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LIBERALIZATION OF TARIFF AND NON-TARIFF BARRIERS

An analysis of non-tariff barriers in selected developed market economy countries on products of export interest to the developing countries

Report by the UNCTAD secretariat

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ABBREVIATIONS

BTN	Brussels Tariff Nomenclature
EEC	European Economic Community
EFTA	European Free Trade Association
GATT	General Agreement on Tariffs and Trade
IMF	International Monetary Fund
OECD	Organization for Economic Co-operation and Development
SITC	Standard International Tariff Classification

INTRODUCTION

The Committee on Manufactures at its third session adopted decision 2 (III) by which it requested the UNCTAD secretariat to carry out a programme of work in respect of manufactures and semi-manufactures, including

> "6. To make studies based, to the extent possible, on information from developing countries about specific cases of difficulties experienced as a result of non-tariff barriers and to analyse the possibilities for the reduction of such barriers. The order of priority for such studies should be based on the frequency with which particular types of barriers are mentioned;"

The Committee further decided "to set up a sessional committee at its next regular session if this is considered useful in the light of the documentation prepared by the secretariat ...... with a view to identifying non-tariff barriers of concern to the developing countries and to provide a forum for recommendations aimed at the removal of such barriers."

In pursuance of this decision, the UNCTAD secretariat has prepared this study concerning non-tariff barriers affecting exports of manufactures and semi-manufactures by the developing countries. Quantitative import restrictions are the subject of a separate report (TD/B/C.2/83 and Add.1) and are not, therefore, dealt with here in detail. Another type of non-tariff barrier, direct and indirect subsidization by governments of import and export competing industries, is likewise the subject of a separate report (TD/B/C.2/89 and Add.1). Similarly, non-tariff measures arising from restrictive business practices adopted by private business enterprises in developed market economy countries, are not discussed in this study since they are the object of another UNCTAD report.

The present study reviews in a preliminary manner the non-tariff measures applied by selected developed market economy countries and attempts to analyse in broad terms the implications of these obstacles for trade in products of export interest to the developing countries. It also attempts to analyse each of the known non-tariff restrictions, in the light of information available in UNCTAD and in other international organizations, in particular in GATT, applied by developed market economy countries and discusses some possible approaches by which these non-tariff barriers could be liberalized and the further work that needs to be undertaken in this field.

The study has been designed in such a manner as to avoid, to the maximum extent possible, any overlapping with the activities in this field undertaken in other international organizations and is intended to supplement these activities. Its emphasis is on those barriers which affect manufactured and semi-manufactured products of export interest to developing countries. The basis used for the classification of non-tariff barriers is the commercial policy intent of the measures under consideration and the manner in which they operate rather than their form. The other complementary consideration is whether or not the trade restrictive element of a particular measure is primary, secondary or merely a spillover on the trade sector. The principal purpose of the analysis is to indicate specific areas where further studies in depth might be required and to facilitate the identification of practical measures that might be taken for the liberalization of trade barriers.

The study has two annexes:[1/] Annex I indicates the frequency of various types of non-tariff barriers, and Annex II shows the likely incidence of these barriers as applied by developed market economy countries on products of export interest to developing countries.

1/ See document TD/B/C.2/R.1/Add.1

SUMMARY AND CONCLUSIONS

Some types of non-tariff measures are considerably more important than others for the exports of manufactures and semi-manufactures by the developing countries and they vary a good deal. Quantitative restrictions appear to be of greatest immediate concern to the developing countries. Variable import charges are perhaps next in importance; standards regulations and domestic procurement are growing in importance. Many of the other non-tariff barriers, though less easily identified and defined, have perhaps a relatively more moderate trade restrictive effect although exerting a differential impact on the developing countries.

The impact of non-tariff commercial policy measures in the developed countries tends to affect the developing countries disproportionately because of the concentration of their export trade in a limited number of products, the generally higher dependence of their economic development on their export earnings and the more limited scope for inter-industry transfer of productive resources.

The developing countries may well be at a disadvantages in multilateral negotiations. They could benefit from any general liberalization of non-tariff measures, but the lack of knowledge about obstacles of particular concern to their exporters and their relatively limited capacity to offer counter-concessions tends to weaken their bargaining position in negotiations.

