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# Market Access Problems for Developing Countries in the Agricultural Sector



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Am Michaelshof 8-10

53177 Bonn

Telephone: +49-(0)228-35 97 04

Fax: +49-(0)228-35 90 96

E-mail: [forumue@compuserve.com](mailto:forumue@compuserve.com)

Internet: [www.oneworldweb.de/forum](http://www.oneworldweb.de/forum)

**Responsible:**

Jürgen Maier

**Author:**

Thomas Fritz, Berliner Landesarbeitsgemeinschaft

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Bettina Oehmen

**Translation:**

Laura Radosh

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# Introduction

Until the beginning of the Uruguay Round in 1986, the agricultural sector was exempted from the GATT (General Agreement on Tariffs and Trade). Only individual agricultural products were integrated in the negotiations of previous rounds. Some GATT rules were therefore not found in agricultural policy:

- ◆ Quantitative import restrictions were, unlike for all other products, allowed under certain conditions in the agricultural sector.
- ◆ Export subsidies were allowed
- ◆ Variable import levies and domestic subsidies were not covered by the GATT

The exemption of the agricultural sector from the liberalization obligations of the GATT favoured the protectionism with which, first and foremost, industrial countries treated their farms. Their high levels of support led to the well-known surplus production - particularly in the EU, whose surplus was exported and led to falling world market prices for many products. This was heightened by the simultaneously raised variable import levies in the EU and by deficiency payments in the USA. Producers in developing countries were hardest hit. Low world market prices put pressure on their domestic price levels. They also suffered from the effectual taxing of agricultural products in many developing countries. The negative price development for agricultural products threatened the earning possibilities of much of the

rural population and forced many farmers to give up their farms.

The tense situation in the world agricultural market stimulated many trade disputes, particularly between the USA and the EU. Although agriculture in its entirety was not yet under the GATT rules, it was nevertheless the subject of 60 percent of GATT dispute settlements between 1980 and 1990 (FAO 1998: 6). These disputes put their mark on the agricultural negotiations of the Uruguay Round. Only with the Blair House Agreement of 1992 was an understanding possible between the USA and the EU and thus the completion of the Agreement on Agriculture (AoA) and the Uruguay Round in December of 1993.

The agricultural agreement has as its goal the reform of the agricultural policies of WTO members and the reduction of distortions in agricultural trade. These distortions arise from three categories of measures, subject to stricter regulation under the AoA:

- ◆ Market Access restrictions (AoA 1994, Art. 4)
- ◆ Domestic Support (AoA 1994, Art. 6)
- ◆ Export Subsidies (AoA 1994, Art. 9).

The agreement on agriculture also stipulates that further liberalization negotiations shall begin in 2000. During these negotiations, experiences in implementation, the effects of liberalization on world trade in agricultural products and non-trade concerns should all be taken into account.

The current WTO negotiations form the background of this study<sup>1</sup>. Central is the question of whether the hopes of many developing countries for better market access have been met and what limitations their agricultural exports are still subject to

after completion of the Uruguay Round. Four areas are investigated here: tariff policy, preference systems, sanitary and phytosanitary standards and the role of transnational corporations. For each area current proposals for reform are discussed and joined into main demands.

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# Structure of and Markets for Agriculture Exports from Developing Countries

In order to demonstrate the relevance of agricultural trade for developing countries, the structure of and markets for their exports shall first be examined.

In 1996, agricultural products worth 420 Billion US dollar were exported. The share of the developing countries in these exports is relatively low, however their dependence, on agricultural exports, particularly in the case of the least developed countries (LDC), remains quite high. The market share of the 9 largest agricultural exporters is 63,3%. These include the USA with 19,5% and the EU with 15,5%. The remaining seven largest exporters are Canada, Australia, Brazil, China, Thailand, Argentina and Malaysia. The remaining third of all world exports are shared by all African countries, the smaller Latin American exporters and the remaining Asian countries (Engel und Reichert 1999: 33). Between 1996 and 1997 the share of the developing countries in worldwide agricultural exports was 30,7% (UNCTAD 1999: 5).

At the same time, the share of agricultural exports in total exports of developing countries is very high, over 90% in the case of some of the 48 LDC. For all LDC, the share of agricultural commodities in total exports is a mean of 14,7%, for Sub-Saharan Africa, 26,8%. Some countries are particularly

dependent on agricultural exports, for example Uganda with 98,8%, Somalia with 97,2%, Malawi with 93,7%, Sao Tome & Principe with 93,3% and Chad with 90,3% (Harrold 1995: 5).

A further difficulty is the dependence of the LDC on only a few export articles. On the average, 3 products account for over 70% of the total exports of individual LDC. Furthermore, approximately 75% of LDC products are delivered as raw material, half of which are agricultural and forest products (OECD 1997a: 10). Some of their most important agricultural export products are coffee, cocoa, bananas, copra, cotton, jute and tea.

Thus, developing countries are strongly affected by the continuously falling commodity prices. Since 1970, prices for commodities have fallen almost 40% (UNCTAD 1999: 9). Further, developing countries suffer from the volatility of commodity prices caused by, e.g., macro-economic crises. When in the beginning of 1999 Brazil encountered its financial crisis and devalued its currency, the commodity markets were immediately affected. The expectation of increased Brazilian sugar exports at a time when other producing countries had record harvests and the foreign exchange shortage of the most important buyer, Russia, led to a fall in sugar prices to

under 5 cents a pound, the lowest level in more than 12 years (ibid.: 12). Finally, the marketing possibilities for developing countries are strongly af-

ected by the declining share of commodities in world trade and by changing consumer habits in the buyer countries.

**Table 1: The export markets of Developing Countries 1995, in % (OECD 1997a: 37)<sup>2</sup>**

	OECD total	EU	Japan	USA & Canada	Rest OECD	Eastern Europe	Dev. Countries	other
<b>LDC</b>	63,7	35,9	6,1	20,5	1,2	1,1	34,0	1,2
<b>All dev. Countries</b>	55,0	21,6	10,1	21,1	2,1	4,5	38,0	2,5

The industrial countries of the OECD are the main buyers (see Table 1), taking in 55% of all developing country exports as well as the developing countries themselves, to which

38% of all exports go. In the case of the LDC, the dependence on OECD markets is even higher (63,7%), whereby the main share is bought by the EU (35,9%).

<sup>2</sup> OECD total + Eastern Europe + developing countries + other = 100%.

# Tariffs and Duties

**M**any developing countries hoped for facilitated market access to OECD and other countries through the WTO Agreement on Agriculture. In the following, some of the more important rules of the AoA in the area of market access will be discussed and their implementation in the important markets such as the EU, the USA and Japan shown. Particular emphasis will be made on the tariff structure in the agricultural sector which developed after the Uruguay Round, a structure distinguished by great complexity, tariff peaks, continuing tariff escalation and the non-transparent handling of tariff rate quotas (TRQ). A further potential market access obstacle are the special safety provisions of the agricultural agreement. The proposals made in the evaluated literature for reducing access problems caused by tariff policies will be discussed later.

## The Rules of the Agreement on Agriculture

The Agreement on Agriculture (AoA) is, i.a., meant to reduce limitations on market access for agricultural products. These limitations can take the form of,

- ◆ Tariffs,
- ◆ Variable levies,
- ◆ Import quotas and
- ◆ Other non-tariff trade barriers.

The rules of the AoA in the area of market access are, in the main:

- ◆ Tariffication (conversion of non-tariff trade barriers into tariff equivalents),
- ◆ Tariff reduction,
- ◆ Market access commitments and
- ◆ Special Safeguard Provisions.

## Tariffication and Tariff Reduction

The protection granted by non-tariff trade barriers during the base period 1986-1988 had to be converted into tariff equivalents. This means quantitative restrictions and variable tariffs were converted according to a certain mode into bound tariffs. The thus set tariff equivalents constitute the base rate of duty for every product accounted for in the AoA. In cases in which no non-tariff trade barriers existed, the tariff existing at the beginning of the Uruguay Round (September 1986) was chosen as the base rate of duty. In other words, the base rate of duty for each product accounted was either the level existing at the beginning of the round or the tariff equivalent set by conversion of non-tariff barriers.

These base rates of duty must on average be reduced by 36% by the year 2000. When this average is reached, tariffs for individual products need only be reduced by 15%. Developing countries must reduce their tariffs by an average of 24% by the year 2004, tariffs for individual products by only 10%. The least developed countries (LDC) are exempted from tariff reductions, must however implement tariffication and may not raise bound



rates of duty. The tariff levels resulting from the reductions of each country and for each product are legally binding. This means they are the highest tariffs allowed at the end of the implementation period (2000, or 2004 for the developing countries). (FAO 1998: 35). At the end of the implementation period, all tariffs on agricultural products in the industrial and developing countries will be thus bound (Finger/Schuknecht 1999, S. 33). The quantitative obligations for each country are set in so-called country schedules and form part of the Agreement on Agriculture.

A special safeguard provision (Article 5, AoA) allows additional duties for particular products if the import volume exceeds a trigger level or the import price falls below a trigger price. The products which fall under the special safeguard provisions must be marked in the country schedules.

### Minimum Access and Tariff Rate Quotas

As tariffication in some cases led to prohibitively high tariffs, a minimum access rule was agreed upon in order to protect the **current access** for exporters. Further, products which are imported in small quantities are guaranteed a **minimum access** of 3% of domestic consumption of these products at preferred tariffs. The minimum access should be raised to 5% by the end of the implementation period (2000 or 2004). Both current and minimum access take the form of tariff rate quotas (TRQ).

How these TRQs should be allocated is, however, not defined within the Agreement on Agriculture.

For these quota commitments, an exemption of the GATT/WTO goal of eliminating non-tariff barriers, including quantitative restrictions, was made. Exporting countries are not disinterested in quotas, as these guarantee

them access to export markets and can lead to a so-called quota rent<sup>3</sup> in the form of higher profits. These are due to the lower tariff rates which are applied to within-quota imports. Higher profits can however also lead to raises in prices due to a lower supply in the importing country or the quality improvement of the export product and thus the ascent in a higher price segment.

### Bound Tariffs

As Table 2 shows 100% of agricultural tariffs will be bound after implementation of the obligations of the Uruguay round. However, it is conjectured that only 26% of the tariff bindings in the industrial countries is commensurate with a lowering of the protection level. Particularly conspicuous is the low rate of 14% by tariffied products. This accentuates the high level of protection reached by non-tariff barriers such as quantitative restrictions, variable import levies, voluntary export restraints etc., which were in place before the Uruguay Round and which are mirrored in correspondingly high tariff bindings. Thus, a trade creating effect is less expected where tariffication has taken place, but rather where reductions of previously bound or actual tariff levels take place.

<sup>3</sup> Quota rent is the name of the additional profits which can be won through the allocation of quotas. The additional profit span comes from the lowered tariff rates within the quota. It can however also arise through higher prices due to the supply shortage owing to volume limits in the importing country or to "upgrading" – the quality improvement of the export product and thus the ascent to a higher price segment.

**Table 2: Tariff Bindings for agricultural products after the Uruguay Round (UR), in % (Finger/Schuknecht 1999: 33).**

	Percent of GATT-bound Imports		Post-UR bindings that reduce protection
	Pre-UR	Post-UR	
<b>Tariffied Products</b>			
All Countries which tariffied	66	100	14
<b>Non-tariffied Products</b>			
Industrial Countries	71	100	35
Developing Countries	37	100	17
<b>Tariffied and Non-tariffied Products</b>			
Industrial Countries	72	100	26
Developing Countries	73	100	17

### Implementation of the Agreement on Agriculture

The obligation to reduce tariffs could be palliated by the clever declaration of base rates of duty. In the case of tariffication, often a higher tariff equivalent was named than the actual protectionist effect resulting from the non-tariff measure. This phenomena is known as dirty tariffication. In the case of the EU it is estimated that declarations in the agricultural sector lie 60% over the actual tariff equivalents, for the USA a dirty tariffication of 45% is estimated (Anderson et.al. 1999: 9). Products which have a particularly high level of dirty tariffication in the EU are rice, dairy products, sugar, wheat, beef and veal.

The declaration of high base tariff levels is aided by the choice of the base period (1986—1988). Since the tariff equivalent is calculated as the difference between domestic and world market prices (in domestic currency) and since during the base period relatively low world market prices for agricultural products existed, this difference was quite high. Thus the protection granted by the non-tariff barriers was

quite high and led to the setting of equally high base tariff levels.

