in considering how to improve the trade regulations system as it emerged from the MTN - an obvious one is to consider to what extent the key developing countries have an interest in securing preferential tariff entry into developing country markets whether their interest would not be better served by insisting on rigorous enforcement of the most-favoured nation clause. However, such issues fall outside the scope of a paper directed at assessing the impact of the NTM codes.

Safeguard Action
and Structural Adjustment Measures

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Safeguard Action and
Structural Adjustment Measures

1. Many traditional industries in developed countries are facing serious difficulties and there is a tendency to blame these difficulties on foreign competition. Pressure from these industries' owners and labour organisations for import protection and the general economic situation in these countries has led to the proliferation of new trade barriers in recent years. However, several studies have shown that quantitatively, the threat posed by manufactured imports from developing countries to competing industries in developed countries is relatively small. Compared with the effects of labour-saving technological change, the employment-displacement problems created by imports from developing countries are generally unimportant. One UN study noted that "the aggregate stability or decline of the industrial labour force underlines the crucial role of resource mobility between manufacturing branches. The shift of labour from old, traditional industries to the new and technologically advanced ones, appears to be an essential pre-requisite for future industrial growth".¹

2. However, some industries may suffer from time to time from a large inflow of imports which is too fast to allow structural changes to occur without imposing real hardship. The use of short-term safeguard measures and positive adjustment assistance represents an important response to situations of sudden and serious injury inflicted on a particular domestic industry by a dramatic rise in imports.

3. The GATT contains a number of safeguard clauses which free a contracting party from several of its obligations when it is facing an exceptional situation. Provisions governing departures from the main GATT rules include Articles XII and XVIII, relating to restrictions to safeguard balance of payments and assistance

1. UN Economic Commission for Europe, "Structure and Change in European Industry," 1977.

for economic development respectively, and Article XIX, on emergency action on imports of particular products. There are also provisions concerning anti-dumping and countervailing duties, export subsidies and import restrictions on agricultural or fishery products as well as those enabling contracting parties to raise tariffs or other barriers to trade on a more permanent basis and hence to assure more lasting changes in production structures (Article XVIII).

4. An effort to devise an international code on safeguard measures led to the call in the Tokyo Declaration, which formally initiated the latest GATT round of multilateral trade negotiations in September 1973, for a review of Article XIX. The establishment of a more effective international discipline over safeguard measures is of great importance to developing countries. Protectionist pressures in recent years have led to the adoption of new trade restrictions, many of them outside GATT rules, which adversely affect their exports of manufactured products. The developed countries on the other hand have felt that the conditions laid down for invoking Article XIX are too restrictive and they have therefore turned to voluntary export restraints (VERs) and orderly marketing arrangements (OMAs). They favour selectivity in the GATT arrangement to enable them to deal with products coming from particular countries, mainly the newly industrialising countries (NICs) and Japan.

5. This note examines the existing international safeguard system, the main issues in the debate on reforming Article XIX and the position since the end of the Tokyo Round. The importance of structural adjustment measures is stressed.

The Existing Safeguard Mechanism Under Article XIX

6. Under Article XIX, emergency action on imports of particular products is limited to the extent and for such time as may be necessary to prevent or remedy the serious injury or threat thereof that gave rise to the action. The origin of the injury must meet three conditions: (i) it must stem from the

tariff reduction that the importing country seeks to withdraw; (ii) it must be the consequence of developments unforeseen at the time that the concession was made; and (iii) it must be caused by an increase in imports in relation to the domestic sales of the same product. But though Article XIX applies only in the case of 'serious injury' it does not define what is meant by this expression. Subsequent practice reveals that both actual injury and the mere threat of damage fall within the scope of the Article. The effects of the injury are defined in a way to exclude the case of producers deprived of potential access to new markets: domestic producers have actually to be injured, implying that they are already in the market at the time when the injury occurs. Article XIX does not specify upon which party lies the onus of proving that its provisions are applicable in a given case. In practice, the plaintiff exporting countries are required to demonstrate that the safeguard measures enacted by an importing party were ill-founded. In general, the GATT envisaged a narrow interpretation of market disruption and therefore small scope for invoking legitimate interference with imports.

7. Interpretations in operating the safeguard clause vary. One view is that any action taken is subject to the rule of non-discrimination set forth in Articles I, II and XII of the General Agreement. Thus there is an implicit prohibition of selective measures in the original system in conformity with the well established GATT principle of equality of treatment. Another view is that Article XIX as it stands could be applied selectively. The wording of Article XIX nowhere mentions non-discrimination. As one writer has stated, "it has formerly been interpreted, within the spirit of the GATT, as requiring non-discrimination. However, the Scandinavian position at the Tokyo Round negotiations apparently has been that no amendment of Article XIX is necessary to introduce selectivity in its application since the Article, as it stands, does not forbid selectivity."¹

1. B. Hindley, "Voluntary Export Restraints and Article XIX of the General Agreement on Tariffs and Trade", in J. Black and B. Hindley (ed.), Current Issues in Commercial Policy and Diplomacy, TPRC, 1980.