This study is a further attempt to review and analyse in a qualitative manner the nature and scope of selected non-tariff measures applied by developed market economy countries, the mode in which they operate and their possible implications for imports into these countries of semi-manufactured and manufactured products of export interest to the developing countries.

The study does not claim to provide a definitive analysis of non-tariff barriers and of exports of developing countries affected by these restrictions. Rather, its primary purpose is to indicate further questions relating to these barriers as well as further work needed to facilitate the identification of practical measures that might be taken towards the liberalization of the barriers.

The study does not cover all the non-tariff measures of particular concern to the developing countries. The inventory has been prepared on the basis of information available in international and national sources as well as in UNCTAD. The main difficulty in compiling complete information has been the inability of the developing countries so far to identify with sufficient precision those measures that affect products of export interest to them. In this connexion, there is ample opportunity for providing these countries with assistance in this field.

Perhaps a useful follow-up would be a further examination in depth of specific measures classified under Types I and II (see paragraph 9 below), including a quantitative evaluation of the implications of these measures for trade in specific manufactured and semi-manufactured products of export interest to the developing countries. This further study in depth should provide a practical basis for measures aimed at the liberalization of relevant non-tariff barriers on exports of special interest to the developing countries. Accordingly, such a study might take the following into consideration: (i) the development of a more precise and up-to-date list of products of current or potential export interest to developing countries; (ii) determination of representative major exporters of each product among both developed and developing countries; (iii) identification of the developed countries applying non-tariff barriers which so far have not yet been identified; (iv) development of an up-to-date and comprehensive inventory, complete with relevant trade data, of non-tariff measures applied by the developed countries to each designated product derived from all sources; (v) compilation of additional data from official sources, from major importers in developed countries, as well as major exporters in the developing countries. On the basis of such a study, it would be possible to identify those measures and applications which are of importance and to estimate, at least ordinally, their restrictive impact. Such a study would also highlight the differential impact, as between suppliers in developed and in developing countries, of non-tariff measures.

I. NATURE AND SCOPE OF THE STUDY

1. The present study indicates in a preliminary manner the over-all structure of non-tariff measures applied by the developed market economy countries, and its probable significance for the present and future export performance of the developing countries. The investigation exposes certain weaknesses in the data at present available, particularly the lack of data reflecting accurately the precise nature of non-tariff obstacles facing the exports of developing countries. It suggests the need for further work in this field, including an examination in depth of the problem, that would facilitate consideration of possible alternative measures for liberalizing existing non-tariff barriers.

2. The study shows that non-tariff obstacles are of substantial importance for the developing economies. Furthermore, in the absence of major change, they are likely to assume even greater significance in the future. In view of present protectionist pressures in some developed market economy countries, there is a possibility that non-tariff obstacles on the exports of developing countries may increase with the developing countries' success in diversifying and expanding their trade into the ranges of manufactures and semi-manufactures that have a higher content of added value.

3. The approach employed in the present investigation is that of an analysis of individual restrictions, rather than a country-by-country analysis of non-tariff obstacles or an analysis of individual commodities affected by the barriers. There are several reasons for adopting this approach, including the need to consider the consequences of different types of barriers for exports from developing countries and the need to estimate the impact of general liberalization procedures for non-tariff obstacles on the trade of these countries. The approach followed does not preclude a product-by-product analysis, which may well be appropriate for the purpose of serving in the best possible manner the current and short-term export interests of the developing countries.

4. Finally, the study outlines for various types of measures the liberalization techniques that may be worked out as a result of consultations on non-tariff barriers, and their implications for the developing countries' exports.

II. STATEMENT OF THE PROBLEM - NATURE OF NON-TARIFF BARRIERS

5. Since the conclusion of the Kennedy Round of trade negotiations, and during the gradual application of the resulting tariff reductions, non-tariff impediments to international trade have increasingly become the object of attention on the part of both business and those responsible for shaping public policy. On the one hand, protection-oriented interests view non-tariff measures as an attractive alternative to tariffs for shielding domestic producers from import-competition - particularly in view of the comparative rigidity of tariffs and the broad range of non-tariff devices available to them. Concurrently, those concerned with further trade liberalization must likewise focus on non-tariff measures, both because they represent a steadily increasing share of the remaining barriers to trade, and in order to inhibit their use in a defensive manner as a means of offsetting reduced tariff protection.