### Non-transparency and Complexity of Tariff Structures

Obligations were further weakened by the possibility of spreading tariff reductions unequally among products. As long as the average reduction of 36% was reached, it was enough to reduce individual tariffs by only 15%, which was often taken advantage of. According to a simple average, no difference is made between the reduction of higher and lower base tariffs. For example it is possible to lower the tariff levels of 3 products set at over 100% by only 15% and still reach the average reduction obligation of 36% by striking a 4% tariff on one further product (equivalent to a reduction of 100%). Thus it is still possible to protect sensitive products in the domestic market from foreign competition. The tendency is encouraged to make high reductions where tariffs are already low and low reductions where the base tariffs are high. This leads not to a harmonization of the tariff structure in the agricultural sector, but rather illustrates the fact that tariff peaks are en-

couraged by the AoA (Tangermann 1995: 8). Through freedom to determine product groups, tariff peaks can hide behind aggregate tariffs. These tariff peaks could have been reduced if a tariff cutting formula was used which was meant to lead to a harmonized tariff structure. An example of a reduction formula which sinks higher levels more than lower is the "Swiss Formula" applied to industrial products in the Tokyo round of the GATT.

Tariff structures in the agricultural sectors of the industrial countries are also highly complex. There are different preferential tariffs for quotas, complex import arrangements and many specific and compound tariffs. According to the type of calculation, a difference is made between ad valorem, specific and compound tariffs. For the dominant ad valorem tariff, a certain percent of the product value is levied; for specific tariffs, a fixed price is set according to certain units of quantity. Compound tariffs can be set either as a variable levy or as a combination of ad valorem and specific tariffs. Each of these types of tariffs can be found in the agrarian sector. Particularly the specific and ad valorem tariffs, allowed since the Uruguay round, make the tariff structure opaque

and make it difficult to compare trade barriers between different products and countries, a fact very relevant for future negotiations. Furthermore, low-price imports are affected more strongly by specific tariffs than by ad valorem tariffs (FAO 1999b: 8).

### Implementation of Commitments in the OECD-Markets

How have the most important OECD buyers of agricultural exports from developing countries (USA, EU and Japan) implemented the reduction commitments? In their country schedules, the USA has 1140 bound tariffs (273 of these duty-free), the EU has 1502 (243 duty-free) and Japan 1041 (242 duty-free). (OECD 1997: 82).

Table 3 shows that all three trade blocks reached the average reduction commitment of 36% (EU 37,7%; Japan, 36,8%; USA 38,8%). However one can also see that a high tariff level remains after the implementation of the Agreement on Agriculture. The EU-agricultural tariffs will be 17,7%, Japan's 40,2% and those of the USA a comparatively moderate 7,9%. The information given on the base period is to be taken with a grain of salt due to the phenomena of dirty tariffication.

**Table 3: Average Reductions on Agricultural Products, in % (Tangermann 1995: 33)**

	EU	Japan	USA
<b>Actual reductions in the country schedules</b>			
Average tariff level in the base period	26.2	52.3	11.3
Average tariff level after the implementation period (2000)	17.7	40.2	7.9
Average rate of reduction	37.7	36.8	38.8

Table 4 gives a summary of the bound agricultural tariffs of the three main buyers, the EU, Japan and the USA,

after the Uruguay round. The enormous discrepancy between tariff levels within and among the three markets is evident.

**Table 4: Agricultural Tariffs after Implementation of the Reduction Commitments in the Year 2000, in % (Tangermann 1995: 38)**

Product	EU	Japan	USA
Common Wheat	56,5	259,3	1,8
Barley	90,0	151,7	0,6
Maize (not seed)	86,1	3,4	2,0
Rice (not seed)	13,0	NA	8,3
Soybeans	0,0	0,0	0,0
Coffee (not roasted)	0,0	0,0	0,0
Coffee (roasted)	7,5	12,0	0,0
Tea	0,0	17,0	6,4
Cocoa beans	0,0	0,0	0,0
Bananas, green	145,6	27,5	0,0
Raw Sugar (unrefined)	41,0	115,4	58,5
Tobacco	18,4	17,8	7,9
Beef (rump)	87,8	50,0	26,4
Pork (rump)	28,6	136,3	0,0
Chicken (Whole)	16,1	11,9	5,2
Butter	66,5	307,2	46,6
Skim Milk Powder	119,5	337,0	74,1
Non-weighted Average of all Agricultural products	17,7	40,2	7,9

The numbers given here show the bound levels which act as the highest allowed tariffs after the reductions in the year 2000. In reality however, often lower tariffs than the bound ones are applied, so that in the future there will be room for tariff raises. In many cases, the actual applied tariffs at the end of the Uruguay Round are below the bound levels. Typical for the tariff profile of the main importers are the high tariffs on non-tropical products and lower ones on tropical products. Generally, tariffs on products from temperate zones were reduced by less than those on tropical products. Developing countries, however, have a strong interest in non-tropical products as well, as this export market is expanding. (UNCTAD 1997).

### **Tariff Peaks**

An OECD study reaches the conclusion that protection in the agricultural

sector of 8 from 10 OECD members (the EU counts as one member) is higher in 1996 than it was in 1993. For this calculation, the actually applied tariffs were taken. As these are often lower than bound tariffs, the actual level of protection by bound tariffs is even higher (quoted in: FAO 1999b: 8). Many of the bound tariffs, as well as the applied tariffs, are seen as prohibitive, i.e. they are so high that nothing outside of the minimum access quotas (see below) is imported. Table 5 provides a summary of the peak tariffs of the EU for individual product groups as well as in aggregated form for Japan and the USA.<sup>4</sup>

<sup>4</sup> In the cases in which tariff rate quotas exist, bound tariffs shown here present the above-quota tariff rates.

**Table 5: Distribution of Tariff Peaks by Product Groups in the EU; for Comparative Purposes, Sum of the Tariff Peaks of Japan and the USA (UNCTAD 1999a: 14)**

Product Group	Number of Tariffs						Number of Peak Tariffs	Percent of all Peaks
	Total	12-19%	20-29%	30-99%	100-299%	>= 300%		
Meat, Livestock etc.	351	52	68	79	13	1	213	16,2
Fish and Crustaceans	373	96	45				141	10,7
Dairy Products	197	14	21	77	9		121	9,2
Fruits and Vegetables	407	116	10	5	1		132	10
Cereals, Flour etc.	174	21	29	75			125	9,5
Veg. Oils, Fats, Oilseeds	211	14		8	1	1	24	1,8
Processed Meat, Fish, etc.	105	33	17	8			58	4,4
Sugar, Cocoa and Preparations	75	10	34	6			50	3,8
Prepared Fruits and Vegetables	310	140	70	39	1		250	19
Other Food Industry Products	90	16	27	8			51	3,9
Beverages and Tobacco	202	48	9	15	2		74	5,6
Other Agricultural products	231	12	4	14	4		34	2,6
<b>Total: all Agricultural - and Fishery Products</b>	<b>2726</b>	<b>572</b>	<b>334</b>	<b>334</b>	<b>31</b>	<b>2</b>	<b>1273</b>	<b>96,8</b>
<b>Japan: Agricultural - and Fishery Products</b>	<b>1897</b>	<b>204</b>	<b>299</b>	<b>111</b>	<b>81</b>	<b>65</b>	<b>760</b>	<b>85,1</b>
<b>USA: Agricultural - and Fishery Products</b>	<b>1779</b>	<b>138</b>	<b>70</b>	<b>99</b>	<b>15</b>	<b>11</b>	<b>333</b>	<b>36,6</b>

The peak tariffs are defined here as ad valorem tariffs above 12%. The vast majority of peak tariffs in the EU and Japan are levied on agricultural and fishery products: in the EU, 96,8% (only 3,2% of the peak levels are for industrial products), in Japan 85,1% (14,9% on industrial products). In the USA the picture is a bit different. There, only 36,6% of tariff peaks are on agricultural and fishery products and 63,4% on industrial products. The peak tariffs of the agricultural sector are found particularly in three groups: staple food products, fruits and vegetables and processed foods.

In the staple food group peak tariffs are found mainly by meat, sugar, milk, butter and cheese as well as for cereals, tobacco and cotton. These high

tariffs often go hand in hand with further country specific measures, i.e. the levying of further tariffs under the special safeguard provisions of the Agreement on Agriculture (see below). The EU has levied additional tariffs on poultry, eggs and sugar since the end of the Uruguay round, which amounted in the case of sugar to 65% - 120%. The EU has also levied additional duties on sugar additives in certain processed products (UNCTAD 1999a: 5).

For fruits and vegetables, the peak tariffs are somewhat lower, usually between 12% and 30%. In the EU, the prohibitively high levels for bananas beyond the quota limits and the import price system for fruits and vegetables are striking. During the tariffication process, the EU established a system of

threshold import prices with accompanying tariffs in which fruit and vegetable imports which lay under a certain threshold price are levied with higher tariffs. This is true especially for, i.a., oranges and other citrus fruits, grapes, apples, tomatoes, olives and cucumbers (UNCTAD 1999a: 5). However for some fruits and vegetables, tariffs are much higher in the high season. This affects the continuity and profitability of exporting. For example, the EU set a specific tariff for oranges of 71 Ecu per ton as of 2000 plus an ad valorem tariff of 3,2% from July 1<sup>st</sup> to October 15<sup>th</sup>. From April 1<sup>st</sup> to 30<sup>th</sup> the ad valorem tariff can go up to 10,4%. The tariffs for tomatoes are similar, their specific tariff is 298 Ecu per ton plus 8,8% from May 15<sup>th</sup> to the end of October. From November 1<sup>st</sup> until May 14<sup>th</sup> the ad valorem tariff can go up to 14,4% (WTO 1998: 4).

In the entire sector of processed agricultural products, tariff peaks and additional measures are widespread in the industrial countries. In the EU, the food industry accounts for 30% of all peak

tariffs - most lying between 12% and 100%. Particularly high levels are found in products on a cereal or sugar basis, processed fruit and fruit juices (UNCTAD 1999a).

## Tariff Rate Quotas

Both market access commitments of the Agreement on Agriculture, the minimum access and the current access rule have resulted in the establishment of new tariff rate quotas (TRQ). A certain quota is set at which imports are subject to lower tariffs, outside of this quota, most favoured nation (MFN) levels<sup>5</sup> are taken. 36 WTO members have 1370 TRQ for agricultural products listed in their country schedules (FAO 1999b: 9). However, there are no rules as to how much lower within-quota tariffs may be in comparison with above-quota levels. Therefore the difference between both levels varies greatly.

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<sup>5</sup> MFN tariffs are the normal non-preferential bound rates, that apply to all WTO members, who don't receive any trade preferences.

**Table 6: Tariff Quotas, Quota Rents and Fill Ratios, 1996 (Elbheri, Ingco und Pearson 1999, quoted in Anderson et.al. 1999: 27)**

	In-quota ad valorem tariff, %	Out-of-quota ad valorem tariff, %	Maximum quota rents, \$ US billion	Quota fill ratio, %	Quota as a % of total imports
<b>EU</b>					
Wheat	0	87	0.0	21	2
Other Grains	35	162	0.4	74	26
Sugar	0	147	2.4	100	87
Dairy Products	24	91	1.1	99	80
Meat	19	128	2.3	100	73
Fruit & Vegetables	11	51	0.0	78	20
<b>USA</b>					
Sugar	2	129	1.0	97	76
Dairy Products	11	70	0.6	77	95
Meat	5	26	0.0	67	102
<b>Japan</b>					
Wheat	0	234	3.4	109	95
Other Grains	0	491	10.8	109	84
Dairy Products	29	344	2.8	93	91

A comparison of the high above-quota tariffs with those within quotas make clear the advantage of being allocated quota licenses. The maximum quota rent in these three import markets is almost 25 billion US dollars, measured in prices for the year 1996. Furthermore, there is a large span of what counts as a "low" within-quota tariff. It can also be seen that many tariff rate quotas are not fully exploited, or, as in the case of wheat imports in the EU, hardly taken advantage of. Here lies a hidden trade barrier. It is assumed that import licenses are often allocated to suppliers who are, for differing reasons (e.g. limited competitiveness) not able to fully exploit the opportunities given. The high proportion of quotas within total imports is an indication that above-quota tariffs – as explained above – have often reached a prohibitive level (see Anderson et.al. 1999: 9).

