

## CHAPTER EIGHT

# Multilateral Approaches to Market Access Negotiations

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This chapter addresses multilateral negotiating techniques in the areas of most favored nation (MFN) tariffs and certain nontariff measures (NTMs). It does not cover market access in the sector of services, nor does it contain any detailed discussion of issues covered by other authors such as government procurement, safeguards, trade remedy laws, and trade-related investment measures (TRIMs). Export restrictions are not discussed. Although the objective is not to review the results of the Uruguay Round, it is inevitably necessary to make some reference to the procedures used in earlier rounds, since these provide the base for future market access negotiations.<sup>1</sup>

### **Tariffs**

The main idea behind the tariff negotiations of the General Agreement on Tariffs and Trade (GATT) was to reduce and “bind” (or fix) MFN tariff rates, creating enhanced and more secure access to the markets of GATT contracting parties. Whatever is negotiated between particular trading partners is a “concession” available to all other members of the World Trade Organization

1. Those who wish to reexamine the results of the round are directed to Croome (1995), GATT (1993, 1994), Martin and Winters (1995) and articles therein, and Organization for Economic Cooperation and Development (OECD) (1993), among others.

(WTO) by application of the MFN principle. WTO members agree to bind their MFN tariff rates at negotiated levels so that such rates may not be increased except through the renegotiation of bindings under Article XXVIII of the GATT. Such renegotiation is done with the member with which the concession was first negotiated as well as any other member with a “principal supplying interest.”<sup>2</sup>

Many developing countries have applied MFN rates that are substantially below their bound levels (“ceiling” bindings) as a result of unilateral rate reductions in the last ten to twenty years. In the Uruguay Round they sought “credit” for these reductions, but there is little evidence that they received tariff cuts on exports of interest to them for such reductions. The higher bound levels persist because individually their markets are often small and their offer to bind the applied rates is a reciprocal concession that is of little interest to developed members, a weakness of the approach under which bilateral negotiations initially are conducted on an item-by-item basis that is later to be applied on an MFN basis. The absence of such bindings leaves some uncertainty that may be discouraging to foreign investment and therefore to technology transfer and development.

Increasing the extent of bindings was one of the main objectives of the Uruguay Round, and the major result was the substantial increase in bindings by developing countries (see table 8-1). Although there was no specific target for industrial goods, it was agreed that all rates for agricultural products would be bound. Overall, the percentage of developed countries’ imports of industrial goods under bound rates rose from 94 to 99 percent. However, developing economies increased their share of bound rates from 14 to 59 percent, and transition economies increased theirs from 74 to 96 percent. Most Latin American countries bound close to 100 percent of their tariff rates. Asia as a region has the lowest level: only 67 percent of industrial tariff rates are now bound.

Over the course of the eight GATT rounds since 1949, the industrial countries’ import-weighted average tariffs on industrial products have been reduced from some 40 percent to 3.9 percent. Tariff reductions were also a key objective of the Uruguay Round, where the goal was to reduce average tariff levels by at least as much as in the Tokyo Round (that is, by a third) for industrial products

2. The Uruguay Round gave such additional rights to the country for which exports of a certain product represented the highest proportion of its total exports, even though it might not be the largest supplier to the country raising the duty.

**Table 8-1. Pre- and Post-Uruguay Round Scope of Bindings for Industrial Products (Excluding Petroleum)**

Country group or region	Number of lines	Import value <sup>a</sup>	Percentage of tariff lines bound		Percentage of imports under bound rates	
			Pre-UR	Post-UR	Pre-UR	Post-UR
<i>By major country group</i>						
Developed economies	86,968	737.2	78	99	94	99
Developing economies <sup>b</sup>	157,805	306.2	22	72	14	59
Transition economies	18,962	34.7	73	98	74	96
<i>By selected region</i>						
North America	14,138	325.7	99	100	99	100
Latin America	64,136	40.4	38	100	57	100
Western Europe	57,851	239.9	79	82	98	98
Central Europe	23,565	38.1	63	98	68	97
Asia	82,545	415.4	17	67	36	70

Source: GATT (1994).

a. Billions of U.S. dollars.

b. The data on developing countries were based on twenty-six out of ninety-three developing country participants in the Uruguay Round, representing 80 percent of merchandise trade and 30 percent of tariff lines.

(including manufactured goods, tropical products, and natural resource-based products, but not petroleum products). In the end, the average trade-weighted tariff rate on all industrial products from all sources was reduced by 38 percent, whereas the average reduction on imports from developing countries was 34 percent.<sup>3</sup> Overall, at the end of the implementation period in 2005, the industrial countries' import-weighted average bound tariff rate on industrial products from developing countries will be 4.5 percent, compared with 3.9 percent on imports from all sources.

In a number of industrial sectors of export interest to developing countries, tariff reductions by the industrial countries exceed the overall target. For example, duties on imports of metal products from developing countries are to be cut by an average of 67 percent (from 2.7 to 0.9 percent), whereas the rates on wood, pulp, paper, and furniture products from developing countries are being cut by 63 percent (from 4.6 to 1.7 percent). For tropical and natural resource-based products, tariff reductions by developed countries on imports from all sources also exceed the overall target: on a trade-weighted average, the cuts affecting developing countries' exports to developed countries will be 57 percent (from 4.2 to 1.8 percent) and 35 percent (from 4.0 to 2.6 percent),

3. GATT (1994).

respectively. Tariff rates are being lowered in five equal annual increments that began in 1995.

NTMs for agricultural products were to be eliminated or converted into their tariff equivalents, often amounting to reductions of hundreds of percentage points in the first instance.<sup>4</sup> Subsequent to this “tariffication,” developed countries’ tariffs were to be reduced by an average of 36 percent over six years from their 1986–88 base, and developing countries’ tariffs were to be reduced 24 percent over ten years (subject to the condition that each tariff line will be affected by a 15 percent minimum reduction).<sup>5</sup> Rice and other staple foods are exempt from the general reduction guidelines, but are subject to the general minimum access guarantee, which is equivalent to 4 percent of domestic consumption in the 1986–88 base period and is to increase by 0.8 percent annually to reach 8 percent at the end of the implementation period. The minimum access amounts are subject to reduced tariffs, whereas amounts above that level are subject to the higher rates, which are to be progressively reduced during the implementation period. Special safeguards may be triggered by volume increases or price reductions. Average duties affecting trade in tropical agricultural products, which are of key interest to developing countries, are subject to a reduction of 43 percent, with duties on spices, flowers, and plants being reduced by 52 percent.

Abreu estimates that developing countries have cut their trade-weighted average bound MFN rates against imports from industrial countries from 14.9 to 10.7 percent.<sup>6</sup> These figures mainly reflect cuts by Latin America, from 22.1 to 18.2 percent; by Asia, from 12.4 to 8.4 percent; and by developing Europe, from 26.4 to 15.5 percent. Africa has made no measurable cuts, retaining average bound rates at 23 percent. Developing countries have cut their trade-weighted average bound MFN rates on imports from other developing countries from 10.1 to 7.1 percent. A sectoral breakdown of applied and bound tariffs in developed and developing countries is shown in table 8-2.

4. NTMs that were specifically covered include quantitative import restrictions, variable import levies, minimum import prices, discretionary licensing, NTMs maintained through state trading enterprises, and voluntary export restraints (VERs).

5. In the base period many agricultural prices were relatively low, so there was a wide gap between world prices and protected or supported domestic prices; the implication was that the agreed-upon tariff reductions would still provide “high levels of protection in normal times.” See Hathaway and Ingco (1995).