6. Commensurate with the importance of non-tariff measures in the general context of international commercial policy, their role in determining the export performance and prospects of the developing countries is of equal and perhaps even greater significance. The impact of these measures on such basic manufactured and semi-manufactured exports of developing countries as processed foods and other agriculture-based products, as well as on other types of manufactures and semi-manufactures will remain of primary concern. Non-tariff measures applied in the developed countries could considerably influence the developing economies' ability to compete on world markets for higher-level manufactures, particularly those with a substantial labour content.

7. There remains considerable controversy concerning what constitutes a non-tariff barrier to trade, and what does not. For example, does liberal licensing of imports, under which essentially all goods are cleared virtually automatically, represent a non-tariff obstacle? Is the existence of a national monopoly having the exclusive authority to manufacture, import and sell a given product within a country's customs territory a non-tariff barrier?

8. For practical reasons it might be useful as a starting point to describe non-tariff barriers[1/] as measures other than tariffs which are directly or indirectly under the control of the national government and which tend to restrict or distort

1/ This description does not cover non-governmental obstacles to international trade.

the volume, commodity-composition or direction of international trade. Initially, it might be useful to limit consideration to measures subject to change as a result of discretionary policy actions by public authorities. Another difficulty is inherent in the question of trade-distortion, which requires identification and - in an empirical sense - estimation by means of comparisons between actual trade figures and those that might conceivably be achieved in the absence of a particular non-tariff measure.

9. Once a general definition of non-tariff measures has been agreed upon, it would be necessary to determine whether or not a given device represents a manifestation of commercial policy: that is, whether the primary purpose of that measure is to impede imports or stimulate exports, or whether the apparent trade-distorting element is simply a side-effect of a policy measure aimed at non-trade-related goals. This differentiation is important both for analytical reasons and to indicate the prospects for liberalization. In the light of these considerations, existing non-tariff barriers may be classified as follows:

<u>Type I</u>: - commercial policy measures, designed primarily to protect import-competing suppliers from foreign competition (<u>import-directed</u>), or to assist exporting suppliers in expanding their foreign markets (<u>export-directed</u>);

<u>Type II</u>: - measures which are designed to deal with problems not directly related to commercial policy questions, but which are from time to time intentionally employed to restrict imports (import-directed) or to stimulate exports (export-directed);

<u>Type III</u>: - measures which are consistently applied with little or no intent to protect domestic industry, but which unavoidably produce certain spillover effects on the trade sector. These also may be divided into import-directed and export-directed groups, depending on the specific incidence of their effects.

10. A subsidiary question relates to the manner in which a given measure exerts its impact on trade flows. It may represent a <u>quantitative</u> limitation on imports or exports, administratively restricting or prohibiting trade, or it may cause suppliers to cut back their offers of products as a direct or indirect consequence of its imposition. Alternatively, the measure may impose certain <u>costs</u> on exporters or importers and their distribution channels, raising prices at the final point of sale and reducing absorption by the market, or lowering profits and causing retrenchment on the supply side, or both.

11. Accordingly, the following sub-groups would appear as an appropriate addition to the above classification system:

Group A - measures resulting in a quantitative limitation of trade;

Group B - measures exerting their trade-restrictive impact primarily through prices and costs.

12. This differentiation is important for purposes of assessing the likely effect of a particular non-tariff measure, as well as for facilitating the choice of liberalization techniques. There are, of course, instances of the application of specific non-tariff measures where the distinction becomes blurred and the precise operation of a given non-tariff measure is subject to some doubt.

13. Two aspects of identification remain to be considered, although neither will be taken into account as explicitly in the following discussion as the categorizations noted above.