Market access chances for exporters from developing countries are strongly dependent on the allocation of quotas, what, however, is not clearly regulated

in the WTO.<sup>6</sup> A tendency can be seen to confer quotas on interested domestic parties such as domestic producers (rather than wholesalers) who could be at a disadvantage through increased imports, or traditional importers. In the case of the minimum access quotas, it is unclear how to determine the countries, out of which the quotas should be exported. The GATT states in Article XIII (2) that the quotas should approach the shares which the exporting countries can be expected to obtain with no restrictions (GATT 1986)<sup>7</sup>, however to determine this share is difficult. Thus a tendency has developed to give these licenses to domestic firms, which then decide where the imports come from. Further there are no regulations which make the conferring of licenses on foreign companies (from e.g. the export countries) possible.

<sup>6</sup> This question is also a point of contention in the banana market regulation which the EU must reform.

<sup>7</sup> GATT Article XIII (2) states: "In applying import restrictions to any product, contracting parties shall aim at a distribution of trade in such product approaching as closely as possible the shares which the various contracting parties might be expected to obtain in the absence of such restrictions, ...".

Quotas arising from the current access rule, meant to preserve current preferences, are for the most part reserved for those countries with which preferential agreements exist. Developing countries which enter the market as new providers and which have no preferential agreements remain outside these opportunities. A further access barrier is, particularly in the case of Japan, the existence of state trading enterprises which monopolize the allocation of quotas.

There are varying opinions as to whether auctions could be a measure to distribute quotas more fairly. Those in favour emphasize the possibility that domestic as well as foreign companies would have the right to bid (Tangermann 1995: 20). Skepticism as to this solution comes from the fear that current beneficiaries in developing countries could lose their safe market access and that costs from an auction could be seen as additional import duties and therefore would not be GATT

conform (Anderson et.al. 1999; FAO 1998: 38).

**Tariff Escalation**

The practice of tariff escalation, i.e. rising tariffs with stages of further processing, is limited within the Agreement on Agriculture, but not banned. Developing countries see tariff escalation as one of the main barriers to bringing products with a higher value-added to the markets of the industrial countries. Thus their role as raw material exporters is predetermined, the building of a processing industry undermined and vertical diversification within the processing chain made impossible.

The share of all processed products in total agricultural exports is lower for developing countries than for industrial countries, but not by very much. This gap is large only for the LDC and became even larger between 1964 - 94 (see Table 7).

**Table 7: Share of Processed Products in Total Agricultural Exports, in % (Lindland 1997: 3)**

	Year		
	1964	1994	Difference 1964 - 1994
<b>Industrial Countries</b>	48,8	67,3	38,0
<b>Developing Countries</b>	41,7	54,1	29,7
<b>LDC</b>	27,0	16,9	-37,2

However, the exported processed products from developing countries are often only barely processed. The share of end products is much higher on the side of the industrial countries. If one ignores the first stage of processing, the

share of developing countries in higher processed agricultural goods lies at a mere 16,6% (LDC only 5%) as compared to 32,5% for industrial countries (see Table 8)

**Table 8: Share of Advanced Agricultural Exports in**



### Total Exports (Excluding the First Processing Stage), in % (Lindland 1997: 3)

	Year		
	1964	1994	Difference 1964-94
Industrial Countries	18,6	32,5	47,7
Developing Countries	8,4	16,6	97,2
LDC	5,1	5,0	-2,4

The effective rate of protection (ERP) is seen as the best method of calculating the effects of tariff escalation. However the calculation of the effective rate of protection is so complicated, that it is in practice hardly used.<sup>8</sup> The ERP is defined as the increase in value added which a domestic industry has from the tariff structure measured against the value added expected under free trade conditions (tariff-free). Calculating the ERP should make it possible to determine the level of protection for processed goods containing multiple pre-products. Therefore, for this calculation one must have the tariff data for all input commodities as well as know the share of all pre-products in the end product. This data is, however, rarely available.

Rather than use the difficult ERP method, an analysis of the change in direction in tariff escalation is usually made. Here, changes of the tariff wedge between input and output commodity are measured along the processing chain (Lindland 1997).

Table 9 makes clear that also after the Uruguay round the majority of agricultural exports from developing countries are effected by tariff escalation. Often, tariff reductions are higher for raw materials or barely processed goods than for highly processed ones. In these cases, tariff escalation rises. Examples in the EU are the tariffs on coffee, tea, spices, tropical fruit and jute.

Comparatively high tariffs are found on many processed products in the EU such as roasted coffee, tea extracts, chocolate, vegetable oils, tobacco, starch, conserved tropical fruits and juices, tires, yarns, and leather. High tariffs on processed products are found where the tariff reduction is under the average of 36%, in the EU, e.g., on chocolate, vegetable oils, conserved tropical fruit and juices, tires and leather.

<sup>8</sup> Lindland has made such an exemplary calculation in order to illustrate the difference against the prevailing only nominal determination of tariff escalation (see Lindland 1997: 25f.).

Table 9: Tariff Escalation for Agricultural Exports from Developing Countries, before and after the Uruguay Round, in % ( OECD 97a: 38)

Product	EU			Japan			USA		
	before UR	After UR	Reduct.	before UR	After UR	Reduct.	before UR	After UR	Reduct.
<b>Coffee</b>									
- raw	5,0	0,0	100,0	0,0	0,0	NA	0,0	0,0	NA
- roasted	15,1	7,4	51,0	NA	NA	NA	0,0	0,0	NA
- extract	18,0	9,0	50,0	22,9	14,1	38,6	0,0	0,0	NA
<b>Tea</b>									
- bulk	0,0	0,0	NA	11,2	8,8	21,5	0,0	0,0	NA
- for retail	5,0	0,2	96,1	20,0	13,9	30,6	0,0	0,0	NA
- extract	12,0	6,0	50,0	20,0	10,0	50,0	5,3	4,8	10,0
<b>Cocoa</b>									
- beans	3,0	0,0	100,0	0,0	0,0	NA	0,0	0,0	k.A:
- paste	15,0	6,9	36,0	10,0	5,0	50,0	0,0	0,0	NA
- butter	12,0	7,7	35,8	2,5	0,0	100,0	0,0	0,0	NA
- powder	16,0	8,0	50,0	21,5	12,9	40,0	0,7	0,4	42,9
- chocolate	12,5	10,0	20,0	32,7	26,4	19,3	19,5	17,0	13,0
<b>Spices</b>									
- unground	9,5	1,0	89,1	6,2	3,7	40,7	0,1	0,1	42,0
- processed	11,7	4,3	63,0	1,9	0,1	97,6	3,6	1,4	62,6
<b>Vegetable Plaits</b>									
- raw	0,0	0,0	NA	5,9	4,8	18,6	2,2	1,4	35,6
- plaits, etc.	4,3	2,2	47,8	5,2	3,6	30,3	7,0	3,3	52,5
- baskets, etc	6,2	3,9	36,9	11,4	7,5	34,9	7,1	3,1	56,9
<b>Oils</b>									
- oilseeds	0,0	0,0	NA	0,0	0,0	NA	0,6	0,5	21,8
- veg. Oils	17,0	12,4	27,7	8,5	4,5	47,2	1,9	0,4	81,1
<b>Tobacco</b>									
- unmanufactured	20,4	16,3	20,0	0,0	0,0	NA	11,2	7,7	31,1
- manufactured	79,5	31,7	60,2	13,5	11,2	16,9	7,5	3,4	54,5
<b>Roots &amp; Tubers</b>									
- fresh/dried	87,9	56,2	36,0	2,4	1,4	39,9	10,5	5,8	44,4
- flour	19,8	12,7	36,0	24,9	18,6	25,3	3,3	2,1	36,1
- starches	100,0	64,3	36,0	589,0	500,6	15,0	0,1	0,0	100,0
<b>Tropical Fruits</b>									
- fresh/dried	9,2	5,1	44,2	16,9	13,8	18,2	6,7	5,3	21,5
- preserved	23,2	18,6	20,0	41,5	25,5	38,6	3,0	2,3	24,9
- processed/juices	21,0	16,8	20,0	33,2	21,3	35,8	0,7	0,3	57,1
<b>Tropical Nuts</b>									
- unshelled/raw	2,8	2,0	27,7	6,3	1,1	82,5	0,2	0,1	50,0
- prepared	14,1	9,3	34,2	26,1	18,1	30,6	19,7	14,6	25,9
<b>Rubber</b>									
- natural rubber	0,0	0,0	NA	0,0	0,0	NA	0,0	0,0	NA
- simple worked	6,3	3,7	40,2	4,6	0,5	88,8	4,1	2,6	36,8
- tyres	5,8	4,2	26,8	2,6	0,0	100,0	4,4	3,1	29,7
- other articles	4,9	2,4	51,2	3,8	0,0	100,0	4,0	1,7	57,5
<b>Jute</b>									
- raw	0,0	0,0	NA	0,0	0,0	NA	0,0	0,0	0,0
- processed	0,0	0,0	NA	0,0	0,0	NA	0,0	0,0	NA
- yarns	5,3	0,0	100,0	10,0	0,0	100,0	3,7	0,0	100,0
- other articles	9,0	4,0	55,6	20,0	10,0	50,0	0,0	0,0	NA
- rope	12,0	6,0	50,0	10,0	0,0	100,0	4,0	0,0	100,0
<b>Hides and Skins</b>									
- raw material	0,0	0,0	NA	0,0	0,0	NA	0,0	0,0	NA
- leather	4,1	3,4	15,5	9,7	4,1	57,7	3,8	3,0	21,0
- other articles	6,7	4,2	37,2	11,8	9,6	19,0	10,2	9,4	8,5

According to Lindland's study of the three agricultural importers the USA, the EU and Japan, over 80% of tariff wedges input commodities and processed products were reduced after the Uruguay Round. With 10% out of the 226 commodity pairs (e.g. wheat and wheat flour) studied by him, the tariff wedge remained unchanged. One third showed a negative tariff wedge or de-escalation (the tariffs on raw materials or unfinished products were higher than on finished products). On over half, the tariff wedge remained positive after the Uruguay Round; here, tariff escalation exists. The share of commodity pairs with tariff escalation in the three markets has sunk only from 56% to 54% due to the Uruguay Round. The tariff wedge between raw materials and processed products is 16% in the EU, 27% in Japan and 9% in the USA (Lindland 1997: 14).

That the problem of tariff escalation remains after the Uruguay round is particularly relevant in the face of the rising share of processed agricultural products in world trade. Their share within OECD imports rose from 23% between 1980 and 1982 to 29% between 1990 and 1992. Whereas the annual import growth of agricultural raw materials in this period lay at 2,2%, for processed foods the growth was more than double so high (5,4%). Import growth developed particularly dynamically for processed foods made from cereals, vegetables and fruits. (OECD 1997: 14).

The industrial countries have a growing share in the export of processed goods. Whereas the share of developing countries in the export of tropical beverages sank from 85% in the early 1970s to ~55% at the beginning of the 90s, the share of e.g. Germany in coffee exports rose from 1% to 5% over the last 15 years. This trend can also be seen in cocoa. The share of world trade for cocoa producing countries sinks according to processing

grade. In 1997/1998 the share of developing countries in the export of cocoa beans was 90%, cocoa liquor 44%, cocoa butter 38%, cocoa powder 29% and chocolate 4%. Further, their world market share for all production stages has sunk over the past 15 years. In contrast, the industrial countries were able to increase lucrative chocolate exports considerably more than imports (UNCTAD 1999: 6).

### Special Safeguard Provisions

An important exception from market access obligations is made in the special safeguard provisions of the WTO Agreement on Agriculture (AoA, Article 5). The special safeguard provisions allow the levying of additional duties when the import volume rises above a specified level (quantitative trigger level) or the import price falls below a certain level (price trigger level). The special safeguard provisions apply only to tariffied products. Each product which falls under this provision must be marked in the country schedules. As only few developing countries tariffied, comparatively few of them have the possibility of profiting from this provision (from 38 countries that have reserved this option, 22 are developing countries). In contrast, the OECD countries have reserved almost 80% of their tariffied agricultural products for special safeguards (Finger/Schuknecht 1999: 32; FAO 1999b: 9).