8. Another feature is that the contracting party must notify the other GATT members so that a consultation or multilateral review takes place. If the consultation fails, contracting parties can take retaliatory measures and the normal dispute settlement provisions of Articles XXII and XXIII can be utilised. A more distinctive feature however is the multilateral surveillance by the Contracting Parties who shall approve retaliatory action. An important part of Article XIX is the principle of balanced advantages. The necessity for granting compensation and the risk of retaliation have a dissuasive effect on the importer country which contemplates resorting to the Article.

9. Article XIX allows action only in respect of one or a few tariff positions at any one time and this necessarily favours specific products. On the question of time-limit and degressivity, Article XIX states that this should be "for such time as may be necessary to prevent or remedy such injury...". This wording enables countries to take action of almost indefinite duration, contrary to the temporary intent of the whole machinery. On this issue, there is pressure for the period to be specified and the extent of the safeguards to be reduced over the period of their application according to a pre-determined time-table.

10. Governments have resorted to the safeguards clause only on rare occasions, in part because the invoking country risks retaliation and in part because the spirit of GATT does not permit discrimination. Up to the 1970s recourse to Article XIX has been requested in only about 50 cases, half of which were followed by compensation or, less frequently, retaliation. Most of the cases were initiated by the United States, followed by Australia and Canada. In these countries, domestic relief procedures enable industries to request governments to resort to safeguards. Industries seeking relief from imports, by claiming market disruption under national legislation, have experienced difficulties in proving serious injury. Thus the escape clause action under US legislation has often been unsuccessful. Of 134 cases investigated by the US Tariff Commission until 1962, the President had invoked the escape

clause in only 15 cases. In the United States, industries which failed to win protection by the escape clause route then proceeded to urge the Executive to adopt VERs and OMAs. There has been more frequent recourse to safeguards in the 1970s due to the world recession, monetary problems and the difficult situation faced by some domestic industries in the developed countries. It has been estimated that the developing countries' exports were involved in more than half of the cases when the developed countries invoked Article XIX. The restrictions imposed in these cases were removed within a year in a third of those involving developing countries whereas in half of the total number of cases, the measures had been in force for over five years.

11. Several governments faced by protectionist pressures found Article XIX too restrictive and inadequate in dealing with the threat of imports from the NICs. Some have therefore opted for discriminatory measures such as import licensing or other kinds of allocation of global quotas. To control imports from the NICs effectively and to avoid compensation claims or retaliation, some large importers imposed discriminatory quotas, invoking not Article XIX but the Protocol of Provisional Application or resorting to direct arrangement with exporters. The Protocol allows previous legislation to be kept in force even if it is incompatible with the provisions of Part II (including Article XIX) of the General Agreement (the so-called "Grandfather provision").

12. The shortcomings of Article XIX have led to a proliferation of new protectionist measures, VERs, OMAs and others, outside the GATT system. The negotiations on a new code therefore sought to deal with specific issues on safeguards within the framework of the GATT.

Main Issues in the Debate on the Reform of Article XIX

13. The main issues in the negotiations on a new code on safeguards included: selectivity; special and differential measures for developing countries; duration and degressivity of measures; determination of injury; claims for compensation and authorisation to retaliate; strengthening of multilateral surveillance; the extension of such a code to cover VERs; and adjustment assistance.

14. The central issue and the one that led to the failure of the negotiations was the question of selectivity or discriminatory action. A number of governments, particularly members of the European Economic Community, maintained that the code should permit restrictions against selected countries rather than against all countries. For the developed countries, one problem in the present trade situation is to determine the conditions of market access to be given to the NICs. It has been shown that in certain manufactures the NICs have acquired so large a comparative advantage that their exports not only surmount tariff barriers but also break through non-discriminatory quotas. Supporters of selectivity believe it to be one remedy that would need little enforcement machinery and would distort a lesser volume of trade than alternatives. The European Economic Community therefore favoured maintaining Article XIX in its present form but adding a system of selective measures, without compensation schemes but including adjustment assistance commitments and multilateral supervision. According to the Community, selective safeguards would limit the impact of emergency measures and would therefore be less disruptive of trade. Another argument in favour of this was the fact that unilateral safeguard measures were extremely 'expensive' - countries invoking this escape clause had to offer equivalent compensation, in the form of lower tariffs on other goods, to the injured trade partners. This, it was argued, made it harder for governments to agree to substantial tariff cuts which might possibly cause market disruption. They stressed the necessity for adequate defence

against distortions and injuries caused by what they saw as the "aggressive" attitude of certain NICs. Others suggested that the advantages of selectivity, vis. efficiency as a protective device and the absence of claims for compensation from medium-cost producers, seemed more than balanced by any shortcomings.