14. The first concerns uncertainty. Tariffs are known quantities, facing importers and exporters as certain costs to be considered in their calculation of market potential, prices, operating expense and profitability. Some non-tariff measures exhibit the same characteristics. Others, however, have the effect of imposing varying degrees of risk and uncertainty on traders and their distribution channels. For example, the size of import quotas may not be fixed or announced, or import licensing may be discretionary. Likewise, cost-imposing non-tariff measures may be very variable or unknown to the exporter or importer until after the contractual commitment has been finalized. Such factors may cause buyers in the importing country to switch to more certain sources of supply, while producers in the exporting country move in search of more secure markets. In either case, the distortion of trade induced by uncertainty may add considerably to that attributable to the causative non-tariff measures themselves.

15. The second aspect relates to the application of non-tariff barriers in terms of biases, or lack thereof, with respect to individual supplier or destination countries. It will become clear that the great majority of non-tariff barrier applications by the developed countries do not incorporate such biases, all imports or exports being treated alike regardless of origin or destination. In certain instances, however, discrimination with respect to origin is in fact involved. On the import side, this is particularly true in the case of certain quantitative restrictions incorporating biases based on past supplier relationships or bilateral agreements. In the case of exports, such

measures may be used to deny products considered sensitive to certain countries, or to limit access to low-cost raw materials and intermediate products for subsequent re-importation in processed form.

16. In summary, all non-tariff measures applied by the developed market-economy countries may be identified in terms of their intent, manner of operation, aspects of uncertainty and discriminatory features. Each method of identification will be employed in the detailed discussion of the individual measures, those bearing particularly on exports of developing countries, and the prospects for liberalization.

III. EFFECTS OF NON-TARIFF MEASURES

17. The evaluation of the precise effects of non-tariff measures is rather difficult in the absence of the required information and data. However, it is possible to give some indication of their likely effects on the importing and exporting countries' respective balance of trade, terms of trade, level of aggregate economic activity and employment, prices, industrial structure and income distribution.

18. A quantitative import restriction reduces by administrative action the flow of goods into the implementing country, with the result that the equation of domestic demand with domestic supply and restricted foreign supply (imports) tends to occur at a price higher than that prevailing in the absence of the quantitative barrier. The higher price and the reduced foreign market-share lead to an increase in domestic output of the product in question, drawing additional productive resources into the protected industry. If the economy has been operating at or near full employment, all or most of the increase in domestic production of the protected import-competing goods will be met by reduced output in other sectors. If it has been operating below full employment, a net increase in output, real income and employment is likely to result. At the same time, the higher prices paid by consumers or users represent for the most part real income transfers to domestic suppliers and to those traders fortunate enough to be able to import under the quantitative restriction. Unless import licences issued under the quantitative barrier are sold or auctioned to domestic buyers, the government will realize no revenue gains as a result. In the presence of effective competition among foreign suppliers - resulting in a roughly constant offer price - the importing country's balance of trade will improve as a result of the quantitative restrictions. For a country imposing a quantitative non-tariff barrier, then, one would expect a shift in industrial structure toward the import-competing sector, increased prices, some loss in productive efficiency, the prospect for increased national product under less-than-full employment conditions, and an improved balance of trade.

19. At the same time, if the protected product is itself a significant input for other domestic industries, further repercussions on prices, output and economic structure will be felt which can accentuate or offset the primary effects of the restriction. Especially the favourable balance of trade expectation is placed in doubt, as the rising costs of user-industries jeopardize their export performance.

20. Yet another impact of quantitative restrictions is their possible effects on third countries. Such barriers imposed by one country tend to deflect the activities of foreign exporters to other potential markets. If they in turn threaten to disrupt import-competing suppliers in these third markets, additional quantitative barriers may be established as a result of this pressure. The general use of such restrictions as commercial-policy devices may thus expand, to the detriment of all exporting nations.

21. Quantitative import restrictions are applied for balance-of-payments reasons and for the protection of domestic industry, although as a policy device they are relatively inferior and costly alternatives to other commercial policies which could serve the same purposes at less cost. Depending upon their application, these measures could ensure a virtually complete separation of national markets and inhibit organic adjustments to international supply and demand shifts.