6. Abreu (1995).

**Table 8-2. Post-Uruguay Round Applied and Bound Tariff Rates of Developed and Developing Countries by Major Product Group**

Percent (weighted averages, excluding trade within free trade areas)

<i>Product group</i>	<i>Developed</i>		<i>Developing</i>	
	<i>Applied</i>	<i>Bound</i>	<i>Applied</i>	<i>Bound</i>
Agricultural products except fish	5.2	7.2	18.6	19.9
Fish and fish products	4.2	4.9	8.6	25.9
Petroleum	0.7	0.9	7.9	8.4
Wood, pulp, paper, and furniture	0.5	0.9	8.9	10.3
Textiles and clothing	8.4	11.0	21.2	25.5
Leather, rubber, and footwear	5.5	6.5	14.9	15.4
Metals	0.9	1.6	10.8	10.4
Chemical and photo supplies	2.2	3.6	12.4	16.8
Transport equipment	4.2	5.6	19.9	13.2
Nonelectric machinery	1.1	1.9	13.5	14.5
Electric machinery	2.3	3.7	14.6	17.2
Mineral products, precious stones, and metals	0.7	1.0	7.8	8.1
Other manufactured products	1.4	2.0	12.1	9.2
Industrial goods (rows 4–13)	2.5	3.5	13.3	13.3
All merchandise trade	2.6	3.7	13.3	13.0

Source: Finger, Ingco, and Reincke (1996).

Note: The applied rates are those for the base period, whereas the bound rates are those applying after the implementation; in some instances this means that the applied rates are higher than the bound rates.

In the Uruguay Round there was some discussion of the base period from which tariff reductions would be implemented as well as the period over which implementation was to be accomplished. The discussion about the base period was most intense in the case of agricultural products, since periods in which world prices were relatively high would imply low tariff rates and allow little scope for increasing protection when world prices fell. There was therefore interest in choosing periods when protection (and other forms of support) was relatively high so that reduction commitments would be lessened, as indeed happened. In the end the base rates chosen were existing bound levels, where they existed, or for unbound products, the applied rates in 1986. Given the success of the Uruguay Round in extending binding coverage, including coverage for agricultural products, it would seem that the base period for a new round could be fixed as the final year for implementation of the Uruguay Round results.

With certain variations, Uruguay Round rate cuts are being implemented from 1995 in equal annual stages over five years for manufactured goods and six years for agricultural products, and developing countries have ten years to implement cuts for agricultural products. (For textiles and clothing the progressive opening of quotas has been back-loaded so that the more profound liberalization will only occur toward the end of the implementation period.) However, at the midterm review of the round held in Montreal in December 1988, it was decided to advance to mid-1989 at the latest the implementation of agreed-upon tariff cuts on a number of tropical products of particular interest to developing countries.

In past rounds targets for the reduction of tariffs on industrial products had been set in terms of import-weighted averages. This was to give greater weight to the more important products in trade, although petroleum products, on which tariffs are mainly set for revenue or excise purposes, were excluded. However, in the Uruguay Round negotiations on agricultural products simple averages were used to determine the depth of cuts, since in many products there was no trade, whether due to lack of demand or because of the restrictiveness of tariffs and other measures on imports. Since imports are adversely affected by duties and NTMs (acutely so in agricultural products, textiles, and clothing), there is a downward bias in import-weighted averages. Moreover, in order to achieve an overall reduction of a given amount, there would be no need to cut rates in sectors where trade was prohibited by the high rates of protection, since such items would have no weight in the calculation. This factor was partly overcome in the Uruguay Round by requiring a minimum cut of 15 percent in each tariff line (10 percent for developing countries) within the context of the overall target.

Another objective of the Uruguay Round was to reduce tariff peaks and tariff escalation. Tariff peaks are not explicitly defined in the WTO, but the reference is to rates that are substantially higher than average rates.<sup>7</sup> Tariff escalation refers to the practice of imposing higher rates on products of later stages of processing. This structuring of tariffs, which is common in developing and developed countries, provides greater effective protection or assistance to processing than is evident from nominal rates alone. In developing countries, tariff escalation is associated with the import-substitution industrialization (ISI) strategy, which is designed to foster the manufacture or further processing

7. OECD (1997) refers to "tariff spikes," which it defines as rates that are at least three times the average for a country.

of natural resource-based products previously exported in primary form, although it has also been identified as causing an antiagricultural bias in developing countries. Tariff escalation by developed countries works against these efforts to increase domestic processing in developing countries.

Despite eight rounds of tariff negotiations, there are still substantial tariff peaks in some sectors, and it has been estimated that a 50 percent reduction in remaining industrial tariffs would yield approximately U.S.\$270 billion in global income (welfare) gains per year.<sup>8</sup> These gains derive in the first instance from the combination of the preexisting level of trade, the amount of the rate cuts, and the elasticities of import demand. Typically a large share of the expansion of welfare gains would derive from the textiles and clothing sector, where there is already substantial trade, the tariffs are much higher than average, and the level of responsiveness of imports to rate cuts (the import demand elasticity) is also high. However, in global general equilibrium models such as that used by Francois and McDonald, there are also complex interindustry relationships.

It has been pointed out that the abandonment of tariff-cutting formulas (discussed later) has shifted the focus of tariff cutting to less sensitive areas, and as a consequence tariff peaks persist on sensitive products.<sup>9</sup> This is most evident in the cases of textiles and clothing, leather, rubber footwear, and travel goods, major exports of the developing countries, for which the Uruguay Round rate cuts of 21 and 19 percent, respectively, were substantially less than the average.<sup>10</sup> Lesser commitments were also made for transport equipment, for which the reductions will average 18 percent. Altogether, trade in these three product groups accounts for 31 percent of developed countries' total imports from developing countries by value in 1993. However, as is discussed later, these cuts will be supplemented by the removal of nontariff barriers (NTBs) resulting from the phase-out of the Multi-Fiber Arrangement (MFA) and the elimination of VERs, especially on footwear, electronics, and travel goods.

GATT 1994 provides information on percentages and absolute changes in tariff escalation in the Uruguay Round.<sup>11</sup> The results, set out in table 8-3, reveal

8. Francois and McDonald (1996).

9. Blackhurst, Enders, and Francois (1995).

10. GATT (1994).

11. The definition is based on the work of a technical group of experts on the GATT tariff study that divided traded products into three stages of processing (raw materials, semimanufactured products, and finished products). See GATT (1994).

**Table 8-3. Changes in Tariff Escalation since the Uruguay Round on Products Imported by Developed Economies from Developing Economies**

Percentages except where noted

Product	Imports <sup>a</sup>	Share of each stage	Tariff			Absolute change in tariff escalation
			Pre-UR	Post-UR	Change	
All industrial products (except petroleum)	169,690	100	6.8	4.3	37	n.a.
Raw materials	36,692	22	2.1	0.8	62	n.a.
Semimanufactured products	36,464	21	5.3	2.8	47	3.2 to 2.0
Finished products	96,535	57	9.1	6.2	32	3.8 to 3.4
All tropical products	14,354	100	4.2	1.9	55	n.a.
Raw materials	5,069	35	0.1	0.0	100	n.a.
Semimanufactured products	4,340	30	6.3	3.5	44	6.2 to 3.5
Finished products	4,945	34	6.6	2.6	61	0.3 to -0.9
Natural resource-based products	33,426	100	4.0	2.7	33	n.a.
Raw materials	14,558	44	3.1	2.0	35	n.a.
Semimanufactured products	13,332	40	3.5	2.0	43	0.4 to 0
Finished products	5,535	17	7.9	5.9	25	4.4 to 3.9

Source: Based on GATT (1994), except that in the final column the absolute change shows the extent to which the difference in rates from the previous processing stage, measured in percentage points, has been reduced.

a. Millions of U.S. dollars.

that the percentage reductions were generally greater in the earlier stages of processing, except that cuts were greater for finished tropical products and semimanufactured natural resource-based products than in the preceding stages of processing. The general implication of higher percentage reductions on material or semiprocessed inputs is that effective protection on the next stage of processing does not decrease in proportion to the nominal tariff cuts on the finished goods, a strategy that has been used explicitly by some developed countries to increase effective protection while meeting overall tariff reductions.<sup>12</sup> Since escalation is used by developed and developing countries alike, it produces a trade bias against processed goods due to the higher import duties imposed on these items. An overview of the

12. Yeats (1994) argues that the absolute change in tariffs is more relevant for an analysis of tariff escalation. By this measure tariff escalation has been reduced in all product categories, eliminated in the first stage of processing of natural resource-based products, and reversed in the final stage of processing of tropical products.