15. On the other hand, because selective action tends to be taken against the most efficient competitors it goes against the optimal international allocation of resources and thus the efficiency of the world trading system. As the penalised country would attempt to sell its surplus on third markets, there is always a danger of a chain-reaction. Developing countries oppose selectivity as they fear it would result in barriers against low-cost, labour-intensive exports such as footwear, other leather products and clothing. They fear that selectivity would pit economically weak nations against industrialised countries and the developing countries would be at a disadvantage. Non-discrimination increases the number of interested parties, thus dissuading many countries from taking safeguard action. The developing countries' experience of the Multifibre Arrangement (MFA) has shown that weaker trading partners are vulnerable. Japan and some other developed countries favoured upholding Article XIX and strengthening it. They supported the maintenance of the non-discrimination principle as well as the elimination of bilateral restraint.

16. During the negotiations, the developing countries called for differential treatment in their favour. They felt they should be exempted from safeguard measures taken by a developed country and that exceptions to this rule should be justified only in certain circumstances. They also called for the revision of Article XVIII, which allows safeguard action by developing countries for economic development purposes, to be so elaborated as to cover the need for structural adjustments, industrial and agricultural development, and promotion and diversification of exports. During the preparation for UNCTAD IV, several developing

countries had initiated proposals within the Group on Safeguards. These included a general prohibition of actions directed against developing countries, except in cases multilaterally approved, where adjustment assistance commitments have been given and where the proposed action cannot jeopardise the overall increase in exports of the countries concerned.

17. Developed countries oppose the total exemption of developing countries from safeguard action. However, there is considerable support among writers on the subject that some form of differential treatment in favour of developing countries is necessary. Some advocate that recognition should be given to the special interests of exporting countries; others support the setting up of machinery to provide financial compensation for the adverse effects of safeguard measures, or possibly the prohibition of safeguard action against a developing country whose average increase of exports is lower than or equal to the average increase of all exporting countries. The application of safeguard measures to developing countries was one of the major issues which remained unresolved at the end of the negotiations.

18. On the issue of duration and degressivity of safeguard measures the developing countries suggested that a time period (perhaps five years) be specified and that protection should be progressively reduced during that period. They further suggested that there should be no reactivation of protection within a fixed period following the lapse of an earlier measure. Proposals put forward by the United States in 1976 also emphasised the need to limit such safeguards to a specified time period, and to ensure that import relief was not reimposed unless such a period had elapsed since the relief was terminated. Import relief would be phased down to the extent feasible during that period as a spur to progressive adjustment of the industry. Generally it was accepted that safeguard measures should be of short duration.

19. With reference to the determination of injury most industrialised countries favoured the price differential criterion following the MFA example, but the developing countries opposed what they saw as an abusive generalisation of specific options. Conditions of recourse to Article XIX have been so loosely interpreted as to make them ineffective. The customs origin condition appeared no longer to have any meaning as safeguard measures were often of the non-tariff kind and the shifting of comparative advantage was often too large to ensure even a minimal protection by tariff increases.

20. In the debate on the reform of safeguard measures, the issue of claims to compensation and authorisations to retaliate was also at stake. The provisions for safeguard measures are often regarded as too exacting and are thus partly responsible for the circumvention of Article XIX and the proliferation of new protectionist measures such as OMAs and VERs. The disputes settlement machinery within GATT is frequently slow and as there are opportunities to solve problems through discreet bargaining, some countries choose measures other than those under Article XIX. Some believe that the introduction of selectivity would avoid this since interested parties would be few and scattered. Selectivity would ensure that importers would be able to by-pass objections by medium-cost producers. The upholding of the reciprocity principle is important. It is doubtful that GATT could ensure the enforcement of its collective decisions without frequently resorting to the mutual interest created by its reciprocity rules and practices.

21. The strengthening of multilateral surveillance was another major issue which was raised during the negotiations on a safeguard code. The proposal was to set up an international surveillance body to hold hearings and give its opinions on the legality of every safeguard action. Such a body would circulate notification, and use third-party or Secretariat investigation and mediation. The United States and the European Economic

Community favoured the setting up of a Committee on Safeguard Measures modelled on the pattern of other GATT Committees, but other countries, especially Japan, supported the creation of a standing body with the task of supervising/operating much tighter control on the application of the revised safeguard system.

22. There was an attempt to extend Article XIX to cover VERs and other restrictive measures now outside the GATT system. It is difficult to evaluate the volume of developing country exports affected by VERs and other types of new protectionist measures as most of these arrangements are kept secret. However their importance can be deduced from the example of the MFA and the weak resistance developing countries have shown individually when subjected to pressure from industrialised countries. Some industrialised countries such as Japan, which is also a victim of these actions, favour incorporating these measures under Article XIX. All should be subject to full disclosure, international scrutiny and control in the framework of a new safeguard code. It has been suggested that to ensure respect for the pursuit of fair, unfettered global negotiations, in those cases where OMAs or VERs are negotiated or safeguard procedures unilaterally triggered, a clear delineation of the nature of the action should be deposited with the GATT to assure that the arrangement is 'transparent'. Multilateral scrutiny and supervision would protect the weaker trading partners. This issue also was not resolved in the multilateral trade negotiations.