22. For exporting countries, quantitative import controls imposed by trading partners will in the first instance prompt a search for alternative markets abroad, which may entail price concessions to ensure the required volume of absorption - implying negative balance-of-trade and terms-of-trade effects. In the absence of adequate substitution among export markets, outlets will be sought in the domestic market. This has further deleterious balance-of-trade implications and some negative effects on aggregate economic activity as well, owing to the reduced export volume. Finally, if no substitute markets can be found, production and employment will decline in the affected industry or stockpiling will take place, for a time as private inventory accumulation and subsequently at public expense. None of these alternatives is inherently beneficial for the exporting country. Indeed, quantitative restraints on its exports could result in structural readjustment costs which, particularly for a developing economy, may be high indeed.

23. The conclusions noted here also hold, to a somewhat lesser extent, for quantitatively-operating measures other than quotas and restrictive import licensing, such as discriminatory procurement for public account, as well as for various uncertainty-inducing measures which ultimately result in a contraction of trade. It should also

be noted that quantitative non-tariff measures may be applied in a highly variable manner, and are able to provide the precise degree of protection desired by the importing country. This adds some elements of sporadic instability for the exporting countries and for consumers and users in the importing nations.

24. Cost-imposing non-tariff measures which are applied in a variable manner operate somewhat differently, although the effects may be similar. The importing country may levy a variable charge on purchases from abroad, designed to raise the point-of-sale price of the product to a level equal to or higher than that of the competitive domestically-produced item. By itself, this would tend to cut the import share of the market, raise the domestic share, increase prices, profits, production and employment in the import-competing industry, and generally result in aggregate and structural effects similar to those produced by quantitative restrictions. One difference is that the government may collect a charge essentially equal to the resulting inside-outside price differential which, in the case of quantitative barriers, accrues to the government only if the licences are auctioned, and otherwise goes to private traders able to import under the applicable restriction. Moreover, cost-importing non-tariff import restrictions may be coupled with subsidies to import-competing suppliers, using the revenues thus collected, and result in a two-fold restrictive effect on trade. As in the case of quantitative restrictions, it is possible for the government of the importing country to adjust variable charges in order to prevent more than the desired amounts from entering the country. It does little good for the exporters to lower their offer prices, since the variable charges may simply be raised to compensate for reductions in offer prices. Consequently, the prices of variable import charges on exporting countries are similar to those of quantitative restrictions.

25. In the case of fixed non-tariff import charges, on the other hand, the effects may be quite different. As in the case of tariffs, it is possible for exporters to overcome such levies and so to avoid many of the effects of the restriction. The foreign supplier simply lowers his offer price so that the final point-of-sale price in the importing country remains roughly the same. He may be assisted in this effort by reduced profit margins of importers and internal distributors. In this way, the volume of trade may remain relatively unaffected and the resulting structural, employment, or aggregate-demand changes in both the importing or exporting country may be substantially less severe. At the same time, however, the exporting country may suffer a decline in its terms of trade and a somewhat more moderate worsening of its

balance of trade as its offer prices are reduced, while the terms and balance of trade of the importing country will tend to improve. In the case of fixed cost-imposing non-tariff measures, therefore, the effects may be much less marked than in the case of quantitative barriers. This conclusion will not hold, of course, if price and margin concessions by the exporter or the importer-distributors are impossible or are refused.

26. It remains to consider briefly measures applied by the importing country which bear on its own suppliers, instead of on imports. Of immediate concern to exporting countries is direct or indirect subsidization both of domestic, import-competing producers and of exporters. Such assistance may take a variety of forms, including direct payments, tax concessions, interest subsidization, and so forth. In the case of import-competitors, these activities permit them to reduce prices on the home market and to compete more effectively with imports. If foreign suppliers are unable to counter this action, it will be reflected in structural readjustments, changes in market shares and so on in both countries with effects similar to those of outright import restrictions. Consumers and user-industries in the country applying subsidies benefit, whereas in the case of quantitative restrictions or cost-imposing non-tariff measures these sectors are adversely affected. Subsidization of import-competitors may be as harmful as other forms of non-tariff trade distortions for exporting countries, but it may be less costly for the industry in the country applying the subsidy itself. Subsidization of industries that are simultaneously export competitors, on the other hand, has the additional tendency of reducing the share of foreign suppliers in third markets, unless offset by countervailing subsidies, for the benefit of consumers and users in those markets. In this study, emphasis will be placed on subsidization of import competitors, with less stress on the problem of government aids to exporters.