The additional duty may not however exceed the average level of that year by more than 30% and may not be automatically applied longer than one year. The safeguard provision allows the importers much leeway in determining the price trigger under which additional duties are allowed. The higher the price trigger is set, the sooner the additional duties can be levied. The EU has comparatively high

trigger prices for e.g. sugar and butter (Tangermann 1995: 18)

In Table 10 we can see that the special safeguard provision can potentially be applied for 6072 agricultural goods. 3856 products are from industrial countries and 2216 from developing countries. Whereas between 1995 and 1998 industrial countries made use of this provision 192 time, the developing countries used this pos-

sibility only 8 times. In all 8 cases the country was South Korea. It is conspicuous that besides the big three – the EU, USA and Japan, hardly another industrial country made use of this provision (only 12). Product groups for which the special safeguard provision was applied most often are meat (52 times), fruits and vegetables (49 times), dairy products (35) and sugar and sweets (23).

**Table 10: Special Safeguard Provision: Potential and Actual Implementation (WTO, Committee on Agriculture 1998, AIE/S12, quoted in FAO 1999b: 20)**

Member	Potential implementation, number of goods	Implementation of the special safeguard provision 1995-1998, number of goods	
		Price Trigger	Quantitative Trigger
<b>Industrial Countries:</b>			
<b>Total</b>	<b>3856</b>	<b>64</b>	<b>128</b>
European Union	539	26	47
Japan	121	4	73
USA	189	24	6
<b>Developing Countries:</b>			
<b>Total</b>	<b>2216</b>	<b>8</b>	<b>0</b>
<b>Industrial and Developing Countries</b>			
<b>Total</b>	<b>6072</b>	<b>72</b>	<b>128</b>

**Tariff Policy Recommendations (Peak Tariffs, Escalation, Quotas and Special Safeguard Provisions)**

- ➔ In order to improve market access for agricultural products, it is generally recommended to avoid tariff peaks and tariff escalation as well as to set targets for a harmonization of the tariff structure in upcoming negotiations (FAO 1999c).
- ➔ Tariff peaks and tariff escalation could be reduced by using a formula for tariff reductions which results in a harmonization of the tariff structure. By using a formula in the

agricultural sector which cuts higher levels more than low ones, market access for highly protected products could be facilitated.

- ➔ The complexity of the tariff structure should also be simplified, particularly by abolishing compound tariffs. This would increase transparency in determining trade barriers and, i.a., facilitate market access for lower-priced products (FAO 1999c).
- ➔ It is further recommended to make the tariff structure transparent in trade statistics. The aggregation of product groups in many cases veils the existence of tariff peaks. Databases should be supplemented by national statistics of the trade flow

for each tariff line (UNCTAD 1999a: 12).

- The quantities eligible for preferential tariffs under tariff rate quotas should be enlarged. Quantitative restrictions for LDC exports should be eliminated (UNCTAD 1998).
  - Developing countries should receive access to newly established tariff rate quotas. The interests of those countries which have previously received TRQ under preferential trade agreements must hereby be taken into account. If necessary, they should be compensated for losses due to extended quotas (FAO 1999c: 4).
  - The administration and distribution of quotas should be more transparent so that (also non-traditional) exporters from developing countries can receive improved market access. Product groups should also be disaggregated in the case of quotas, as broad classification prevents market access allowed under the minimum access rule (FAO 1999b: 9).
  - Finally, there should be a rule for determining the relationship between tariffs within and without quotas (FAO 1999c).
- Occasionally, there is a demand to eliminate special safeguard provisions entirely, but this seems inopportune. Preferable would be modifications to make these instruments useful for the protection of domestic producers in developing countries. In contrast to other safeguard provisions within the WTO, the special safeguard provisions in the Agreement on Agriculture require no expensive and difficult proof of damages to domestic producers through imports. Therefore, they should be developed into permanent instruments (FAO 1999b: 9). However, only if the provisions are available for implementation by other developing countries as well (Forum Umwelt & Entwicklung 1999).
  - The provisions may in this case only be implemented for staple foods determined to be sensitive for reasons of food security (ibid.).
  - Finally, the price and quantitative triggers must be reformed to limit the frequency of their implementation. The trigger price should be set as low as possible (Tangemann 1995: 23).

# Trade Preferences

**D**eveloping countries often point out that the tariff preferences given to them lose their meaning due to the general tariff reductions agreed on during the Uruguay round. The further tariff levels sink on average, the lower the advantage resulting from a tariff abatement. In other words: the preference margins are eroding. Many industrial countries have agreements in which they grant exports from the South preferential market access by levying low or no tariffs and through which non-tariff barriers are lowered or eliminated. In the following chapter, these preferential trade agreements will be introduced and illustrated by the example of preferences granted by the EU in the agricultural sector. Afterwards, the reasons for the failure of these systems as measured by the acquisition of a larger market share by developing countries and the scale of the erosion of preference margins will be elucidated. Possibilities for betterment of the preference schemes are introduced in the following recommendations.

The Generalised System of Preferences of the OECD countries can be traced back to a demand of the UN conference for trade and development (UNCTAD) in the year 1968. Besides today's 19 GSP schemes, further preferential trade agreements exist in some industrial countries, e.g. the Lomé convention in the EU or the Caribbean Basin Initiative and the Andean Trade Preference Act in the USA (UNCTAD 1998: 3).

Characteristic of these preference schemes is that they are unilateral and on a non-reciprocal basis. This means

that market access opportunities for developing countries are granted without similar concessions for exports from the preference giving industrial countries. For these preference agreements, three exceptions were made to the MFN principle<sup>9</sup> of the GATT (Article I.1, GATT 1996):

1. The enabling clause of the Tokyo round of the GATT in 1979 made possible special and differential treatment (SDT) for trade agreements with developing countries.
2. Free trade agreements or customs unions (these can also include preferences) can, under Article XXIV of the GATT, receive an exception under certain conditions. However, only by consensus among WTO members.
3. Article IX.3 and 4 of the 1994 "Agreement establishing the WTO" makes possible a temporary exemption from WTO obligations, a so-called "waiver" (this possibility already existed within the framework of the GATT). The granting of a waiver requires a three quarter majority among WTO members.

Currently afforded unilateral non-reciprocal trade preferences through the GSP and other agreements on a bilateral and regional level can lose meaning due to the current trend toward reciprocal free trade agreements. Thus the planned Free Trade Area for the Americas (FTAA) will have precedence over the GSP and the Caribbean

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<sup>9</sup> The most favoured nation (MFN) principle stipulates, that trade preferences afforded to one WTO member have to be granted to all other members.

Basin Initiative. Similarly, the reciprocal free trade agreements of the EU with MERCOSUR, Mexico and South Africa will make the Generalized System of Preferences obsolete (UNCTAD 1998: 5). Similarly, the EU's Lomé convention with the 71 ACP countries, which ended at the end of February 2000; EU and ACP countries agreed upon a new convention lasting 20 years to be signed in Fiji in May. After a preparatory period, Regional Economic Partnership Agreements (REPA) are to be negotiated with at least the 33 higher income ACP countries. These negotiations are due to begin in 2008. The remaining ACP countries shall decide between a REPA or a system equivalent to Lomé (Meyer 2000).

### An Example: The EU Trade Preferences for Developing Countries.

The trade preferences granted by the European Union exist in the form of tariff rate quotas and preferences. The latter make possible the sale of goods under the price levels set by the EU, thus providing exporters with competitive advantages on the EU market. The trade preferences of the EU can be seen as a hierarchy:

- ❖ At the top of the hierarchy is the current fourth Lomé agreement with the 71 African, Caribbean and Pacific (ACP) countries, containing the most trade concessions.
- ❖ Second are the free trade and association agreements with, e.g., Eastern Europe, Turkey and South Africa.
- ❖ At the bottom is the EU Generalised System of Preferences. Its tariff concessions are granted many developing and other countries as well as territories dependent upon EU members or other countries. Additional preferences are reserved for Least Developed Countries and

seven Latin American countries in which drugs are cultivated.

Special agreements also exist with the Andean Pact countries, who are granted temporary tariff-free market access for industrial and agricultural goods as well as with the Central American Common Market (WTO 1998: 6).

The concessions made in the **Lomé Convention** (Article 168) are the most far-reaching. Goods from ACP countries can be brought into the EU up to 90% duty-free. Important exceptions are agricultural products which are subject to the common market organisation of the EU, as well as processed foods. Their import is regulated in Annex XL of the Lomé agreement.<sup>10</sup> Reductions are set in Annex XL in relation to the MFN levels, however these are too low in many cases and many tariff peaks remain. To reduce the negative effects for many exporters, additional agricultural protocols were annexed to the Lomé agreement. Under these four protocols, certain countries are granted privileged access for a set volume of exports to the European market. The commitments of the protocols regulate sugar, bananas, beef and veal and rum. In the case of meat and sugar, exporters profit from the high EU-internal guaranteed prices. Besides the tariff regulation, the Lomé agreement has a system of stabilizing funds to compensate for price fluctuations on the world market for agricultural (STABEX) and mineral (SYSMIN) products (Kneifel 1998: 8).

Whereas the Lomé agreement was negotiated between the EU and the ACP countries, the **General System**

<sup>10</sup> The revised Lomé IV agreement was signed on 11/5/1995 in Mauritius. The wording of Annex XL, which regulates agricultural imports from the ACP countries subject to the common market organisation was actualised by a council decision on 4/22/1997 (see Council Decision of 22 April 1997 (97/683/EC) published in Official Journal of the European Communities (L 287/30) on 10/21/97).

**of Preferences** (GSP) is offered by the EU to certain countries and can always be modified or recalled by the EU. Therefore, the Lomé agreement provides much more accountability than the GSP. The current GSP system includes agricultural and industrial goods and is binding in its current state from 1/1/1999 until 12/31/2001. Import duties are modulated according to the "sensitivity" of products. According to the modulation mechanism products are subject to import duties of 85%, 70%, 35% or 0% (tariff-free) of MFN levels. The 48 LDC pay no tariffs on certain goods and tariffs according to the modulation mechanism on other goods. The GSP is based on the principle of country-wise graduation, which makes it possible to reduce preferences should a country or sector become stronger. The Lomé principles are, in contrast, granted – with the exception of the agricultural protocols – equally to all countries.

The number of reduced tariffs on agricultural products is lower in the GSP than in the Lomé agreement, furthermore, the reductions apply only to ad valorem tariffs.<sup>11</sup> The EU does not want further preferred access for many agricultural commodities. Seen as "sensitive" are, i.a., rice, bananas, sugar, manioc and beef and veal. It is assumed that developing countries could quickly increase exports should there be further liberalization and that they would then put pressure on EU producers. The sensitive areas of the EU are protected by a double mechanism which includes variable preferential tariff margins as well as a safeguard clause which allows suspending preferences in case of market distortions. This mechanism is found in the GSP as well as in the Lomé agreement (Reisen 1999: 51).

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<sup>11</sup> i.e. the numerous specific tariffs of the EU in the agricultural sector were not reduced in the GSP.

Strict rules of origin are partly seen as a market access barrier, primarily relevant in the industrial sector. They stipulate that at least 45% of an export product's value-added must take place in the country of origin if said country is to enjoy preferential access. For each product, special rules of origin are defined. The rules of origin in the Lomé agreement allow cumulation of value-added, as long as these took place in an ACP country or the EU. In the GSP, the share of value-added must come largely from the exporting country with some input from EU countries (ibid.).

In the current GSP system, there are additional incentive arrangements which provide countries additional preferences when they follow three conventions of the International Labor Organization (ILO) or the criteria of the International Tropical Timber Organization – (ITTO). The social clause refers to the ILO convention 87 (freedom of association), 98 (right of collective bargaining) and 138 (prohibition of child labor). Countries which follow these conventions can receive tariff preferences, these can however be limited to the sectors in which the ILO conventions are effectively implemented. Preferences resulting from the environmental clause refer only to wood products and agricultural products from tropical forests cultivated according to ITTO standards. The regulations of the social and environmental clauses of the GSP are overcomplicated and their limitation to only three ILO conventions and the criteria of the ITTO is much too narrow (see Knirsch 2000).

### Minor Success of Trade Preferences

There is consensus that the OECD trade preferences show little success when measured by increased exports of developing countries. The effect of preference systems on trade creation is estimated to be less than the effect on



trade diversion, i.e. the displacement of non-preferential imports with preference-receiving imports. Furthermore, only comparatively few of the potential beneficiaries of preference schemes were able to actually use these. Twelve countries accounted for 80% of all GSP benefits in the EU. In the USA, 6 countries received 84% of GSP benefits. These countries include many of the more developed countries. The ACP countries were able to neither increase their exports in the EU (these have actually sunk in the past 20 years), nor diversify their product palette in a significant manner. 13 of 71 ACP countries profited most from the liberalized market access granted by the Lomé convention - these 13 shared 70% of all ACP exports in the EU (OECD 1997a: 20).