23. Another major issue was the linkage of adjustment to safeguard measures in the code. A combination of safeguard measures accompanied by adjustment assistance is needed to deal with short-term problems by enabling a shift of labour and other resources from the old and traditional industries to the new and technologically advanced ones. Contemporary protectionism can be seen as a refusal to carry out the adjustment indicated by the continuing change in global supply-demand patterns. Reviews of recent economic developments suggest that inadequate adjustment

in the industrial countries may be considered as much a cause of their recent economic problems as a consequence. It is evident that the structural weaknesses and maladjustments which had been developing for a long time in the developed market economy countries have become more obvious with the continued inflation and stagnation in these countries. These are long-run problems, which must be met by long-term adjustment measures rather than short-term palliatives. The encouragement of international trade between developed and developing countries, by improving the international division of labour and thus raising productivity all round, should be attractive to both parties. To deal with adjustment effectively, a country requires a set of economic policies that encourage innovative and competitive production, enabling firms to anticipate and handle adjustment changes with relative ease. There is need to provide the stimulus (for example, by accelerated depreciation allowances, and assistance for research and development) and other aids which would help firms to adapt to changing conditions and workers to acquire new skills, thus enabling firms to move to more capital- and skill-intensive products. It is vital that more countries implement anticipatory measures for structural adjustment. The Netherlands and a few other countries have introduced such anticipatory policies for restructuring, especially to assist industries which are adversely affected by imports from developing countries, but more should do so.

24. At its Ministerial meeting in June 1978 the Council of OECD reached agreement on the major components of a broad programme of internationally concerted action by member countries to achieve more sustained economic growth. One component was the need for policies to facilitate structural adjustment to offset growing pressures for protection against foreign competition. It was agreed that the following criteria be adopted by governments in providing positive adjustment assistance to industry:

- (i) action should be temporary and should, whenever possible, be reduced progressively according to a pre-arranged time-table;
- (ii) such action should be integrally linked to the implementation of plans to phase out obsolete capacity and re-establish financially viable entities; and

- (iii) while recognising that governments must pay due regard to the interests of national security, care should be taken to see that arguments based on considerations of self-sufficiency should not be misused to justify measures for protection and support.

The OECD General Orientations on Positive Adjustment Policies called further for positive adjustment in the fields of manpower, agricultural, regional and regulatory policies with emphasis on outward adjustment. The Orientations had a threefold purpose:

- (i) to reaffirm the need for industrial adjustment to economic changes;
- (ii) to constrain governmental intervention in the adjustment process in order to prevent the diminution of the role of market forces in regulating the optimal allocation of resources to their most productive uses; and
- (iii) to promote the concept of outward adjustment of domestic factors of production in order to avoid policies similar to import protection.

In June 1979, the OECD Council established the Special Group on Positive Adjustment Policies as part of its Economic Policy Committee with a two-year mandate to examine the macro-economic and international consequences of national adjustment policies.

25. The Reports of the Commonwealth Group of Experts on constraints to structural change and economic growth¹ and the Brandt Commission² both suggested that "safeguard" action by industrialised countries be permitted only under limited conditions, subject to multilateral supervision and linked to positive

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1. "The World Economic Crisis: A Commonwealth Perspective", Commonwealth Secretariat, 1980.
 2. Independent Commission on International Development Issues: "North-South: A Programme for Survival", Pan Books, 1980.

structural adjustments within their economies. Resolution 131(V), adopted at UNCTAD V in June 1979, on "Protectionism and Structural Adjustment", emphasised the need for adjustment assistance programmes and invited GATT to examine safeguard actions taken by developed countries against supplies from developing countries.

26. At the multilateral trade negotiations, although the link between adjustment measures and safeguards was generally accepted, developing countries were not satisfied and called on industrialised countries for concrete commitments instead of vague declarations. Some developing countries, disappointed by the failure to conclude a safeguard code which would have included provisions for outward adjustment, have proposed the establishment of an Adjustment Committee by the GATT to examine what adjustment measures have been taken in respect of certain products accorded import protection by industrialised countries. The GATT Committee on Trade and Development has already placed the issue of adjustment on its agenda, and a Working Party on Structural Adjustment has been created within the GATT.

27. Reference must be made to activities in UNIDO in relation to the redeployment of industrial capacity from developed to developing countries. The Third UNIDO Conference in February 1980 adopted the New Delhi Declaration and Plan of Action which calls inter alia for a system of intergovernmental consultations on redeployment between developed and developing countries in order to assist in increasing the share of developing countries in world manufacturing output to 25 per cent by the year 2000. However the form of this proposal contributed to the rejection of the Declaration by the developed countries.