**Table 8-4. Structure of Applied Tariffs in Canada, the EC, Japan, and the United States, 1989 and 1996**

Indicator	Percent							
	Canada		EC		Japan		United States	
	1989	1996	1989	1996	1989	1996	1989	1996
Bound tariff lines	98.4	99.6	91.8	100.0	89.8	98.8	98.1	100.0
Duty-free lines	25.7	31.6	10.5	11.4	21.9	34.8	17.4	17.8
Specific and compound, all rates	8.6	9.1	10.6	12.1	7.4	10.6	17.6	17.7
Tariff quotas, all rates	0.0	1.5	1.0	2.3	1.0	2.2	0.1	2.3
Rates with no ad valorem equivalent	0.5	2.5	8.4	2.0	1.0	4.0	1.3	5.7
Simple average bound rate	9.3	5.1 <sup>a</sup>	7.5	7.2 <sup>a</sup>	8.2	4.7 <sup>a</sup>	6.3	3.9 <sup>a</sup>
Simple average applied rate	9.1	9.2	7.4	9.5	6.9	6.7	6.2	6.2
Import-weighted average rate	6.9	5.7	6.0	6.6	3.8	3.5	4.0	3.7
Production-weighted average rate	8.7	12.1	8.2	7.7	4.2	3.4	4.4	5.2
Tariff peaks, all rates	0.5	1.4	2.2	4.8	5.3	6.8	4.5	3.8
Standard deviation	8.8	27.5	6.1	20.7	8.9	11.8	7.7	14.2

Source: OECD (1997). See OECD (1997) for further details of methodology.

Notes: Tariff peaks (called spikes by the OECD) are rates that are three times the national average.

a. Bound rates after full implementation of the Uruguay Round agreements. Ad valorem equivalents (AVEs) are used where possible.

tariff regimes of Canada, the European Communities, Japan, and the United States is given in table 8-4. This illustrates some of the issues discussed in the preceding paragraphs.

In some countries different tariff rates abound (a number of countries have hundreds of distinct rates of duty), causing a lack of transparency in the protection regime as well as making it practically impossible to compute the effects of resource allocation and welfare. The existence of multiple rates can arise from the adoption of several approaches to tariff policy, including tariff escalation. Other approaches involve setting higher rates on consumer goods and luxury goods, on the same basis used for indirect taxes, as a revenue-collecting device or to divert resources to what is perceived as more socially valued production. Under this strategy lower rates are set on intermediate goods and the lowest rates on capital goods and raw materials. However, WTO experience shows that in practice this strategy can lead to an inversion of rates at different stages of processing (for example, deescalation between intermediate and final stages). Although zero rates are usually used in an escalation strategy, they may be rejected in favor of minimum rates of, say, 5 percent in a strategy to increase tariff revenues. This also has the advantage of compressing dispersion and reducing the associated misallocation of resources.

Another strategy that leads to the proliferation of tariff rates is the notion of structuring made-to-measure protection, providing industries with what is said to be just the amount of protection they need to compete against imports. Such an approach takes little account of the social costs of the protection or of the social benefits, if any, of individual industries. There is no consideration of the efficiency of the industries, and the protection afforded in this way is reflected in the value of the capital and land involved in production, providing windfall gains for the owners. This approach results from the exercise of political power—for example, by entrepreneurs in certain regions of a country—as is described in a series of studies of the political economy of protection that was commissioned by the World Bank in the early 1980s.

An alternative strategy whereby tariffs are required for revenue purposes is the uniform tariff, such as that of Chile. In many developing countries the domestic taxation systems are poorly developed and trade taxes remain an important source of revenue. Uniform taxes cause less distortion in the allocation of resources than nonuniform rates (still being biased against nontradable goods and services). However, they retain an anti-import bias by reducing the demand for imports and hence foreign currency, causing an appreciation of the domestic currency and increasing the foreign prices of national exports. However, in practice the proliferation of free trade agreements (FTAs) and tariff preferences means that uniform applied rates are practically nonexistent.

In general, simplification of tariff regimes should be an objective of future negotiations (and for domestic policy purposes). Even if escalation is maintained for ISI reasons or some variation in rates were used for revenue purposes, a few broad bands might meet the objective while increasing transparency and facilitating an appreciation of the transfers associated with each strategy. Another objective would be to reduce the complexity of customs tariffs, perhaps cutting national classifications back to the basic six digits of the Harmonized Commodity Coding and Classification System (HS); at present most countries use up to ten digits, but others use as many as fourteen digits, inviting the proliferation of tailor-made rates.<sup>13</sup> In general, customs tariffs have around 8,000 to 12,000 lines, but there are cases in which there are some 20,000 tariff lines. In many countries a third or more of the lines attract zero rates of duty and are retained largely for statistical purposes.

13. In the Uruguay Round Canada proposed to minimize the number of items at the eight-digit level and to aim for the eventual elimination of dutiable items beyond the eight-digit level.

In any tariff negotiation there may be opposition by some trading partners to any reduction of MFN rates. Therefore, although a reduction of MFN tariff rates should increase imports from trading partners that benefit from such treatment, there may also be some diversion of trade away from suppliers that suffer an erosion of preference margins, whether in FTAs or giving unilaterally granted preferences such as those under the Generalized System of Preferences (GSP). By and large, the overall dynamism imparted to the world economy through the implementation of the Uruguay Round results should benefit all countries; indeed it is estimated that it will increase global welfare by as much as \$500 billion.<sup>14</sup> However, partial-equilibrium comparative static analysis shows that small net negative effects may be experienced by FTA members; African, Caribbean, and Pacific (ACP) Group countries; and least-developed countries, in that order.<sup>15</sup> On the other hand, developing countries may be expected to gain from the erosion of preferences among industrial countries—for instance, trade among the countries of the European Union (EU), between the EU and the European Free Trade Area (EFTA), between Canada and the United States, and so on.

It is important to note that preferential treatment under unilaterally granted schemes such as the GSP may be inferior on average to MFN treatment. For example, Laird and Yeats show that on the basis of import-weighted averages average GSP rates in some sectors can be higher than MFN rates. This is because MFN sources do not supply products such as textiles and clothing, which have very high MFN and GSP rates, whereas developing countries are minor suppliers of other products for which MFN rates are relatively low.<sup>16</sup>

Apart from tariff preferences for certain trading partners, applied tariff rates may also be reduced for certain products on a unilateral basis by importers. For example, there are provisions in some countries for duty-free entry of imports for which there are no domestic substitutes; for imports for government ministries, agencies, or state-owned enterprises; or for capital goods or materials for use in certain types of activities, in certain regions, or in export-processing zones. The latter may be linked to offshore or outward processing operations (for instance, the export of materials or components for processing or assembly abroad and the reimportation of the final goods, including through international subcontracting) by enterprises in industrial countries, or tariffs may be applied

14. Francois, McDonald, and Nordstrom (1994).

15. Safadi and Laird (1996).

16. Laird and Yeats (1987).

only to the value added abroad (for example, the value of the processing or assembly operations). Concessional entry may also be linked to local content or export-balancing requirements and as such may be prohibited under the WTO Agreement on Trade-Related Investment Measures (TRIMs). As in the case of trade covered by tariff preferences, trade under various concessional entry regimes can be adversely affected by MFN tariff cuts.