Reasons for this insignificant success are seen in the fact that, among other things, the GSP schemes cover less than a quarter of all dutiable exports from developing countries. ( In contrast, 90% of all ACP country exports were brought into the EU duty-free. ) Furthermore, many countries were unable to take advantage of the potential advantages of the GSP schemes. The utilisation rate, i.e. the relation of those exports which received GSP treatment to those which are covered by the scheme, was, in the case of agricultural exports from LDC to the EU in 1996, only 48%. Products with such a low utilisation rate include dairy products, vegetable oils and fats, beverages and tobacco (UNCTAD 1998: 9).

Further reasons for a lack of success lie in the suspension of some products, limited quotas, strict rules of origin, country-oriented graduation in the granting of preferences, non-trade-related conditionalities, administrative red tape and, last but not least, a too small preference margin. When the margin between GSP tariffs and the MFN rates is too small, the transaction costs for securing preferential treatment

are no longer worthwhile for many countries (UNCTAD 1998: 14).

The lacking achievements of the ACP countries are due to, i.a., the existing trade barriers in the EU which affect primarily agricultural exports, on which the ACP countries are very dependent.<sup>12</sup> Many Lomé preferences remain at the level of peak tariffs. Only a 16% reduction against MFN rates is given for e.g. sugar, canned meat, dairy products and butter. It should not be disregarded how hard many ACP countries are still affected from high out of quota tariffs. This is true for e.g. beef, lamb and goat meat, rice, wheat and rye, fruits and vegetables as well as some processed food stuffs (UNCTAD 1999a: 8).

One can, however, also see many domestic weaknesses of the ACP exporters, e.g. lacking infrastructure and investments, regulations which act as trade impediments and low management abilities. Finally, it is said, that preferences can lead to the conservation of existing export structures and prevent diversification. In this vein, the guaranteed access to and the high prices in the EU market led the ACP countries to retain cost-intensive and non-competitive production of, for instance, bananas and sugar cane (OECD 1997a: 20). Such arguments, however, tend to oversee the socio-economic functions of small farms in developing countries and concentrate one-sidedly on large production structures.

## Preference Erosion

It is commonly agreed that the lowering of tariffs after the Uruguay Round leads to preference erosion. Table 11 shows the degree of preference erosion that shall occur in the markets of the

<sup>12</sup> Whereas 90% of agricultural imports to the EU are dutiable, this applies to only 20% of processed products (OECD 1997a, S. 28).

EU, Japan and the USA after all tariffs have been cut to bound levels. A clear erosion of trade preferences can be seen, lying in the EU at 26%, in Japan at 34% and in the USA at 50% for all products which enjoy preferential market access under the GSP schemes.

Losses for agricultural commodities are high. The preferences for non-tropical agricultural products are 29% in the EU, 63% in Japan and 53% in the USA. For tropical agricultural products, the erosion lies in the EU at 29%, in Japan 35% and at 40% in the USA.

**Table 11: Erosion of GSP margins, in % (UNCTAD 1995, quoted in OECD 1997a)**

Products	EU			Japan			USA		
	A	B	C	A	B	C	A	B	C
<b>All GSP Products</b>	11,3	8,4	-26	8,2	5,4	-34	4,6	2,3	-50
Non-trop. Agricultural Products	13,3	9,5	-29	9,4	3,5	-63	3,2	1,5	-53
Tropical Agricultural Products	9,3	5,1	-45	6,5	4,2	-35	5,5	3,3	-40
Non-agricultural tropical products	4,8	4,2	-13	9,6	5,6	-42	4,5	0,7	-84
Goods based on natural resources	16,5	12,7	-23	6,9	4,7	-32	2,4	1,8	-25
Textiles and Clothing	12,4	10,5	-15	10,4	7,5	-28	6,1	4,5	-26
Leather and Footwear	6,3	5,3	-16	59,8	34,3	-43	4,1	2,8	-32
Other industrial goods	7,2	4	-44	4,3	1,1	-74	5,4	2,6	-52

**A = Preference margin before the Uruguay Round tariff reductions**

**B = Preference margin after the Uruguay Round tariff reductions**

**C = Percentage Erosion in Preferences**

The effects of preference erosion on trade flows is, however, judged as minimal. The implementation of tariff reductions set in the Uruguay Round will sink exports from the African LDC to Europe, Japan and the USA, by a mere 0,1% according to calculations of the World Bank and UNCTAD. The loss in these three OECD markets is a mere 7,5 million US dollars, 5,4 million of these dollars in the EU. Whereas exports to the EU and Japan are retrograde, more exports to the USA are to be expected, as there the tariffs for some products for which there was no preferential access, will sink. Even should all tariffs be discontinued, including the complete loss of all preferences, the export decline from African LDC would only be 0,91%. The reason

for this is, i.a., the low tariffs which African LDC paid before the end of the last world trade round. However, the preference loss would be shared differently among the African countries. The strongest losses on the EU market are predicted for Cape Verde, Lesotho, Malawi and Somalia (Harrold 1995: 26).

The share of exports from developing countries which are covered by GSP schemes will continue to fall as many tariffs approach 0. Since to the present only 25% of dutiable exports from developing countries have enjoyed preference privileges, the effects upon trade flows should be minimal. Further, only a few of the developing countries profit from the GSP agreements (OECD 1997a: 26). The loss of preferences is

checked for the ACP countries as well, especially in the for them important sector of agricultural exports. Due to the already low tariff levels for industrial products, the preference erosion is higher in the industrial than in the agricultural sector. As a high percentage of Lomé preferences are also valid for agricultural commodities, and in this sector, however, less liberalization will take place in the near future than in the area of industrial goods, the preference margins in the agricultural sector will fall only slightly. In addition, a minimum market access has been secured for negotiated tariff quotas (OECD 1997a).

## Recommendations for Preferences

The following recommendations should aid market access opportunities for developing countries by improving the different preference systems (see UNCTAD 1998: 14f.):

- ❖ Many new products have been added to the GSP due to revisions of some GSP schemes (i.a. in the USA and EU). However, there are still many products of export interest for developing countries which fall under the relatively high MFN tariffs – integrating these products in the preferences systems is recommended. Among these products are many tropical and non-tropical agricultural products. The tariffication of many agricultural products in the Uruguay Round makes their integration in the GSP possible.
- ❖ For those products on which peak tariffs have been laid, the reductions granted under the GSP are often insufficient. Particularly for these products, the preference margins should be raised by tariff reductions under the GSP so that the transaction costs for exporters are bearable. Room for significant GSP tariff

reductions has been created by the high tariffs laid following tariffication.

- ❖ The elimination of quantity limits bound to tariff quotas would particularly help agricultural exports from developing countries. It is therefore recommended to grant exporters falling under the different preference systems unlimited quotas, either at the usual preferential tariff level or at the level set within the quotas.
- ❖ LDC should be granted tariff-free market access for all of their exports. Furthermore, the safeguard provisions within preference systems, e.g. in the Lomé agreement, should not apply to imports from LDC.
- ❖ The difference between the separate GSP and other preference systems of the OECD countries and their complexity set exacting demands on LDC exporters. Therefore, all exporters from LDC should receive preferences at similar conditions. The heterogeneous and partly restrictive rules of origin should also be harmonized. The unlimited right of cumulation of pre-production goods should be granted to all eligible under the GSP.
- ❖ The preference-giving countries should bind preferential tariff levels for LDC exports.
- ❖ Finally, measures should be taken which provide greater stability and accountability in the granting of preferences. These include a more limited and transparent handling of country- or product-related graduation when granting preferences.

However, it must be kept in mind that tariff preferences shall in the long run lose meaning due to preference erosion. This process will merely be slower in the agricultural sector than in the industrial one due to the higher tariff levels.

# Sanitary and Phytosanitary Standards

The regulations for food quality and safety in the industrial countries are seen as a further trade obstacle for agricultural exports from developing countries. Many exporters have great difficulties fulfilling the from country to country differing criteria and their goods are therefore often rejected at the borders. Measures which limit trade in the area of sanitary and phytosanitary standards seem justified from the standpoint of environmental and consumer protection and are backed up by the widely accepted precautionary principle. The application of such trade limitations is regulated by two WTO agreements, however, their relation to

the precautionary principle is not completely clear. In the following chapter, the relevant WTO rules, their relation to the precautionary principle and the particular difficulties of developing countries in fulfilling hygienic standards will be elucidated. In the evaluated literature the precautionary principle is given less weight than in the recommendations at the end of this chapter.

A first impression of the difficulties which exporters have fulfilling hygiene standards in the USA is given by the list of imports denied by the US Food and Drug Administration (FDA). The FDA is the only institution to publish such data.

**Table 12: Denial of Import Permits by the US Food and Drug Administration in Numbers and Percent from July 1996 until June 1997 (FAO 1999: 4).**

Origin Violation	Africa	Latin America and Caribbean countries	Europe	Asia	Total
<b>Filth</b>	54 (17,8%)	1253 (32,2%)	175 (14,8%)	2037 (35,2%)	3519 (31,5%)
<b>Microbiological Contamination</b>	125 (41,3%)	246 (6,3%)	159 (13,4%)	895 (15,5%)	1425 (12,8%)
<b>Acidic Canned Foods</b>	4 (1,3%)	142 (3,6%)	425 (35,9%)	829 (14,3%)	1400 (12,5%)
<b>Labelling</b>	38 (12,5%)	201 (5,2%)	237 (20%)	622 (10,8%)	1098 (9,8%)
<b>Decomposition</b>	9 (3,0%)	206 (5,3%)	7 (0,6%)	668 (11,5%)	890 (8,0%)
<b>Pesticide Residues</b>	0 (0,0%)	821 (21,1%)	20 (1,7%)	23 (0,4%)	864 (7,7%)
<b>Mould</b>	19 (6,3%)	475 (12,2%)	27 (2,3%)	49 (0,8%)	570 (5,1%)
<b>Food Additives</b>	2 (0,7%)	57 (1,5%)	69 (5,8%)	426 (7,4%)	554 (5,0%)
<b>Heavy Metals</b>	1 (0,3%)	426 (10,9%)	26 (2,2%)	84 (1,5%)	537 (4,8%)
<b>Other</b>	51 (16,8%)	68 (1,7%)	39 (3,3%)	151 (2,6%)	309 (2,8%)
<b>Total</b>	303 (100%)	3895 (100%)	1184 (100%)	5784 (100%)	11166 (100%)

Top contravention against US provisions is contamination by, e.g., parasites or microorganisms and the failure to follow regulations for canned goods and labelling. More than half of the violations can be traced to a lack of basic foodstuff hygiene and insufficient labelling. According to the FAO, most of the import detentions are not due to high technological requirements. This means that with the right support they could easily be avoided, even given the limited options available to developing countries (FAO 1999: 4).

The detention and rejection of food imports goes hand in hand with enormous losses - not only in perishable products, which can not be tolerated in light of growing global nutritional needs. Furthermore, detention is accompanied by great costs for, e.g., storage, tests, and late delivery. In 1998, the US Food and Drug Administration held 15,712 food consignments back with a total worth of 750 million dollars; 12,386 of these were from developing countries. In the end, goods in worth of only 15 million dollars were denied access. This means that most of the retained food deliveries landed with delays on the US market. However the losses, associated with these delays can make exporting unprofitable (Hammer 1999: 9).

## WTO Regulations

Trade limiting measures due to food quality and safety fall under the regulation of two WTO agreements:

1. The Agreement on the Application of Sanitary and Phytosanitary Measures (SPS)
2. The Agreement on Technical Barriers to Trade (TBT)

The SPS agreement applies to food safety measures taken for reasons of protecting humans, animals and plants. The TBT agreement tries to ensure that no unfair trade obstacles re-

sult from technical regulations and standards (including specifications for packaging, identification and labelling). The TBT agreement also regulates measures for the protection of the life of humans, animals and plants, but only measures not regulated in the SPS agreement.<sup>13</sup>

The GATT Article XX (b) allows trade limiting measures in order to protect the health of humans, animals and plants, but only under the condition that they do not result in an unfair discrimination of countries in which the same conditions prevail, and that they not be hidden trade barriers. This concession in GATT Article XX (b) is regulated further in the SPS and TBT agreements.

According to the SPS agreement, trade restricting measures are only allowed when they:

- ❖ Are necessary for the protection of human, animal and plant life or health,
- ❖ Are based on scientific principles
- ❖ Are not maintained without sufficient scientific evidence (SPS, Article 2.2).