28. The major issues on the safeguard clause which remained unresolved at the end of the GATT negotiations were selectivity, the treatment of the VERA and OMA, and differential measures for developing countries. Failure to agree on these issues prevented the finalisation of those on which there was general consensus.

The Position since the Tokyo Round

29. At a meeting of the GATT Council on 25 July 1979, the Director-General, in reporting the failure of the negotiations on the code, made the following proposals:

- (i) Contracting Parties should reaffirm their intention to continue to abide by the disciplines and obligations of Article XIX of the General Agreement. It would be expected that the existing rules and practices relating to the modalities of application of Article XIX would be adhered to by the Contracting Parties when taking any future action under that provision.
- (ii) Contracting Parties should undertake to abide by the obligations contained in the understanding reached separately in the multilateral trade negotiations regarding notification, consultation, dispute settlement and surveillance, and in particular by the obligation to notify the Contracting Parties of their adoption of trade measures affecting the operation of the General Agreement.
- (iii) A Committee should be established by the Contracting Parties with the following terms of reference:
 - (a) to continue discussions and negotiations on the question of safeguards, taking into account the work already done, with the aim of elaborating supplementary rules and procedures regarding the application of Article XIX of the General Agreement, in order to provide greater uniformity and certainty in the implementation of its provisions;
 - (b) pending a satisfactory outcome of the discussions and negotiations mentioned in (a) above, to examine any future case of a safeguard measure,

whether taken by Contracting Parties under Article XIX or otherwise, in the light of the relevant provisions of the General Agreement, including Part IV thereof.

A GATT Committee was set up to continue consultation and negotiations with a view to reaching agreement by 30 June 1980, but no such agreement was reached. The second meeting of the Committee on Safeguards was held in October 1980 and the third on 15 April 1981. The two meetings did not show much progress in the efforts to arrive at a solution. At the meeting of the GATT Council of 11 June 1981, the Director-General, in his introduction of the Minutes of the third meeting of the Committee, stressed that most delegations continued to regard the safeguard issue as an important one, and wished to arrive at some substantive result in the area. He urged delegations to come forward with concrete proposals as early as possible and drew attention to paragraph 2 of the conclusion of the Committee's third meeting where it was stated that "Contracting Parties will continue to keep the matter under examination and discussion and to this end the Committee on Safeguards will expedite its work". The Director-General has continued to consult with the delegations.

30. The positions of most countries on the safeguards issue have not changed very much subsequently. The European Economic Community still insists on selectivity but appears to have moderated its view on allowing greater transparency of safeguard measures and some monitoring in respect of them. Japan has indicated its willingness to support the Community's position on "selectivity" on condition that the Community cancels its arrangements which result in limiting Japan's exports to France, the United Kingdom and the Benelux countries and that it abolishes its "discriminatory quota-setting" with regard to 57 Japanese products¹. For the United States selectivity would be acceptable if the Community were to agree to greater international surveillance of the use of safeguard measures. The developing countries remain firmly against selectivity.

1. As reported in "Europe", 9 July 1982.

31. Political will on the part of all governments is necessary in the search for a satisfactory solution to the safeguard issue. Adoption of a new code which is not too restrictive and which takes into account the economic problems of both the developed and developing countries would encourage more countries to operate within the GATT rather than taking measures outside it. Many countries regard the safeguards issue as a priority area in the forthcoming GATT Ministerial Session, and one which will have to be satisfactorily resolved if international trade in the 1980s is to be carried on in an open and equitable manner which is satisfactory to all parties, including developing countries.

GATT Machinery for Dispute Settlement

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GATT Machinery for Dispute Settlement

1. Dispute settlement in GATT is a matter of great complexity, involving juridical questions of the nature of GATT "law", and the nuances of customary procedures as they have grown up and continue to evolve. Brevity thus unavoidably does some violence to the nature of the subject. Within these limitations, however, it may be useful to split the subject into treaty enforcement; dispute avoidance; and dispute settlement, narrowly defined.

2. The first of these, treaty enforcement, is not emphasised by signatories, partly because over the years the conditions of international trade have tended to evolve in such a way as to make elements of the treaty moribund or ineffective, and partly because of the pragmatic bias of the GATT - as a system less of definitive law than of procedures designed to avoid disputes, and strike a balance of rights and obligations between the parties. Where major issues are at stake, such as the conformity of some regional arrangements with the GATT, there may be no settlement of the difference, which is simply shelved. Other questions of treaty compliance, like the modalities of application of Article XIX (safeguards), are temporarily patched up with ambiguous terminology and made the subject of international negotiations. Yet others, where breaches in the rules have been admitted (mainly in respect of quantitative restrictions), have been resolved by corrective action when the trade situation allowed it, followed (for example, in the Tokyo Round) by interpretive protocols.