### *Tariff Types*

The simplest and most frequently used tariff type is the ad valorem tariff, under which the rate is expressed as a percentage of the value of the goods. Tariff surcharges, such as those added for balance of payments reasons, are usually set in ad valorem terms. However, there are a number of other types of tariffs that are more complex and much less transparent.

Two other types of tariffs have been very common in the past, mainly for agricultural products and chemicals. These are specific duties and variable levies. A *specific duty* is a duty that has a fixed value for a physical unit—for example, U.S.\$6.00 per pound or SFr10.50 per dozen. Specific duties are still allowed, and they are very common in agriculture in most countries.<sup>17</sup> A *variable levy* is a duty typically fixed to bring the price of an imported commodity up to a domestic support price for the commodity. Under the Uruguay Round agreement variable levies in agriculture are prohibited, but a number of countries interpret this as being effective only where the application of a variable levy would cause the charge to exceed the binding commitment. To avoid the use of variable levies but achieve a similar effect, some countries split tariff lines for the same product, charging higher rates for lower-priced imports.

Specific duties and variable levies lack transparency, since it is difficult to know their percentage or ad valorem equivalents. The ad valorem equivalent to a specific rate can be computed directly from an item's import price, but this is usually known only to customs officers and the enterprise concerned. Alternatively, the ad valorem equivalent may be approximated by the unit value if quantity and value data are published at a sufficiently detailed level or by calculating the ratio of the value of the duty collected to the import value, which is not usually published. To compute the ad valorem equivalent to a variable levy, it is necessary to know the import and domestic support prices.

17. Switzerland uses specific duties for all products.

The ad valorem equivalent to both a specific duty and a variable levy varies inversely with international prices, and it may be necessary to compute some average across a representative period. Since the ad valorem incidence of an imported product is inversely related to its price, specific rates and variable levies tend to fall more heavily on developing countries and low-cost suppliers. They also serve as a form of built-in contingency protection, discouraging importers from lowering prices to capture a larger share of a market, since any price reduction would be offset by higher duties. In this situation, the usual strategy for an exporter is to switch to higher-value products, as in the case of quantitative restrictions.

Other types of duties less frequently used are mixed rates, alternative rates, and seasonal rates. Mixed (or “composite”) rates can combine specific and ad valorem rates—for example, U.S.\$6.00 a pound plus 15 percent. An alternative rate might be 15 percent or, if higher, U.S.\$3.00 a pound. A seasonal rate is a rate that is increased or decreased at a certain time of the year, which is usually related to the growing season in the importing country.

Antidumping (AD) duties and countervailing (CV) measures are usually, but not always, set in ad valorem terms. They are not strictly tariffs, although they are sometimes called para-tariff measures. They are applied at the firm level in the exporting country. Many actions related to AD duties or CV measures terminate in price undertakings by the exporter. Since they are, or should be, WTO-consistent contingency measures taken against the so-called unfair trade practices of a third country, they are not subject to market access negotiations, but the terms of their use are covered by negotiations on rules.

Some agricultural products are subject to tariff quotas or tariff rate quotas, attracting lower in-quota and higher out-of-quota rates. These are often set in terms of specific or mixed rates, and they may also vary seasonally. An issue is how to compute tariff averages where tariff quotas are applied: governments often average in-quota and out-of-quota rates, but economists would argue that the out-of-quota rate is more appropriate, representing the marginal, binding constraint on additional trade. This issue has not been settled in past negotiations. Another issue for future negotiations might be whether to continue to allow the use of specific rates or other more complex formulations. Given the lack of transparency associated with the use of such rates, this has an inherent appeal. However, if the use of such rates were banned, there might be even greater resort to the use of other devices such as AD duties, which are subject to abuse. One solution would be to require a justification for the use of specific

or formula-type rates, perhaps including variable levies, on a case-by-case basis—for example, by waiver. Where allowed, the ad valorem equivalent of such rates should not be allowed to exceed the bound rate on any imported item (as opposed to meeting the ad valorem equivalent of the bound rate on average over a reporting period of twelve months). In addition, users could be required to provide sufficient information to other WTO members to allow them to compute the ad valorem incidence of such rates and assure themselves that binding commitments were being met.

### *The Valuation Base*

The value for duty of a good for customs purposes is typically the FOB (free on board) value, but in some cases the CIF (cost, insurance, and freight) value is used, increasing the incidence of the tariff on an FOB basis and providing greater protection against exporters with higher transport costs. Most countries use one system or the other, but Mexico, which normally values imports on a CIF basis, values non-duty-free imports from North American Free Trade Agreement (NAFTA) partners on an FOB basis during the phase-in period of the agreement.

In many developing countries the value for duty is not the transaction value, but some kind of constructed or reference price (to compensate for under-invoicing or simply to provide surer protection for goods with fluctuating world prices or to counter AD duties). However, under the single undertaking of the Uruguay Round all countries, subject to a phase-in period, will in the future be subject to the GATT customs valuation code, which places greater emphasis on the use of transaction values as the basis for customs valuation.

Preferential rules of origin (ROOs) are used to determine the value for duty of imports from a country or countries that benefit from preferential treatment in the importing country, either under unilateral schemes such as the GSP or under mutually negotiated arrangements such as FTAs or customs unions. An import from a preferential partner using materials or components from a third country that does not benefit from preferences or receives preferences at a different level will usually qualify for the preference if enough processing is done on the product in the partner country to achieve a fixed level of value added or to cause a shift in tariff classification (substantial transformation) of the product. However, the rules vary between arrangements and even product categories. There are also a variety of treatments for cumulation of value added across several trading partners where processing is done or material and com-

ponents are sourced. Apart from the resulting lack of transparency, it is difficult to assess the extent to which current ROOs affect trade diversion and the allocation of resources associated with preferential regimes. The current review of ROOs by the WTO concerns only nonpreferential rules, so any discussion of preferential rules might usefully be taken up in a future round, but would most likely occur in the context of rules negotiations rather than negotiations about market access per se.

The precise classification of items is not usually perceived as an issue for a multilateral negotiating round, but it can make a difference in the rate of duty to be applied. For example, the EU's classification of certain LAN equipment as telecommunications equipment meant it was dutiable at a different rate from that applied to information equipment, which was covered by the zero-for-zero agreement in that field. Reclassification usually occurs when there is a shift in classification either at the international level, as when the Customs Cooperation Council Nomenclature (CCCN) changed to the HS or from HS92 to HS96. However, it can also occur with the formation of a customs union or with the adherence of a new member to a customs union. The issue is that a change in the classification may imply a change of a bound rate and set in motion renegotiations of schedules under GATT Article XXVIII.

*Other Charges, Including Discriminatory Application of Indirect Taxes*

A number of other charges are applied to imports. Some are merely fees for services such as stevedoring, warehousing, port or airport handling, customs agent services, and so on. There are also sometimes additional charges such as customs processing fees, consular charges (for documentation), and statistical taxes. Under WTO rules these charges should represent the costs of the services provided, but some countries set these as a percentage of the value of imports. For instance, the paperwork for processing a Barbie doll and a tanker of petroleum might be the same, but charging a percentage of the value of each would yield vastly different revenues.