National standards may only be higher than international standards when scientific justification is given. The SPS names the Codex Alimentarius Commission (food standards), the International Office of Epizootic (animal health) and the International Plant Protection Convention as the institutions which may set international standards.

<sup>13</sup> The determination, whether a measure falls under the SPS or the TBT, is not easy and can best be decided by studying the subjects of both agreements. Measures taken due to health risks from poisons, additives, plant and animal diseases, pest or disease-causing organisms fall under the SPS (see SPS agreement, Annex A Definitions). Technical regulations, standards and conformity assessment procedures which protect humans, animals and plants and are not one of the subjects defined in the SPS fall under the aegis of the TBT.

The TBT allows regulation measures on the condition that they:

- ❖ Are not unnecessary trade barriers,
- ❖ Have a legitimate objective and
- ❖ The costs of their implementation are in a reasonable relation to their purpose.

The TBT agreement also refers to international standards – for example those of the International Standardization Organization (ISO) – and recommends that these provide the basis for national regulations (TBT agreement, Article 2.4).

Both agreements are meant, i.a., to limit the protectionist misuses of health and hygiene standards and to aid the situation of exporters. Food exports must still fulfill the standards of the import country, but the latter should be scientifically justified and applied for foreign and domestic producers alike. Changes in national standards must be published in advance and the WTO and the international standard organizations must be notified. Finally, national enquiry points should be put in place to inform exporters about actual and future regulations (SPS agreement, Annex B; TBT agreement, Article 10.1).

### Conflicts with the Precautionary Principle

The three above named WTO agreements (GATT Art. XX, SPS and TBT) have no clear relation to the environmental precautionary principle which is establishing itself –by majority judicial assessment – ever more as a norm of customary international law (see UNEP 1999: 22). The precautionary principle states that measures to protect the environment and human health can be taken even in face of scientific uncertainty. Main elements of the precautionary principle are:

- ❖ Placing risk avoidance before risk management;
- ❖ Reversal of the time frame – measures are taken before complete scientific surety exists;
- ❖ Reversal of the burden of proof;
- ❖ The lack of danger resulting from a planned measure or product must be proven to avoid the regulation;
- ❖ The measures taken as a reaction to a potential danger are presumed valid; when an alternative measure is proposed, higher effectiveness must be proven (UNEP 1999: 3).

Thus the precautionary principle is in opposition to, e.g., the SPS agreement, which allows trade limiting measures only when they are based on scientific principles and are not maintained without sufficient scientific evidence. Article 5.7 of the SPS Agreement does allow “provisional” trade limiting measures without sufficient scientific evidence, but in these cases additional information for an objective risk assessment must be gathered within a reasonable time limit. Nevertheless, the precautionary principle was not accepted as a justification in the following three WTO disputes (UNEP 1999: 26ff.):

1. Hormone Case: the EU import ban on American beef treated with growth hormones.
2. Australia - Salmon Case: Canada's suit against the Australian import ban on uncooked salmon.
3. Japan – Variatals Case: US American suit against the Japanese import ban on eight fruits whose treatment supposedly could not guarantee against maggots.

The clear establishment of the precautionary principle in the WTO is desirable for reasons of environmental and consumer protection. Currently, every trade limiting precautionary measure is in danger of being struck

down in a WTO dispute settlement. With developing countries in mind, it is also advantageous to accept the precautionary principle, for not to do so undermines consumer trust in food quality and safety which can reduce marketing opportunities for agricultural exports from the South. Furthermore, it is becoming clear that the precautionary principle is not chiefly a north – south conflict. In all three disputes, exports from developing countries were not affected.

### Problems of the Developing Countries with SPS/TBT

Nevertheless, the regulations of the SPS and TBT agreement are a higher obstacle for developing than for developed countries. This is because it is the latter which set international health and hygiene standards. These are often generalizations of the practices and standards used in industrial countries. Thus the acceptance of international standards in both agreements necessitates more adjustments in the area of hygiene policies and measures for developing than for developed countries (Finger/Schuler 1999: 13).

Developing countries protest that their **participation** in standard setting institutions (Codex Alimentarius Commission, International Office of Epizootics and the International Plant Protection Convention) is insufficient and that the standards are inadequate for their domestic regulation, and therefore it is difficult fulfilling them in the import markets. Also problematic is the voting method in the Codex Alimentarius Commission. If consensus cannot be reached, standards, policies and recommendations are set by a simple majority of votes cast. Thus standards could be accepted although many countries rejected them. The standards for maximum residue of growth hormones in beef was set by 33 votes in favour, 29 against and 7 abstentions.

Developing countries therefore demand a reform of the voting method and a reasonable representation of delegates from regions with different development stages (Zarrilli 1999: 11ff). A further problem is the many industry representatives within national delegations and as observers of the Codex Alimentarius Commission. Due to their representatives within the national delegations, transnational companies are able to strongly influence the formulation of standards (Engels, 1996).

Governments implement many regulatory regimes in the area of food quality and safety (see OECD 1997b: 8):

1. Input standards (i.e. levels of disease excitants in slaughter stock)
2. Process standards (i.e. Best Practices for industrial processing)
3. Product performance standards (i.e. maximum residue allowances)
4. Information requirements (i.e. labelling)
5. Sale and service requirements (i.e. temperature for storage)
6. Use requirements (i.e. safe handling by the consumer)

For developing countries, an important area in which regulations are imposed upon them is **disease and pest control**. Exporters must often certify that animals and plants are disease free or come from disease free zones. This forces exporting countries to possess the infrastructure for animal and plant inspection, the control of pests and, when necessary, the possibility of implementing quarantine as well as preventive vaccination and protection measures (Finger/Schuler 1999: 41). Beef exports to North America and some Asian countries (i.a. Japan) are an example. These are subject to strict regulations for foot and mouth disease. The zero risk principle

applied here practically closes these markets for South American and African beef exports. The SPS agreement does however allow a zoned approach which allows exports from disease free zones even if the country may not be totally disease-free (UNCTAD 1997: 18).

Accounting for the different environmental and epidemiologic conditions of different regions and the acceptance of disease-free zones is of particular importance for the larger developing countries. The International Office of Epizootics has therefore developed a voluntary procedure for the recognition of food and mouth disease-free zones. Further standard setting procedures for other important diseases are currently being developed. Developing countries demand that the establishment of a disease-free zone by a standard setting institution should not later be subject to debate by individual trade partners (Zarrilli 1999: 21).

Following **hygiene regulations for food processing** is of increasing importance. The number of regulations for hygiene and labelling increases with the processing level of the export product. Thus processed fruit, vegetable, fish and meat products as well as tropical beverages are hit particularly hard by SPS/TBT trade barriers. The diversification in higher processing levels often aspired to necessitates expensive investments in the food processing sector. Importers are increasingly urging the observance of hygienic production conditions, which furthermore have to be certified, partly due to increased consumer quality consciousness. This process has been enforced and standardized by the introduction of new regulations, i.a. in the USA and the EU, based on the Hazard Analysis Critical Control Point (HACCP) principle<sup>14</sup>. The HACCP principle demands

the implementation of far-reaching quality control in the production process following a HACCP plan whose observance is confirmed in a company audit (UNCTAD 1997).

Developing countries emphasize that their exports also face barriers through national regulations for food quality and safety which go beyond international standards such as those of the Codex Alimentarius Commission. The recent intensification of national standards counteracts some improved market access opportunities won in the Uruguay Round (FAO 1999a).

Particularly problematic is the area of **mutual recognition** of test methods, inspections, certification procedures and individual national standards. As developing countries have little capacity to take charge of such functions as certification, accreditation of testing laboratories or the development of standards, there are almost no mutual recognition agreements including developing countries. Such agreements could, however, help minimize the large number of detentions by the regulatory instances in the importing countries. In this context it is often lamented that many importing countries demand "identical" production standards rather than, as foreseen by the SPS and TBT agreements, "equivalent" standards (SPS, Article 4; TBT, Article 2.7). Exporters see these practices as trade harassment (FAO 1999a).

Particular difficulties arise for exporters due to the complexity and **variance of regulations** for the different markets. For example, there are many different regulations for labelling – despite the attempts of standardization by the Codex Alimentarius Commission.

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<sup>14</sup> The HACCP principle was introduced in the 60s in connection with the US space program. It was meant

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i.a. to guarantee the quality and safety of astronaut food (Cham Prasidh 1999: 5)



Handled differently are questions such as:

- ❖ Voluntary versus mandatory labeling;
- ❖ Which products must be labelled (i.e. only packaged or all food products);
- ❖ Which ingredients must be listed;
- ❖ What the unit of reference is (i.e. by weight or by percent) and, last but not least,
- ❖ Where the label is to be placed on the package (OECD 1997b: 27).

Here we come to the question of **transparency** and the notification of regulations. Exporters, particularly from developing countries, have great difficulty obtaining the necessary information on the diverse national rules for food quality and safety. The notifications of changes made i.a. to the WTO are often insufficient in the area of quality and contents. The time span for comments is too short for some and comments are often ignored (Zarrilli 1999: 20). Furthermore, only seldom – e.g. for Pakistan and Fiji – has **technical or financial assistance** been given as foreseen by the SPS (Article 9) and TBT (Article 11) agreements (FAO 1999a, 3).

Deficits and omissions within the developing countries themselves are often remarked upon. Many have developed regulatory regimes for food quality and safety whose inadequacies are caused by internal failings. Explanations given are, i.a.:

- ❖ The complex and, due to many small farms, fragmented agricultural production structure,
- ❖ Lack of disposal of resources and infrastructure for, i.a., post-harvest treatment, processing and storage,
- ❖ Lack of cooperation between governments and producers and

- ❖ Inadequate national control systems. These are inflexible, lack personnel and do not use modern scientific and management methods (see FAO 1999: 7).

However, one must ask whether a production structure based on many small farms can be seen as a deficit. In many developing countries small farmers play an irreplaceable role in assuring the food security of the rural population. The demands for the observance of hygiene standards for export production is too often coupled with an undifferentiated criticism on small and supposedly therefore inefficient structures. This is often due to a development model based one-sidedly on the building of as many large plants as possible. Instead, it should be taken into account how measures to facilitate exports affect the food security of rural populations.

## Recommendations for Food Standards

It is meaningful neither to exempt developing countries from the SPS and TBT regulations, nor to lower international standards. Both would undermine consumer trust in food safety.

- ➔ It is thus of utmost importance to award developing countries technical and financial assistance in order that they may observe international standards of food safety and quality and that they may make use of the regulations of the SPS and TBT agreements, including the WTO dispute settlement mechanism, for their own good (FAO 1999b: 10; Finger/Schuler 1999, 15).
- ➔ In this context, the support for developing countries foreseen in both agreements should be developed and made binding and the resulting measures should be institution-

- alized. One possibility could be compelling importing countries, should they implement new policies detrimental to exporters from developing countries, to bestow technical assistance so that the new standards can be upheld in the exporting countries (Zarrilli 1999: 26).
- It must be clarified what “equivalent” regulations are on a national level. Especially developing countries require flexibility in procedures for securing food quality and safety. Further, mutual recognition agreements between developing and industrial countries should be established (FAO 1999: 9). Additionally, mechanisms such as an international ombudsman should be considered in order to minimize trade harassment (FAO 1999b: 10).
  - The harmonization of international standards should be pushed, especially within the Codex Alimentarius Commission.<sup>15</sup> It is in the interest of developing countries to demand the acceptance and implementation of international standards (FAO 1999: 5). This would make easier, e.g., the recognition of disease-free zones. However these harmonization efforts should be tied to conditions concerning participation, environmental and consumer protection and the implementation of the precautionary principle.
- The participation of developing countries in standard setting institutions must be facilitated (FAO 1999b: 10). The voting methods of these institutions must be reformed. Standards set in the Codex Alimentarius Commission should require consensus or a two-thirds majority, whereby a minimum quorum from developing countries from different regions must be present. To limit the strong influence of industry representatives, government advisers should come equally from industry, non-governmental and consumer organizations (Engels 1996).
  - The precautionary principle should be anchored firmly in the WTO as well as in standard setting organizations such as the Codex Alimentarius Commission. It should be the basis for determining which trade restricting measures can be taken under national sovereignty to protect health and the environment (UNEP 1999: 35).