3. As regards dispute avoidance, an important technique of GATT has involved the use of the waiver. Until recently, for example, the Generalized System of Preferences had to be accommodated under a waiver from the most-favoured nation principle of Article 1. Waivers are freely given to developing countries, or where developing country interests are at stake. Alteration of the substantive GATT "law", or its elaboration and codification as occurred in certain areas as a result of the Tokyo Round, could also be conducive to the avoidance of disputes, by clarifying

existing provisions and making procedures more open. However, it is doubtful if some of the most important of the codes will prove to have been fully successful in this respect.

4. The evolution of GATT procedures in recent years has tended in the direction of a continual management of trade problems with the intention that disputes would be headed-off, and differences settled before they had had time to become disputes. An example of this type of development is provided by the Consultative Group of Eighteen, which came into existence during the period of the Tokyo Round and was made a permanent organ at its conclusion. It facilitates a high-level exchange of views on the development of the trading system, and it was this Group which, in 1981, first put out the suggestion for a Ministerial Meeting of GATT in 1982, to head-off a number of threats to the GATT system that could not adequately be dealt with by internal procedures or legal process.

5. The kernel of dispute settlement, narrowly defined, lies in Articles XXII and XXIII of the GATT. These were the subject of an Understanding Regarding Notification, Consultation, Dispute Settlement and Surveillance, which was the fourth and last of the "Framework" texts adopted by the Contracting Parties at the close of the Tokyo Round. This Understanding sets out in its annex an "Agreed Description of the Customary Practice in the GATT in the Field of Dispute Settlement (Article XXIII:2)", including the customary elements of the procedures regarding working parties and panels of experts.

6. The Contracting Parties adopted in 1966 a decision establishing the procedure to be followed for Article XXIII consultations between developed and less-developed contracting parties. This procedure provides, among other things, for the Director-General to employ his good offices with a view to facilitating a solution, for setting up a panel with the task of examining the problem in order to recommend appropriate solutions, and for time-limits for the execution of the different parts of this procedure. Panel members serve in their individual capacities.

7. The function of a panel has normally been to review the facts of a case and the applicability of GATT provisions and to arrive at an objective assessment of these matters. In this connexion, panels have consulted regularly with the parties to the dispute and have given them adequate opportunity to develop a mutually satisfactory solution. Panels have taken appropriate account of the particular interests of developing countries. In cases of failure of the parties to reach a mutually satisfactory settlement, panels have normally given assistance to the Contracting Parties in making recommendations or in giving rulings as envisaged in Article XXIII:2.

8. In practice, contracting parties have had recourse to Article XXIII only when in their view a benefit accruing to them under the General Agreement was being nullified or impaired. Nullification or impairment can take place without there being a breach of GATT rules. In cases where there is an infringement of the obligations assumed under the General Agreement, the action is considered prima facie to constitute a case of nullification or impairment. Where a claim of nullification or impairment is upheld, settlement usually involves the grant or offer of compensating benefits. Where compensating benefits are refused as inadequate, the complainant may simply "reserve its rights". Only very rarely are countermeasures, involving suspension of the application of former concessions or other obligations on a discriminatory basis vis-a-vis the other contracting party, contemplated. Cases taken under Article XXIII:2 have led to such action in only one case.

9. As is clear from the Agreed Description of the Customary Practice in GATT in the Field of Dispute Settlement, the object of GATT is conciliation, not the enforcement of penalties. Panel and working party procedures are used for conciliation. These may recommend penalties, and the Contracting Parties (or the Council of Representatives on its behalf) may authorise the imposition of penalties. These would be intended to be some form of retaliation in proportion to the degree of nullification and impairment. The Contracting Parties would be loth to take such a step in view of the strain this would place on GATT procedures. Major countries would be loth to agree to penalties against themselves, and decision-taking customarily proceeds by consensus.

10. Working parties, composed of government officials, are instituted by the Council upon the request of one or several contracting parties. The terms of reference of working parties are generally "to examine the matter in the light of the relevant provisions of the General Agreement and to report to the Council". Working parties set up their own working procedures. The practice for working parties has been to hold one or two meetings to examine the matter and a final meeting to discuss conclusions. Working parties are open to participation of any contracting party which has an interest in the matter. Generally, working parties consist of a number of delegations varying from about five to twenty according to the importance of the question and the interests involved. The countries that are parties to the dispute are always members of the Working Party and have the same status as other delegations. The report of the Working Party represents the views of all its members and therefore records different views if necessary. Since the tendency is to strive for consensus, there is generally some measure of negotiation and compromise in the formulation of the Working Party's report. The Council adopts the report. The reports of working parties are advisory opinions on the basis of which the Contracting Parties may take a final decision.