Although it is not a common practice today, some countries impose additional charges on imports for a variety of reasons—for instance, to support lighthouses or the merchant marine. In principle, these charges can be negotiated and bound within the overall WTO tariff binding, but this appears to be ill defined. Argentina's statistical tax was specifically covered by such a binding, which has not prevented the charge from being challenged as being unrelated to the cost of service.

Under GATT Article III, paragraph 2, indirect taxes (such as value added taxes, sales taxes, or excise duties) applied to imports should be at the same level as those applied to domestically produced items. There are few instances of differential rates today, but sometimes different rates are applied to imports that are close substitutes (“like products”), such as different liquors, but various panels have ruled that this amounts to discrimination.<sup>18</sup> There are also instances of imposition of high indirect taxes on goods that are not produced domestically—for instance, fuels, alcoholic beverages, perfumes, and luxury goods—effectively in the form of excise duties.

### *Negotiating Techniques*

The basic approach to tariff negotiation used in the five rounds of the GATT negotiations that preceded the Kennedy Round was the request and offer approach, in which participants would try to balance or more than balance the “concessions” they were offering against those they sought. Tariff cut offers (concessions) were seen as negotiating “coin” with which to pay for concessions by other parties. Such negotiations were essentially bilateral, between principal suppliers in each country’s markets; the results were then extended to other GATT contracting parties by virtue of the MFN principle.

The request and offer approach was also used in the Uruguay Round, subject to the overall target of an average rate reduction of 30 percent, as agreed to at the midterm review in December 1988. Despite widespread support from other participants, including other members of the Quad (Canada, the EU, Japan, and the United States), for a formula-based approach, the United States insisted that it would only negotiate item by item, dealing with tariff measures and NTMs at the same time. It implemented the request and offer approach by putting forward extensive product-specific request lists to each of its main trading partners starting in October 1989. However, other countries were not precluded from the use of formulas, to be followed by specific requests for adjustments of offers.

In request and offer negotiations computation of the equivalence of offers is usually done in terms of the percentage increase in trade to be expected from implementation. In essence, this means that one multiplies the trade flow for the base year by the percentage of tariff reduction to obtain the expected increment in trade. This is given by the formula  $M_0[(t_1 - t_0)/t_0]$ , where  $M_0$

18. WTO (1995).

represents imports in the base year and  $t_0$  and  $t_1$  represent the tariff rates in the base year and after implementation of the reduction, respectively. Therefore, if base year imports were \$100,000 and the tariff were to be cut from 20 to 10 percent, the expected increment would be \$100,000 times  $[(0.2 - 0.1)/0.2]$ , or \$8,333.33.

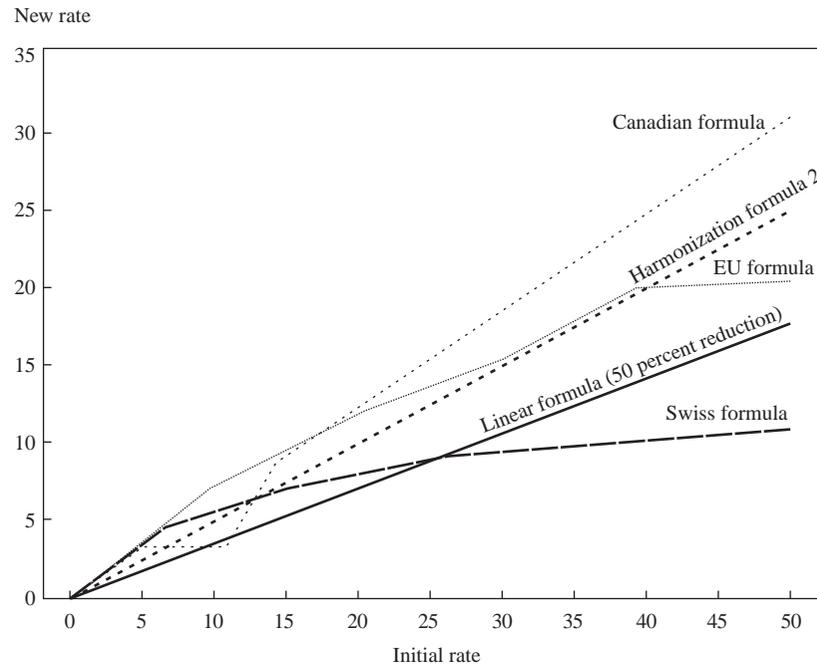
Negotiators would argue that this simple approach avoids the use of complex simulations with estimated elasticities. However, the computation is in fact a simplified partial-equilibrium comparative static approach with an implicit assumption of an infinite elasticity of supply and a (tariff) price elasticity of import demand equal to unity for all goods. This is given by the standard formula for trade creation:  $M_0[(t_1 - t_0)/t_0]e_m[1 - (e_m/e_x)]$ , where  $e_m$  and  $e_x$  are the elasticities of import demand and export supply, respectively. As can be seen, when  $e_x$  is very large the expression  $e_m/e_x$  approaches zero and  $[1 - (e_m/e_x)]$  approaches unity. If  $e_m$  is also unity, this formula becomes equal to  $M_0[(t_1 - t_0)/t_0]$ , as in the version used by negotiators. No account is taken of any possible trade diversion. Apart from the lack of realism under this limited approach, it is open to the criticism that it focuses attention only on changes in trade flows and ignores the welfare effects, which derive principally from an offer a country makes rather than from the concessions offered by its trading partners.

The request and offer approach has a disadvantage for small countries in that they are rarely principal suppliers to foreign markets, nor are their markets of great interest to other countries. This is one of the reasons developing countries took little part in early rounds of negotiations and why they made so few binding commitments prior to the Uruguay Round.

Other approaches used are formula approaches. In the Kennedy Round an across-the-board cut in rates of 50 percent for industrial goods was agreed to, and exceptions to this general formula were specifically negotiated (leaving an overall average reduction of 30 percent).<sup>19</sup> This can be expressed as  $T_1 = aT_0$ , where  $T_0$  is the tariff rate in the initial period,  $T_1$  is the rate after the cut, and  $(1 - a)$  is the percentage reduction. The effect of the 50 percent reduction is shown in figure 8-1 by a straight line through the origin.

A number of alternative tariff-cutting formulas were considered in the Tokyo Round. One harmonization formula (intended to achieve the deepest cuts in the highest rates) is given by  $T_1 = T_0 + b$ , where  $b$  is a fixed percentage and the parameters  $a$  and  $b$  were to be negotiated. Another harmonization formula designed to achieve even deeper cuts in higher rates is given by

19. This section is partly based on Laird and Yeats (1987).

**Figure 8-1. Implications of Various Tariff-Cutting Formulas**

Note: Based on the application of formulas in the text to hypothetical rates.

$T_1 = T_0 - (T_0 \times 2)/100$ , and it was suggested that this formula be reapplied three times. The effects of applying the second of these formulas are also shown in figure 8-1 as harmonization formula 2.