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<sup>15</sup> The harmonisation of standards touches on many areas of conflict. On the one hand, the question of the level of harmonisation is raised – how can agreeing to the least common denominator be prevented? It must also be asked which standard setting organisation should be authorised. In the case of fair trade should the criteria of the Fair Trade Labelling Organisation (FLO) be allowed, the rules of the IFOAM for organic products? Therefore certain conditions should be linked to the harmonisation of standards. Standard setting bodies should be reformed, allowance should be made for the needs of interest groups (e.g. environmental and consumer groups) and the anchoring of the precautionary principle.

# The Role of Transnational Corporations

**E**liminating tariff and non-tariff trade barriers does not necessarily lead to better market access. This is increasingly regulated by the market power of transnational corporations (TNC). Particularly in the agricultural sector, ever less corporations control the entire chain from the production in the exporting countries to the retail business in the buyer markets. Hereby, TNC influence the agricultural supply structure in developing countries as well as the manner of production. This chapter shows the process of concentration in the agricultural sector as well as the dominance of TNC in the export sector of developing countries. Seed

commerce is examined as an example of the influence of TNC on the manner of agricultural production. Then, the role of retail chains and agricultural policy in the importing markets will be considered. The latter fails to regulate the food sector more strictly through an effective competition laws. Finally, the necessity of a differentiated look at state trading enterprises in developing countries is underlined. The recommendations for dealing with transnational corporations closing the chapter must be seen only as starting points for reforms due to the underdeveloped discussion of this question.

**Table 13: Estimated Share of TNC in Trade in Agricultural Products, (Clai-  
monte and Cavanaugh 1988, quoted in: OECD 1996: 28)**

Product	Share of World Exports Marketed by 3-6 of the largest TNC
Wheat	85-90
Maize	85-90
Sugar	60
Coffee	85-90
Rice	70
Cocoa beans	85
Tea	80
Bananas	70-75
Wood	90
Cotton	85-90
Hides and Skins	25
Tobacco	85-90
Pure rubber	70-75
Jute and Jute Products	85-90

### Liberalization and Concentration

New estimates assume that in 1996, only 5 TNC controlled more than half of world trade with raw coffee. For coffee roasting and processing, the **concentration** is even higher – here, 4 corporations control half of world trade. Whereas in 1980 there were over 30 trading houses for cocoa in London, today there are only 10. After many mergers, 50% of all chocolate sales are made by the 6 largest producers. Trade with oil plants and grains is, after many mergers and acquisitions, also dominated by a small number of TNC which, due to vertical integration, control production, international commerce and distribution (UNCTAD 1999: 15).

The **State Trading Enterprises** of developing countries have succumbed to pressure from the Uruguay Round and from structural adjustment programs and have been partly eliminated or privatized. This is also true of trading enterprises which organize the exports of their countries (marketing boards, see below). The result of the forced retreat of the state from export control and support was at first the appearance of many small local traders who, however, were usually unable to withstand the competition. They neither had access to favourable loan conditions, nor did they have sufficient logistic capacities. They were quickly replaced by large international trading firms or their agents who had access to finance as well as the necessary distribution channels.

The liberalization of markets not only opened new markets for transnational corporations in developing countries, they were also able to delve deeper in the **agricultural export structures** of these countries. Thus the liberalization of, e.g., the cocoa sector in West Africa led on the one hand to

increased concentration in the export sector as European processors and traders drove out local traders. On the other hand, they also integrated the West African cocoa production in their corporate structures, either directly or through agents (UNCTAD 1999: 16). Another example is the US American trading enterprise Cargill, which is not only the second-largest exporter of soybeans in the USA, but also in Brazil and Argentina. Together with other firms, Cargill forced the governments of Argentina, Brazil, Bolivia, Paraguay and Uruguay to take loans from the World Bank to finance the extension of the waterway Paraguay-Paraná. The thus created prospect of ship transport will lead to the expansion of soy and other export cultures along the waterway (Murphy 1999: 12).

The investments necessary in the agricultural sector are an obstacle for developing countries. To be competitive, they have to provide for certain economies of scale in processing industries. The same is true for the growing demands on food quality, worker qualification or transportation infrastructure. In the main it is foreign investors or transnational corporations who finance the agricultural export sector in developing countries and simultaneously decide on the manner and extent of the production process. Particularly small producers are at a structural disadvantage. For them, the only possibility is to form larger cooperatives or to seek links with foreign companies. Only as an exception are these foreign investor companies from other developing countries (UNCTAD 1999: 17).

### Example: Trade in Seed

The trade in seed deserves particular attention, for strong interferences with the agricultural export sectors of the South are found here. The seed sector is further subject to intense con-

centration processes, which are enforced by the developments of modern gene- and biotechnology. The world market for seed is estimated at 45 billion US dollars for the year 1994, whereby a third of this is commercial seed – protected by plant breeders rights or patents. The remainder is from self-collected or state-distributed seed. It is estimated that in 1997, 10 Corporations control 40% of the international trade in seed. And the concentration continues. In the past years the largest US American biotechnology corporation **Monsanto** bought many new companies in the seed sector and has developed, next to Novartis<sup>16</sup> and Pioneer Hi-Bred-DuPont, to one of the largest seed corporations in the world. Monsanto took over the US companies Asgrow Seeds (i.a. soy), Holden (i.a. maize), DeKalb (i.a. maize), Cargills seed company (oilseed and corn) as well as Delta&Pine (i.a. cotton). From the latter Monsanto also got access to the "Terminator-Technology" which makes it possible to prevent the germination of seeds in the second generation<sup>17</sup> (see BUKO Agrar Koordination 1998).

After Monsanto took over Cargill's seed company, the two corporations announced a joint venture in 1998. This gave Cargill, the worlds largest grain trader, access to biotechnology and Monsanto can use the marketing channels of Cargill in exchange. This type of vertical cooperation and integration along the processing chain is found not only in Europe and the USA,

but world-wide. In the Southeast Asian maize seed market, there are only two main corporations: Monsanto and Pioneer. In countries such as Thailand, the Philippines and Indonesia they control over 70% of the maize market (Murphy 1999: 16). The diverse forms of vertical integration lead to the control of the entire chain, from gene to super market shelf, by transnational corporations. Vertical cooperation is often regulated by contracts which bind the supplier to certain production methods and the use of certain inputs, e.g. seed (OECD 1997c: 14).

More than half of the US American soy harvest from 1999 is from **genetically modified (GM) seed**, mostly Monsanto's Roundup-Ready soybeans. These soy plants are resistant against Monsanto's herbicide Roundup. In Argentina, soy farmers used up to 70% Roundup-Ready seed in 1998/1999. For the harvest 1999/2000 80 – 90% is estimated. Main importer of soy is the EU where 60% of the Argentinean soy is exported. Due to growing resistance to genetically modified food, future markets in Europe are uncertain. Some European supermarket chains, as well as some US American chains, will no longer buy gene-foods, so that some soy processors pay premiums for guaranteed non genetically modified beans. Some soy farmers have already announced that they will reduce the share of modified seed. Aside from the worry of disappearing markets there is, especially for producers in developing countries, the fear of the loss of biological diversity in agriculture. Additionally, more farmers are made dependent on TNC through patented GM seed. These fears have for example led the governour of the largest soy growing state in Brazil, Rio Grande do Sul, to declare that his state remains a GM-free zone (Christie 2000).

<sup>16</sup> Novartis and Astra-Zeneca announced in December 1999 that they would transfer their business with pesticides and seed to the new company Syngenta. Syngenta thus became the first pure agrochemical company and world market leader with a market share of 25% (see Handelsblatt 12/3/1999: 15).

<sup>17</sup> Monsanto did announce in October 1999 it would pull back from Terminator Technology. The seriousness of this announcement is doubted by the Rural Advancement Foundation International (RAFI) and Greenpeace due to Monsanto's intention to develop related technologies (see Bridges Weekly Trade News Digest 1999, Vol. 3, Number 40).

## Changes in Import Markets

Whereas exporters of agricultural mass commodities are dependent on the processing industry, for the marketing of the dynamically developing foods such as fruits, vegetables and tropical beverages, the modern **retail chains** in the OECD countries are of growing importance. Retail chains such as, e.g., super and hyper markets, dis-counter and self service stores are important market access channels for fresh fruits and vegetables as well as processed foods. Their market share has grown in the past years, partly at the expense of the wholesale markets. Due to the concentration processes in the processing industry and in retailing, the number of buyers of agricultural products has sunk - these however need larger quantities which must be continually and punctually delivered. Also for these reasons, buyers have begun to bind producers from different regions to them through vertical cooperation (OECD 1997c).

The contractually regulated forms of vertical integration lower transparency in price formation as there is no rule that prices along the links of the processing chain must be divulged. This makes it possible for, e.g., supermarket chains with different suppliers to set different prices for the same product. In comparison, the (quickly becoming meaningless) wholesale markets and the auctions of cooperatives are a transparent form of price setting. By vertical integration of the entire processing chain, goods are often priced first when they go retail. As the costs of each interim step are unknown, it can not be estimated whether the final price is reasonable (OECD 1997c: 26).

Food multis sustain the binding in vertical cooperation relationships by **brand names** developed in connection with massive ad campaigns. Developing a brand name and enforcing

it internationally has, due to the high costs, to date only been possible for a few exporters from developing countries. The Indian company Tata Tea tried to establish an international brand name by buying tea plantations in Kenya and thus achieving year round production capacities. A further difficulty in market access is found for tropical beverages, as the processors in the industrial countries mix raw materials of different origins to meet the specific taste demands of consumers. This possibility of blending is rarely available to processing industries in developing countries as they often only have access to local raw materials (UNCTAD 1997: 20).

Binding in vertical cooperation may give exporters from developing countries better market access opportunities, but it is also attached to specific risks, e.g. **dependency** on only one super market chain or importer. Specialization in order to meet the needs of one buyer can result in the limitation of a producer's supply palette. As the higher processing stages still take place far away, neither new qualifications nor new sources of income can be won. This lack of diversity makes producers vulnerable to changes in consumer habits in their export markets (UNCTAD 1999: 19).<sup>18</sup>

Additionally, the intrinsically desirable **diversification** in further processing industries also often lies in the hands of transnational companies. Nestlé owns factories for the production of instant coffee in the Ivory Coast, Brazil, Indonesia and China. The majority of the successful cocoa processing factories in developing countries are also in the hands of multis, directly or in the form of joint ventures. The

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<sup>18</sup> Meanwhile retail companies are entering the organic food business. The British Supermarket chain Sainsbury's is planning the organic production of bananas, passion fruit, coconuts and mangoes on the Caribbean islands Grenada and St. Lucia (James 2000).

French conglomerate Cacao-Barry, taken over in 1996 by the Belgian Callebaut, owns processing plants in the Ivory Coast and Cameroon; Cargill and Archer-Daniels-Midland have factories in Brazil and Mars operates processing plants in Indonesia. Of the four instant tea factories in developing countries only one is not in foreign hands, the Indian Tata Tea. The other are factories belonging to Nestlé in India, Unilever in Sri Lanka and James Finley in Kenya (UNCTAD 1997; EFTA 1998).

## Agricultural Policy and Transnational Corporations

The agricultural policies of, especially, the USA and the EU have helped the concentration processes. Public intervention in the agricultural sector was used by TNC to restructure under the umbrella of protection of the US American and European markets and to gain advantages through company intern manipulation of prices and quantities. In the 80s, there was a tendency for TNC to invest where certain industries were relatively more protected by political measures. Thus, protection of the sugar industry in the USA or the starch industry in the EU stimulated larger investments in these areas. The restructuring processes of TNC in the 80s were also governed by the search for countries in which direct investments could be made. Motivation for foreign direct investment was, i.a., to get around tariff barriers which prohibited trade. Transnational corporations could also minimize the costs of border crossing trade through intra-firm transactions, i.e. by declaring values at customs which differed greatly from market prices. They also took the opportunity to declare jacked up c.i.f. prices which pushed up the reference

prices for tariff setting.<sup>19</sup> A higher reference price accordingly sinks the import duty to be paid. Through such measures, TNC secured for themselves preferred market access (Scoppola 1995: 20).