11. Each of the codes on non-tariff measures, resulting from the Tokyo Round, is provided with a Committee of Signatories, having a role in dispute settlement analogous to that of the GATT Council (acting for the Contracting Parties) in relation to normal Article XXIII:2 cases. Dispute settlement procedures under the codes all follow more or less a standard model similar to those applicable under Article XXIII. The agreements on Customs valuation, government procurement, technical barriers to trade, subsidies and anti-dumping provide that, if a dispute cannot be settled directly between the parties, it may be referred by either party to a committee composed of all the signatories to the Agreement concerned. This committee will seek to conciliate a solution. If this fails, either party can have the dispute referred to a panel set up by the committee, which will report on the matter. Based on the panel's findings, the committee may make recommendations to any of the parties to the dispute. If its recommendations are not complied with, the committee usually is empowered (if it sees fit) to

authorize a suspension of obligations of one or more of the signatories to the agreement towards any other signatory, or other appropriate countermeasures. The agreements on Customs valuation and technical barriers to trade provide additionally for technical experts to assist in a consultative role in dispute settlement.

12. The Textiles Surveillance Body (TSB) has a particular role to play in dispute settlement for the GATT Textiles Committee, which is the administering organ of the Arrangement Regarding International Trade in Textiles (MFA). The December, 1981 Protocol extending the MFA reaffirms "that the terms of the Arrangement regarding the competence of the Textiles Committee and the Textiles Surveillance Body are maintained". This preambular reaffirmation may have seemed called for in view of the criticism that had hitherto been directed at those bodies, especially by developing countries that had felt the TSB lacked "teeth". The TSB is composed of developed and developing countries having a rotating membership, but with a permanent representation for some. Dispute settlement leads from the Textiles Surveillance Body to the Textiles Committee, thence to the GATT Council and, if agreement still eludes the parties, to the Contracting Parties particularly under Article XXIII procedures of GATT.

Australia-EEC Dispute

13. In addition to what has been stated above, several of the Articles of GATT have more particularised dispute settlement procedures. For example, the recent complaint by Australia in the matter of the EEC sugar regime was brought under Article XVI, on subsidies. This Article, as well as Article XXIII, are part of the subject matter of the Agreement on Interpretation and Application of Articles VI, XVI and XXIII of the General Agreement on Tariffs and Trade (known as the code on subsidies and countervailing measures). The Australian complaint was laid before the code had been drafted, and some of the concepts in the report of the Panel on this case are found also in the code.

14. Australia and Brazil, in the matter of the EEC sugar régime, decided to see how far they could go towards redress of their similar complaints by using to the utmost the existing machinery

for dispute settlement. The panels appointed to hear their "sugar" complaints had reported that, since there was no fixed budgetary limit on how much could be spent by the EEC on export refunds for sugar, there was no element in the system and its application that would prevent the EEC from obtaining more than an equitable share of world export trade in sugar, which was a point at issue. However, the panels were "not in a position" to reach a definite conclusion that the increased share that was observed had resulted in the EEC "having more than an equitable share of world trade in that product".¹ Article 10:3 of the new subsidies code attempts to reduce the ambiguity in the notion of equitable shares, and adds a price desideratum, but the problem of causality remains, the burden of proof lying with the complainant.

15. The September, 1981 meeting of the GATT Council was essentially devoted to a review of the situation regarding the question of EEC refunds on exports of sugar - the subject of the Australian complaint - following the notification by the EEC of its new sugar regulations as well as the 1981/82 sugar intervention price. The Council decided, without prejudice to the rights and obligations of contracting parties under the General Agreement, to establish a Working Party to conduct a review of the situation and to report to the Council not later than 1 March 1982. The Working Party submitted a Report to the GATT Council, which met on 31 March. At that meeting the EEC delegate maintained that under the Community's new sugar regime, with its co-responsibility concept, all elements of export subsidy had been eliminated; but the complainants protested that procedural devices had been used to block substantive discussion of an issue which remained unresolved. The Chairman regretted that the Council had been unable to reach a satisfactory solution; there was no alternative in his opinion but to regard the two cases as closed. He suggested, however, that Council meetings to consider notification and surveillance procedures under GATT should look at the problems of dispute settlement in the light of this experience. Subsequently, Australia, the Argentine

1. For a detailed discussion of this issue, see Colin Phegan: "GATT Article XVI:3 Export Subsidies and 'Equitable Shares'", Journal of World Trade Law, May-June 1982.

Brazil, Colombia, Cuba, Dominican Republic, India, Nicaragua, Peru and the Philippines together lodged with the GATT Council a fresh complaint against the Community's sugar export refund scheme.

Wider Implications of the Australian Complaint

16. Of present concern is the wider question of whether the dispute settlement mechanisms of GATT are "effective", and if not, what avenues could be explored in an attempt to improve procedures. Particularly at issue is the question of whether "smaller" countries can expect to get even-handed justice in disputes with the big battalions.

17. This is no new issue as regards either textiles or agriculture. Developing countries in general had hitherto tended towards the view that the Textiles Surveillance Body had been largely "ineffective" because the more powerful trading countries - in this case again including the EEC as the world's largest textile importer would not cede a sufficient degree of national sovereignty in trade matters to make it so. Much the same applied in the field of agriculture (see below).