In the end the Swiss formula was generally applied in the Tokyo Round. This was designed to achieve deeper cuts in higher tariff rates, thereby specifically addressing the problem of tariff peaks. It is given by  $T_1 = aT_0/(a + T_0)$ , where the value of 14 was proposed and used for the coefficient  $a$ , although some countries used a value of 16, giving lesser reductions. The Swiss formula with a coefficient of 14 is illustrated in figure 8-1, where it is clear that it does more for reducing tariff peaks than the other formulas shown. However, exceptions to the general application of the formula carved out a number of products of export interest to the developing countries. The result was as follows:

An examination of initial offers indicated that less than the formula reductions, or no reductions, were offered for a good number of items for which developing

countries were major suppliers. . . . The total or partial exceptions covered textile items for which the developing countries were significant suppliers as well as other sectors such as footwear, leather goods, cutlery, porcelain, wood or wood products, certain types of non-ferrous metals, etc.<sup>20</sup>

The Canadians and the members of the European Communities in the Uruguay Round also proposed formulas. The Canadian formula is given by  $T_1 = T_0 - (T_0 a)$ , where  $a = 32(T_0/5)$ . The EC proposed that base rates of 40 percent or more be reduced to a maximum of 20 percent, rates between 30 and 40 percent be reduced by a linear 50 percent ( $T_1 = 0.5T_0$ ), and rates below 30 percent be reduced using the formula  $T_1 = T_0(1 - a)$ , where  $a = (T_0 + 20)$ . The results for both formulas are shown in figure 8-1. The formula approach was rejected by the United States, in particular in the Uruguay Round, as mentioned earlier.

The zero for zero approach describes a situation in which a critical mass of countries agrees to reduce tariff rates to zero in a sector, however defined. In the Uruguay Round zero for zero reductions were made in the areas of agricultural equipment, beer, certain chemicals, construction equipment, distilled spirits (brown), furniture, medical equipment, paper, pharmaceuticals, steel, and toys. It has been estimated that these reductions will increase the share of developed countries' duty-free imports from 20 to 43 percent.<sup>21</sup> This approach was also used in the area of informatics when the WTO Ministerial Declaration on Trade in Information Technology Products (ITA) was agreed to at the close of the first WTO ministerial conference on December 13, 1996, in Singapore. Customs duties and other duties and charges on these products are to be eliminated by twenty-nine developed and developing countries by the year 2000 on an MFN basis.<sup>22</sup> It is sometimes argued that many low rates of duty constitute "nuisance" rates and should therefore be reduced to zero. However, zero rates do not by themselves reduce the amount of paperwork required in a normal trade situation: normal customs procedures and ancillary inspections have to be carried out, and any additional charges and indirect taxes have to be collected. Moreover, even small rates on large cargoes—for instance, 100,000 tonnes of crude oil—can provide substantial tax revenues. Zero rates are attractive to the users of products, including consumers of final goods so

20. GATT (1979).

21. GATT (1994).

22. See *WTO Focus* newsletter, 17 (March 1997).

affected. However, if they are applied to inputs to other productive processes, they tend to increase effective protection on later stages of processing, increasing the misallocation of resources. As noted earlier, in a number of World Bank lending programs low or zero rates were often increased to 5 percent or so, while NTBs were eliminated and prohibitively high rates were reduced; this had the effect of increasing revenues while improving the allocation of resources.

A mixed approach provides for a combination of approaches such as those described above. For example, it might involve a basic formula approach on which further constraints are imposed. Such constraints might take various forms. For example, individual countries might be allowed to negotiate exceptions to the formula, permitting them to retain higher rates in certain sensitive sectors. It might be decided that in addition to using the formula, all rates below a certain level would be reduced to zero or that all rates above a certain level, say 20 percent, would be reduced to that level. In addition to using the formula results, where these have been applied, it has usually been agreed to round off the resulting ad valorem rate to some degree, such as to the next lowest half percentage point. The Uruguay Round used a mixed approach of request and offer negotiation, subject to certain constraints, as well as zero for zero negotiation, as noted above.

In past rounds of negotiations developing countries were marginalized in part because of negotiating techniques, especially the request and offer approach. However, in a sense they also opted out by sheltering themselves under the provisions of Part IV of the GATT, as elaborated in the Enabling Clause, and provisions in the terms of reference for recent negotiating rounds.<sup>23</sup> In particular they claimed not to be required to make reciprocal offers, but the result was that many products in which they had an export interest were excluded or the cuts were less deep than in areas where the developed countries had a mutual interest in tariff reductions. The more active approach taken in the Uruguay Round seems to have had some benefits, as the market access gains achieved by the developing countries fell only a little short of those achieved by the developed countries and, more important, they achieved welfare gains from their own liberalization.

23. The Enabling Clause is formally known as the Decision of 28 November 1979 of the GATT Contracting Parties on Differential and More Favorable Treatment, Reciprocity, and Fuller Participation of Developing Countries.

### **Nontariff Measures**

In the context of market access negotiations, NTMs mainly refer to import restraints as well as production and export subsidies.<sup>24</sup> Within these broad categories there are a large variety of NTMs that have many different effects, including price and quantity effects on trade and production, as well as on consumption, revenue, employment, and welfare.<sup>25</sup> These effects occur both in the country applying the measures and in other countries directly and indirectly affected by them. NTMs may overlap with tariffs and are often used with other reinforcing NTMs; for instance, domestic price support schemes need to be supported with import measures, and any resulting surpluses need subsidies to be exported.

NTMs are difficult to quantify and costly to administer. They are costly to consumers and costly to exporters (in terms of lost trade). They are inefficient ways of creating jobs, lack transparency, are inherently discriminatory, and are most intensively used against developing countries and transition economies. They also drive a wedge between world prices and domestic prices, so domestic firms are relatively unaffected by price trends on world markets and have little incentive to adopt new technologies or modern business practices. Domestic prices are often determined by the degree of competition or the lack thereof in the home market.

The Uruguay Round made considerable headway toward eliminating or reducing the use of NTMs, as well as toward setting guidelines for the use of those that are still allowed. An overview of pre- and post-Uruguay Round NTMs by broad type and sectoral coverage in Canada, the European Communities, Japan, and the United States is given in tables 8-5 and 8-6. The two outstanding features reflected by these tables are the elimination of NTMs in agriculture, principally through tariffication, and the continued application of export restraints in the area of textiles and clothing. However, the tables reflect import measures only and do not capture the importance of domestic supports and export subsidies in the area of agriculture.

For developing countries the most important areas in which changes took place in relation to market access were the use of VERs, the start of the phase-out of restraints under the WTO Agreement on Textiles and Clothing, and the breakthroughs reflected in the WTO Agreement on Agriculture. These

24. Export restraints, also NTMs, are not discussed here.

25. For a detailed discussion, see Laird and Yeats (1990). The United Nations Conference on Trade and Development (UNCTAD) uses a classification of over 100 such measures, including tariffs with discretionary or variable components.

**Table 8-5. Import Coverage of Major Nontariff Barriers in Canada, the EC, Japan, and the United States, 1989 and 1996**

Percent

<i>Indicator</i>	<i>Canada</i>		<i>EC</i>		<i>Japan</i>		<i>United States</i>	
	<i>1989</i>	<i>1996</i>	<i>1989</i>	<i>1996</i>	<i>1989</i>	<i>1996</i>	<i>1989</i>	<i>1996</i>
All nontariff barriers (NTBs)	11.1	10.4	26.6	19.1	13.1	10.7	25.5	16.8
Core NTBs <sup>a</sup>	8.9	7.2	25.2	15.1	12.5	10.0	25.5	16.7
Quantitative restrictions (QRs)	6.6	5.9	19.5	13.1	11.7	9.2	20.4	10.9
Export restraints	4.8	5.9	15.5	11.4	0.3	0.0	19.5	10.8
Nonauto licensing	2.6	0.0	4.4	1.5	8.9	8.6	0.0	0.0
Other QRs	0.8	0.0	0.2	0.2	2.8	0.6	6.6	0.6
Price control measures (PCMs)	2.4	1.3	12.4	3.2	0.8	0.7	17.8	7.6
Variable levies	0.0	0.0	6.3	1.4	0.8	0.6	0.1	0.1
Antidumping duties, counter- vailing measures, and voluntary export price restraints	2.4	1.3	2.6	0.9	0.0	0.0	17.8	7.6
Other PCMs	0.0	0.0	4.3	1.0	0.0	0.0	0.0	0.1

Source: OECD (1997). See OECD (1997) for further details of methodology.

a. Core NTBs are QRs and PCMs shown in the table imposed "with the specific intent of modifying or restricting international trade" (OECD, 1997). Noncore NTBs include automatic licensing and monitoring measures.

approaches are indicative of the techniques of negotiation for improved market access for products covered by NTMs.