How TNC will react to the reform processes begun in the 90s, including in the Uruguay Round, is still an open question. It is assumed that European and US American corporations could suffer losses in the trade sector due to the reduction of export subsidies, whereby the processing industry should profit from the protection level still in place. In the EU, grain production and export could decrease and maize imports increase. However, the export of processed goods could further increase, as they are exempted from the reduction commitments of the volume of subsidized exports in the Agreement on Agriculture. Thus the export of processed agricultural products from developing countries would remain at a disadvantage on the world market. The commitments to reduce domestic support have hardly played a role for the USA (or for the EU) as support has already sunk below the 1986-1990 level. Whether US American exports will fall as a result of falling export subsidies is dependent upon domestic policy (e.g. loan interests) and the exchange rate of

<sup>19</sup> A comparatively small number of companies is polled regularly by national customs boards about their set import prices. These prices are determined by the c.i.f. (cost, insurance, freight) prices. The international chamber of commerce in Paris (ICC) developed a system of international rules for the interpretation of trade contracts in 1936 for the first time, the so-called "Incoterms". Their function is to undertake a binding distribution of transportation costs and risk liability between deliverer and purchaser. The Incoterms contain 13 different delivery clauses which can be modified by branch. Some of the clauses are for all types of transportation, others, such as the c.i.f. clause, were created especially for water transport. In the case of the c.i.f. clause, the seller carries all costs of delivery up to the shipping port and the costs of transportation to the arrival port and the insurance premium. The buyer must pay for unloading costs in the arrival port, further transportation costs and import tariffs and levies.

the dollar. A low dollar exchange rate could help raise US American exports and accordingly induce dislocation processes in third markets (Scoppola 1995: 23).

### Competition Policies

Tariff and non-tariff barriers may have been demolished more slowly in the agricultural sector than in the industrial, nevertheless restrictive business practices have become more visible because of the tariff reductions here. The building of monopolies and cartels, collusive price agreements, the exploitation of a market controlling position and mergers and acquisitions which limit competition can be enormous market access obstacles for foreign suppliers. The weaker an individual competition policy is, the stronger these obstacles. A weak national competition policy can effectively serve as a substitute for the traditional trade barriers which must be slowly demolished. In most OECD countries, the agricultural sector is exempted from many competition policy regulations or is only partially subject to them. The exemption from competition policy is mostly for agricultural primary products, processing is more strictly regulated (OECD 1996a).

Import cartels established by domestic private importers or buyers fall under competition regulations, enforcement is, however, often insufficient. Competition authorities tend to concentrate on domestic effects and not on possible market access barriers for foreign exporters. The export cartels of transnational corporations are generally barely regulated. Domination of third markets, which, e.g., prevents exports from developing countries to neighbouring countries, are not prevented by the competition authorities of the TNC host countries. The opposite is true, in the context of industrial-political measures, governments try to

strengthen the competitive position of the transnational corporations within their borders against foreign rivals (Arbeitsgruppe Handel 1994: 16). Voluntary export restraints (VER), which, if they had state support, were banned in the Uruguay Round, have similar effects. These can be replaced by private voluntary export restraints. A cartel with a large enough share of the world market can, through such arrangements, limit exports in particular markets and neutralize unwanted competition (OECD 1996a: 17).

### State Trading Enterprises

However, state established or protected monopolies as well as market access limitations can be of social benefit. Thus State Trading Enterprises (STE) are worthy of special attention. The State Trading Enterprises which deal with agricultural goods usually also deal commercially in import and export. Their duties include price stabilization for consumers and producers, stimulating production and export (particularly in the case of marketing boards) and securing access to food for poor populations. These developmentally meaningful measures can go hand in hand with limitations for competition and market access, which is why STE have been prey to criticism and, partly in the framework of structural adjustment programs, limited, privatized or demolished.

With them, meaningful supports for marketing can get lost, for example, price pooling. Producers hereby deliver to a state marketing board and receive payments from them. Thus they are not under pressure to sell their harvest at low prices. The marketing board is more flexible in its marketing possibilities, can adapt prices to different international markets and compensate for seasonal over-supply and difficulties in the transportation sector. Due to control over the entire supply of a country



they are better able than private traders to make long-term agreements with producers and buyers. On the other hand, marketing boards and other STE can be a burden on the national budget. Some developing countries had this problem with their grain marketing boards (Murphy 1999: 8).

STE in developing countries may limit market access and competition, at the same time providing protection and support for the less competitive domestic producers and aiding export opportunities. In contrast to the competition limiting practices of transnational corporations, STE at least take over a desirable developmental function. Further weakening or dismantling of STE can only lead to transnational corporations or their subsidiaries taking their place. Nevertheless, the WTO limits itself to control of the functions of the STE, while the role of transnational concerns is overlooked. Even the GATT of 1947 had, in Article XVII, regulations for State Trading Enterprises. In the Uruguay Round, under the "Understanding on the Interpretation of Article XVII", part of the GATT 1994, a working group under the Council for Trade in Goods was set up. This working group has to watch over the notifications on State Trading Enterprises required from WTO members as well as to review a questionnaire which is to give detailed information on the activities of STE (GATT 1994).

From a developmental perspective, it is necessary for competition rules to take account of different socio-economic contexts as well as developmental levels and goals. Thus the current discussions on international harmonization of competition policies - as they are being held in the OECD or the WTO - must take better account of the needs of developing countries. Developing countries should not fall under a universal set of competition rules which make establishing individual political measures impossible. For developing

countries, allowing State Trading Enterprises a monopoly can be beneficial, as can be the merger of domestic companies in order to compete on more equal terms with transnational corporations from abroad. Thus developing countries should be allowed to violate the WTO principle of "national treatment", i.e. the equal handling of domestic and foreign companies. An international cooperation in questions of competition policy would therefore have the obligation of reducing the world market power of individual megacompanies and reducing market access barriers for weaker market participants (Dhumale/Singh 1999: 17).

## Recommendations for the Role of Transnational Corporations

As there has been no intensive investigation of the role of Agro-Business in trade policy, the following recommendations are merely a starting point for reforms.

### 1. Transparency

- Due to lack of information on the activities of agricultural and food companies, it is recommended to treat transnational corporations the same as State Trading Enterprises and subject them to monitoring by the Council for Trade in Goods of the WTO. WTO members should be obligated to document each company which concentrates a certain share of imports or exports.
- Comprehensive information on TNC could also be part of the WTO's periodic national trade policy reviews.
- Furthermore, databases on TNC should be set up in the FAO and/or UNCTAD. These must be open to the public.

Relevant national institutions, such as competition authorities, should be obligated to regularly provide information on TNC for these databases (Murphy 1999: 27).

### 2. State Trading Enterprises and Marketing Boards

- The trend towards privatization of State Trading Enterprises in developing countries should be stopped and where necessary a new generation of marketing boards be set up (Murphy 1999: 28).
- In return for a certain market power, marketing boards should be under public control and take over socially useful functions. To these belong, alongside the protection of food security, research and development for the agricultural sector, the provision of technical support and input, quality control, storage, transportation, financing and compensation for market fluctuations (UNCTAD 1999: 20).

### 3. Competition Policy

- Developing countries should demand the integration of competition policy in the upcoming revision of the WTO Agreement on Agriculture and a public stock-taking of mergers and acquisitions in the agricultural sector (Murphy 1999: 28).
- Host countries of transnational corporations need a competi-

tion policy that can persecute domestic as well as foreign effects of restrictive business practices. Monopolies, export and import cartels, informal agreements and mega mergers must be banned, unless they are environmentally or developmentally justifiable. International criteria for intervention must be developed.

- Should TNC reach a certain size, measures to break them apart should be taken, also following international criteria.
- By violations of international competition rules, damaged countries should be able to register complaints with the WTO (Arbeitsgruppe Handel 1994).
- An international competition authority in which developing countries are fairly represented, could be established. Its duties would be the support of fair competition and the protection of weak world market participants. These include the investigation and if necessary prohibition of mega mergers and anti-competitive TNC behaviour. The international competition authority should only become active in cases of competition-reducing behaviour of corporations above a certain size (Dhumale/Singh 1999: 18).

# Summary of the Recommendations

The following summary of recommendations for improved market access most certainly needs to be anchored in a general agricultural political strategy. But this would have exceeded the boundaries of this study. Particularly the protection of food security in developing countries should not be forgotten. The successful export of agricultural products can be concurrent with the simultaneous destruction of small farms, particularly if developing countries are forced to open their markets to the same extent that industrial countries open theirs. Thus the – ever more criticized – principle of non-reciprocity of trade agreements has an important function. Developing countries must be able to protect their farms against foreign competition despite the market access opportunities which they should receive. A high level of self-sufficiency should not be sacrificed for the opening of world markets

## Recommendations for Tariff Policy:

- The **complexity of tariff structure** in the agricultural sector should be minimized and transparency elevated.
- Tariff peaks must be lowered and tariff escalation in the case of agricultural exports from developing countries dismantled.
- Specific and compound tariffs should be eliminated. This would increase transparency in the judging of tariff barriers and facilitate market access for lower-priced products.
- Additionally, the tariff structure could be made more transparent in trade statistics. The aggregation of product groups often veils the existence of peak tariffs.
- The **administration and distribution of quotas** should be made more transparent so that (also non-traditional) exporters from developing countries can enjoy new access opportunities.
- Tariff quotas should be extended and quantitative restrictions for LDC exports removed.
- The interests of those countries which have previously received tariff rate quotas under preferential trade agreements must hereby be taken into account. If necessary, they should be compensated for losses due to extended quotas.
- The **Special Safeguard Provisions** should be developed into permanent instruments that can also be implemented to protect producers in developing countries. In contrast to other safeguard provisions in the WTO, the special safeguard provisions require no costly and difficult proof of damages to domestic producers due to imports.
- However, the special safeguard provisions should only apply to certain staple foods classified as

sensitive for reasons of food security.

- The price and quantitative triggers must be revised to limit the frequency of their use. The trigger price should be set as low as possible.

### Recommendations for Preferences:

- The OECD preference schemes should be extended to include more products of export interest for developing countries. The tariffs set for some agricultural products in the GSP of the EU are often so high that the transaction costs cannot be borne by the exporters. Therefore, further tariff reductions are necessary.
- Preferential tariffs on LDC exports should be set at zero and bound.
- The safeguard provisions in the GSP and other preference agreements, e.g. the Lomé IV convention, should be eliminated.
- The heterogeneous and often restrictive rules of origin should be revised. For example, countries eligible under the GSP should be granted the unlimited cumulation of pre-products.

### Recommendations for Food Standards:

- It is of utmost importance to award developing countries technical and financial assistance so that they may observe international standards of food safety and quality and make use of the regulations of the SPS and TBT agreements, including the WTO dispute settlement mechanism, for their own good.
- The support for developing countries foreseen in both agreements

should be developed and made binding and the resulting measures should be institutionalized. One possibility is compelling importing countries to bestow technical aid, should they implement new policies detrimental to exporters from developing countries.

- It must be clarified what “equivalent” regulations on a national level are. Especially developing countries require flexibility in procedures for securing food quality and safety. Further, mutual recognition agreements between developing and industrial countries should be supported.
- The harmonization of international standards, for example within the framework of the Codex Alimentarius Commission, should be tied to conditions concerning participation, the rights of different interest groups and the implementation of the precautionary principle.
- The participation of developing countries in standard setting institutions must be facilitated. The voting methods of these institutions must be reformed. Standards set in the Codex Alimentarius Commission should require consensus or a two-thirds majority, whereby a minimum quorum from developing countries from different regions must be present. To limit the strong influence of industry representatives, government advisers should come equally from industry, non-governmental and consumer organizations.
- The precautionary principle should be anchored firmly in the WTO and in the Codex Alimentarius Commission. It should be made an underlying principle, in order to guarantee that precautionary measures obstructive to trade may be taken under national sovereignty to protect health and the environment.

## Recommendations for the Role of Transnational Corporations

- Transnational corporations should be subject to monitoring by the WTO Council for Trade in Goods.
- Comprehensive information on TNC should be part of the WTO's periodic national trade policy reviews.
- Furthermore, databases on TNC should be set up in the FAO and/or UNCTAD. These must be open to the public.
- The trend towards privatization of State Trading Enterprises in developing countries should be stopped and, where necessary, a new generation of marketing boards should be established. These should be under public control and serve food security strategies. They can take over important functions such as price stabilization, research and development and providing infrastructure and services.
- Developing countries should demand the integration of competition policy in the upcoming revision of the WTO Agreement on Agriculture and a public stock-taking of mergers and acquisitions in the agricultural sector.
- Host countries of transnational corporations need a competition policy that can persecute domestic as well as foreign effects of restrictive business practices. Monopolies, export and import cartels, informal agreements and mega mergers must be banned, unless they are environmentally or developmentally justifiable. International criteria for intervention must be developed.
- Should TNC reach a certain size, measures to break them apart should be taken, also following international criteria.
- The establishment of an international competition authority in which developing countries are fairly represented, should be considered.

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