18. At this level, and put in this way, the question is seen to be essentially political. That many disputes are, at bottom, not strictly legal but rather political, was part of the rationale for creation of the Consultative Group of Eighteen. And at the October, 1981 meeting of the Consultative Group, which considered agricultural trade in the light of national agricultural policies and relevant provisions of GATT, "it was the American policy and the waiver that the Americans had enjoyed since 1955 that produced the greatest criticism", according to one press report. It is worth taking a backward look at that year to help in an understanding of the attitudes to GATT of a number of primary producing and other countries.

19. In 1955 the United States requested, and obtained, a waiver of its commitments under the General Agreement insofar as such commitments might be regarded as inconsistent with action which that country would be required to take under Section 22 of the Agricultural Adjustment Act of 1933. Translated into more overtly

political terms this might be said to be a recognition in GATT of the primacy of the Congress in the formulation of US farm policies. It was at about this time that heavy US farm surplus disposals under the Public Law 480 "Food for Peace" programme were cutting into third-party commercial markets, and calling forth the first strong official public denunciation in Australia of the unbalanced way the respective agricultural and industrial obligations of GATT were being respected.

20. Against this background of political and, in some countries, constitutional constraints on the formulation of foreign economic policy, it would be difficult to imagine that a fully satisfactory redress for the asymmetry of GATT obligations would be likely to come from improvements to the GATT's dispute settlement machinery alone, or from a tightening of the legal drafting of the General Agreement itself. As regards surplus disposals, talks in GATT led to "gentlemen's agreements" laying down acceptable principles. These evolved through the years and as a result of the Tokyo Round there has been a partial codification of arrangements for bovine meat and dairy products. The Tokyo Round, however, failed to agree to a proposed "multilateral agricultural framework", in which national policies could have been confronted; so the quasi-political aspects of international agricultural trade and related farm policies now rest with the Consultative Group of Eighteen.

Conclusions

21. The basic intention of this paper has been to introduce some of the issues and to pose the question whether a tightening of the legal drafting of GATT, or an improvement of the procedural or institutional arrangements of GATT, would be likely to give more teeth to the enforcement aspects of dispute settlement. It seems to be that, in this area of international relations, a nice balance needs to be struck between political pressures that cannot realistically be avoided, and a too cavalier treatment of legal forms and precedents in GATT. It should be the aim to increase respect for the latter, especially if GATT is to be of equal help to developing countries and also to some of the smaller developed ones. Most suggestions for improvement have thus focused on panel and working party procedures and composition, including timing,

publicity and burden of proof - as well as on the unsuitability of parts of the text of GATT for judicial process.

22. By the circumstances of its origin the GATT is sometimes referred to as a "non-organisation". It started as a legal document, with a small secretariat to service its provisions (e.g. for tariff negotiations). It does not, like the IMF and IBRD, have financial sanctions to enforce its persuasions. The General Agreement contains no provision for reference of either actual disputes or questions of interpretation to the International Court of Justice, nor is there any provision for the establishment of an internal tribunal to resolve actual disputes or to promulgate authoritative rulings. After exhaustion of committee, panel and working party procedures, recourse can only be had to the Contracting Parties, i.e. to the whole membership, and is therefore a consciously political rather than a judicial process.

23. Presumably also because of its origin, the GATT secretariat has always adopted a low profile, seeing its role as facilitating an accommodation of interests, a balance of rights and obligations, and the use of its good offices to find consensus, or bilateral agreement. The prestige of the Director-General has grown over the years, and his office is increasingly occupied in questions involving differences between developed and developing countries. The bureaucratic powers of the secretariat have risen as a result of the creation of a new committee structure to service the codes on non-tariff measures. The secretariat is also being increasingly asked by Committees to prepare authoritative background documentation. Though the creation of anything like the original concept of the ITO would no longer have political validity, a question to be posed would be whether a consciously expanded role for the GATT secretariat, for example as principals rather than agents in panel procedures, might not be the natural way forward.¹

1. Not all would necessarily agree with the above. See, for example, the suggestion by C.F. Teese, in The World Economy, Trade Policy Research Centre, March 1982. "More emphasis should be given to automaticity of panels. Panels should be nominated, as far as possible, from a permanent group of non-Geneva-based experts. Panels should be encouraged to go further than simply finding that a breach of GATT rules exists and should be prepared to develop a scheme of arrangement which would lead to the amelioration and eventual elimination of damage."

24. Against the above suggestion would be the possibility that the secretariat would by this means be destroying its own credentials to impartiality: steps would clearly need to be taken to ensure that this did not happen. In favour of the idea would be the need to link the GATT's great reservoir of expertise (which is of course already freely available to existing panels and working parties) directly with the exercise of an impartial and genuinely international judgement.

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PART A: NATURE AND EXTENT OF PROTECTION AGAINST
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Printed and published by
The Commonwealth Secretariat

May be purchased from
Commonwealth Secretariat Publications
Marlborough House
London SW1Y 5HX

ISBN 0 85092 223 2