For example, negotiators decided to explicitly prohibit the use of quantitative VERs in industry (other than textiles and clothing) and agriculture and to eliminate the remaining VERs by the end of 1999. Apart from the fact that they covered more trade than other measures, VERs—which were used instead of GATT Article XIX on safeguards—had become a threat to the credibility of the GATT system, as the prohibition under Article XI was being ignored by all major GATT contracting parties. This prohibition of VERs was achieved at the expense of introducing some "flexibility" into the application of safeguards, which allowed discrimination among suppliers in exceptional circumstances. However, even when VERs are eliminated there will remain voluntary export price restraints (VEPRs), which often occur as negotiated outcomes of AD cases. Given the equivalence between these measures (with exporters capturing the rents in both cases), it is inconsistent economically that one be banned while the other is condoned. Similar measures also seem to be reemerging, for example, in autos and aluminum. This issue could usefully be addressed in future negotiations.

For more than forty years the developing countries' single most important export sector, textiles and clothing, was restricted on a discriminatory basis

**Table 8-6. Sectoral Production Coverage of Nontariff Barriers in Canada, the EC, Japan, and the United States, 1989 and 1996**

Percent

ISIC	Description	Canada		EC		Japan		United States	
		1989	1996	1989	1996	1989	1996	1989	1996
1	Agriculture, forestry, and fishing	5.0	2.1	18.8	7.2	11.3	7.0	5.5	2.8
2	Mining and quarrying	0.4	4.3	0.0	6.7	3.5	0.4	0.3	0.4
21	Coal mining	8.3	0.0	0.0	42.9	n.a.	n.a.	0.0	0.0
22	Crude petroleum	0.0	9.1	n.a.	0.0	n.a.	n.a.	0.0	0.0
23	Metal ores	0.0	0.0	n.a.	4.4	n.a.	n.a.	0.0	4.0
29	Other	0.0	0.0	0.0	3.6	n.a.	n.a.	3.4	2.3
3	Manufacturing	8.3	3.9	12.6	5.4	3.9	2.5	16.0	8.1
31	Food, beverages, and tobacco	23.0	1.5	48.5	11.1	24.3	8.6	16.4	1.2
32	Textiles and apparel	42.4	45.8	74.9	75.4	28.8	28.7	84.1	68.3
33	Wood and wood products	2.1	3.7	0.0	0.0	0.0	0.0	3.9	0.8
34	Paper and paper products	1.9	0.2	1.2	1.9	0.0	0.0	1.5	1.3
35	Chemical and petroleum products	2.4	1.3	3.5	1.6	1.4	1.4	8.6	3.2
36	Nonmetallic mineral products	0.7	0.0	4.4	0.0	0.0	0.0	10.7	6.1
37	Basic metal industries	16.5	1.7	37.7	0.6	2.5	2.6	53.2	30.4
38	Fabricated metals	1.1	1.4	4.6	0.0	0.0	0.0	13.0	6.1
39	Other	0.5	0.8	1.3	0.0	0.0	0.0	4.2	1.7
	Total	7.1	3.8	12.7	5.6	4.4	2.8	17.2	7.2

Source: OECD (1997). See OECD (1997) for details of methodology.

under the MFA and the earlier Short- and Long-Term Cotton Textiles Agreements. These restraints are now being progressively phased out under the WTO Agreement on Textiles and Clothing. There are mixed feelings among developing countries about the elimination of the MFA restrictions. Constrained exporters must be expected to lose some quota rents afforded by the MFA, but the country-specific quota system also provided a form of protection for less efficient exporters against the more efficient, to which quotas could not be transferred. (There have already been reports that Bangladesh is losing out to China in some areas.)

Subject to special safeguards, the phase-out of the MFA and the gradual integration of the textiles and clothing sector into the normal WTO rules is being effected over a ten-year period under the supervision of a Textiles Monitoring Body (TMB). A minimum of 16 percent of the total 1990 volume of imports covered by the MFA were due to be integrated into the WTO in 1995. At least another 17 percent of the value of 1990 imports will be integrated following the third year of the phase-out period. An additional minimum of 18 percent will follow after the seventh year, and the remaining 41 percent will be brought under WTO rules at the very end of the phase-out

period. Each phase-out is intended to include products from four different groups: tops and yarn, fabrics, made-up textiles, and clothing.

Quota restrictions are being expanded by the amount of the prevailing quota growth rates plus 16 percent annually for the first three years. A further expansion of 25 percent will take place in the subsequent four years, and an additional 27 percent in the final three years. These rates may be adjusted if it is found that members are not complying with their obligations.

In the major review of the implementation of the Agreement on Textiles and Clothing in the first stage of the integration process, held in February 1998, a number of concerns were raised. These included the back-loading of the integration process (holding off the more difficult adjustments until the end), the exceptionally large number of safeguard measures in use, the more restrictive use of ROOs by the United States, tariff increases, the introduction of specific rates, minimum import pricing regimes, labeling and certification requirements, the maintenance of balance of payments provisions affecting textiles and clothing, export visa requirements, and the double jeopardy arising from the application of AD measures to products covered by the agreement.

The WTO Agreement on Agriculture, one of the main achievements of the Uruguay Round, brought the agricultural sector under more transparent rules and set the stage for a progressive liberalization of trade in the sector. Among its main achievements were tariffication (or elimination) of NTMs based on 1986–88 prices, the full binding of the new tariffs by developed and developing countries, and phased tariff reductions; reductions in the level of domestic support measures (except for permitted or “green box” supports and supports below a certain level, that is, “de minimis” amounts); and reductions in outlays on export subsidies and the volume of subsidized exports. The main exceptions to tariffication were rice and, for developing countries, some staple foods, to which minimum access commitments apply. Special safeguards (increased duties) can be triggered by increased import volumes or price reductions (by comparison with average 1986–88 prices expressed in terms of domestic currency). There is also a “peace” clause to constrain the use of antisubsidy actions until 2003.

Apart from these specific areas covered by the market access negotiations in the Uruguay Round, a number of important NTMs were covered in rules negotiations. These include contingency protection (safeguards, AD duties, and CV measures), technical barriers (including sanitary and phytosanitary measures), trade-related aspects of intellectual property rights (TRIPs), TRIMs,

import licensing, state trading, and ROOs. These are covered by other chapters in this volume.

One important area of rules relates to the use of subsidies, which are covered by the WTO Agreement on Subsidies and Countervailing Measures (SCM) and the Agreement on Agriculture. These rules distinguish between domestic and export subsidies and provide for differential treatment of agricultural products and manufactured products. Some subsidies, notably export subsidies, are prohibited, whereas others are “actionable” or “nonactionable,” either in the WTO or through CV actions. There are notification requirements for all specific subsidies—those targeted to particular enterprises, industries, or regions—as well as for export subsidies and import-substitution subsidies. The WTO Agreement on Agriculture also prohibits the use of export subsidies except in conjunction with product-specific reduction commitments, and it defines the conditions under which certain types of domestic subsidies (“green box” subsidies, or permitted subsidies; “blue box” subsidies, or subsidies that are partially delinked from production; or “S&D box” subsidies, subsidies used under the provisions of Article XV of the agreement for special and differential treatment of developing countries) are exempt from reduction commitments. In this area the emphasis on delinking supports from production was an important new approach to rural incomes.

WTO rules on NTMs were extended in the Uruguay Round to cover trade-related investment measures. In particular, the TRIMs Agreement prohibits measures that require particular levels of local sourcing by an enterprise (that is, local content requirements); restricts the volume or value of imports that an enterprise can buy or use to the volume or value of products it exports (that is, trade-balancing requirements); restricts the volume of imports to the amount of foreign exchange inflows attributable to an enterprise; and restricts the export by an enterprise of products, specified in terms of the particular type, volume, or value of the products or of a proportion of the volume or value of local production.

Among the most important TRIMs in practice are the local content and trade-balancing requirements, which are extensively used in developing countries’ automotive industries. Developing countries that notified the WTO of their TRIMs are allowed to maintain them until the end of 1999, when they are to be dismantled. The abolition of TRIMs will promote a more neutral trading and investment environment in those countries and a more efficient allocation of scarce resources. The automotive industries in a number of countries are pressing their governments to seek an extension of the period in which to adjust

to the new trading environment, but since the Uruguay Round the WTO members have been much more reluctant to grant waivers to the main rules.

Following the previous discussion it is clearly necessary to distinguish those NTMs that are to be eliminated from those that are to be subject to agreed-upon disciplines or to rules that set out the conditions under which they may be used. Improved market access would require the elimination or relaxation of NTMs such as remaining quantitative restrictions, domestic supports, and export subsidies (and taxes). Others will simply be the subjects of improved disciplines, such as AD or CV investigations, technical barriers, TRIPS, ROOs, standards, and so on. In some cases, such as those of subsidies and perhaps government procurement, there is scope for further work on the rules as well as improved market access commitments.

It is possible that new negotiations could lead to prohibition of further NTMs and that the options will be immediate elimination or phasing out of the measures. For those NTMs that are to be phased out, there are several possibilities: phasing out the NTMs by relaxing the provisions—for example, expanding quotas or reducing subsidies; progressively reducing the range of products affected; or converting NTMs to tariffs to then be included in the scheduled tariff reductions.

For immediate or phased elimination, there may be a case for differential treatment for developing countries as users of the measures, giving developing countries longer periods to adapt. However, given the negative effects that NTMs tend to have on domestic welfare, such differential treatment is unlikely to confer an advantage. On the other hand, even when developing countries wish to liberalize as quickly as possible to capture such welfare gains, their negotiators face the dilemma that they would wish to retain such measures to offer as concessions in negotiations and hence, one might hope, gain reciprocal concessions or expanded access to foreign markets for their exports. The expectation of obtaining enhanced access to foreign markets is also seen as being useful to persuade domestic industry to accept the liberalization of the home market. It is sometimes argued in relation to tariff offers that the key to obtaining reciprocity is not the offer to make a tariff reduction, but the offer to bind the reduced rate. A parallel might be the offer to bind the elimination of an NTM, although there is no specific WTO provision for such negotiations.

Another issue is the treatment of countries affected by the measures, particularly any quantitative measures. Normally one would expect a measure to be scaled back in proportion to the market share, but some countries may argue that they should be given differential treatment—for instance, more rapid

liberalization for least-developed exporters (as provided in the Agreement on Textiles and Clothing) under a market-opening measure or less rapid phasing out of export subsidies for poor food-importing countries.

In the case of phased elimination, decisions would need to be made on the base period, the period over which the elimination was to be accomplished, and whether the percentage changes were to be equally applied or whether there were to be front- or back-loading of the elimination. In the case of conversion of tariffs, some technical work might be required on how this should be done (an agreed-upon methodology) and whether such work should be carried out by the members themselves (the approach in the Uruguay Round agricultural negotiations) or by the WTO Secretariat, ensuring more consistent treatment. Decisions might also be made on minimum cuts in each tariff line. Another issue might be whether to allow backsliding in certain areas provided average reductions are achieved.

In the case of products covered by multiple measures it might be useful to examine some technical issues, such as the coordinated phasing of changes. For example, one issue to consider is how to coordinate import liberalization with phased reductions in domestic supports and export subsidies to achieve a smooth transition to a more open regime. A technical matter is that import liberalization is usually carried out in relation to products under the tariff classification, whereas subsidies are affected in terms of different product or industrial classifications. In principle this could be resolved by means of a concordance, but this would require a change from traditional approaches. Delinking domestic supports from production partly resolves this issue.

### **The Agenda for Future Negotiations**

Although average tariffs have fallen considerably over the last fifty years, they will rightly be a major issue in future market access negotiations. From the perspective of developing countries and good economics, the use of the Swiss formula approach would avoid the exclusion or minimalist treatment of products in which these countries have strong export interest. If necessary, developing countries should form a coalition, perhaps with interested developed countries that share such a goal. There is also a need to increase transparency by limiting the use of tariff rates that are not expressed in ad valorem terms; exceptions should be subject to detailed

periodic public notifications, which would allow the trading community to assess the conformity of the ad valorem incidence of such rates with binding commitments.

It is important for developing countries to participate actively in a new round of negotiations by seeking and offering rate cuts and binding commitments, since in the long run the improved security of access through increased tariff bindings may offer more advantages to developing countries than unilaterally granted but unbound preferential access. The advantage of these countries' making their own commitments is to provide stable and credible trade regimes to attract foreign direct investment (FDI) and the associated technology needed for their further development.

If participants in a new round could agree to a formula approach, this would achieve the synergy of reciprocal concessions while allowing negotiators to sell the deal to their domestic constituencies. However, if this is unattainable developing countries should not forego the welfare gains to be achieved from advancing their own liberalization while waiting for others to do the same; strategically this implies advancing on unilateral liberalization while using bindings to achieve reciprocity.

Provided that the integration of textiles and clothing is accomplished as agreed, negotiations on NTMs in a new round of negotiations will be focused on rule making. The main exception in the area of goods will be in agriculture, where we can expect a continuation of efforts to cut back on domestic supports and export subsidies (with tariff cutting on imports). Developing countries' interests in this area are extensive, including large-volume temperate-zone products; the fast-growing area of fruit, vegetable, and floricultural products, with high levels of value added; and tropical products. However, the phasing of any new commitments will raise a number of technical questions in response to which some different approaches from those in the Uruguay Round might be usefully considered.

In the Uruguay Round market access was initially covered by separate negotiating groups on tariffs, NTMs, agriculture, natural resource-based products, textiles and clothing, and tropical products, but a number of these were covered by a single market access group in the final stages of the round. There was a determined effort to consider tariffs and NTMs together in order to avoid a situation in which cuts in tariff rates would be effectively annulled by the existence of NTMs, leading to no increase in market access. One disadvantage was that, since market access was contentious in certain product areas, as were the rules for using certain measures, there was no incentive for many coun-

tries to make offers until the general shape of the package became known. The use of a formula approach or development of a critical mass in certain areas—as in the Ministerial Declaration on Trade in Information Technology Products (ITA)—might allow a more rapid advance that would serve as an encouragement to make breakthroughs in other areas.

In any new round of negotiations there will be a need to develop technical expertise in developing countries, and this effort should be made ahead of the round. However, the WTO has relatively few resources in this area, and negotiations on the conditions for establishment of an independent secretariat suggest that such constraints will continue for some years. This gap will need to be filled either with trust funds from sympathetic member states or by other organizations, perhaps with funding from the United Nations Development Program (UNDP). As to the substance of such assistance, it is highly desirable that this be directed to institution building and the development of analytical expertise; this would allow the developing countries to formulate their own judgments, appropriate to their own politicoeconomic environments, about how best to achieve their own welfare goals.

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