27. Of less concern to trading partners, except in certain circumstances, are restrictions placed by a country on its own exports. For example, a country may restrict exports of high-technology capital equipment to countries which threaten to become "disruptive" suppliers of products in the manufacture of which such equipment would be used. The same holds true for the export of intermediate goods and semi-manufactures which may subsequently re-enter the originating country in more highly processed form.

28. As in developed market economy countries, quantitative import restrictions and other non-tariff barriers are also applied by developing countries but for different

reasons, namely, for economic development purposes and to assist in conserving meagre foreign exchange resources and in directing these resources to the needs of economic development. Their use as an appropriate tool for economic development in the developing countries has been generally recognized. For instance, Part IV and also article XVIII of the General Agreement on Tariffs and Trade provide that Contracting Parties whose economies can only support low standards of living and are in the early stages of development shall be free to deviate temporarily from the other relevant provisions of the General Agreement.

IV. INVENTORY OF NON-TARIFF BARRIERS

29. In accordance with the considerations relating to a definition of non-tariff measures and taking into account the possible effects of these measures, as well as information available in GATT, a preliminary inventory of non-tariff barriers applied by the following countries has been prepared: Australia, Austria, Belgium-Luxembourg, Canada, Denmark, Federal Republic of Germany, Finland, France, Ireland, Italy, Japan, Netherlands, New Zealand, Norway, Portugal, Sweden, Switzerland, United Kingdom and United States of America.

30. The inventory thus compiled was grouped according to Type I, Type II and Type III measures and divided into Group A and Group B categories, as explained earlier. All products involved were identified according to both four-digit Brussels Tariff Nomenclature (BTN) as well as five-digit Standard International Trade Classification (SITC) product groups. This inventory will be found in Annex II.

31. An effort has been made to incorporate in the inventory only those measures the existence of which has been confirmed by the implementing countries, and to exclude those cases in which there is some doubt as to the existence of a particular measure. This does not mean that the implementing countries agree that each measure identified does in fact constitute a non-tariff barrier. It simply means that all such measures come within the scope of non-tariff obstacles to trade as defined for purposes of this study. In each case, the implementing countries are identified, and there is an indication as to whether a certain restriction applies to all products in the relevant product group or only to some of them. For measures which affect all or most imports and which cannot be identified according to specific product incidence, an attempt is made to assess whether these are applied in a comprehensive manner and with probable trade-restrictive effect, or whether they represent a more moderate application with a

minor or uncertain impact on imports or exports. Finally, only manufactured and semi-manufactured products are included in the inventory.1/

32. It is important to note that the information available so far on non-tariff obstacles to exports of developing countries is incomplete and that the inventory represents only a first step in an examination of these obstacles. Generally these countries lack the resources for undertaking the necessary investigations among national export interests and in many cases presumably are not aware of the non-tariff barriers facing their products in the developed countries, and consequently information is needed from importers in the developed countries.

33. The inventory, and the discussions based upon it, are organized along the following lines:

Type I - commercial policy measures, designed primarily to protect import-competing suppliers from foreign competition (import-directed), or to assist exporting suppliers in expanding their foreign markets (export-directed):

Group A: Measures operating primarily through quantitative restraint of trade:

1. Import quotas: globally administered (including unspecified import quotas)
2. Import quotas: selectively or bilaterally administered
3. Licensing: discretionary and restrictive
4. Licensing: liberal, including licensing for statistical purposes
5. Export restraints of a "voluntary" nature, imposed by trading partners, both bilateral and multilateral
6. Import prohibition: embargoes
7. Import prohibition: selective with respect to origin
8. State trading
9. Domestic-procurement practices by public units
10. Domestic-content and other mixing regulation
11. Export restrictions

1/ As defined in document TD/B/C.2/3, "The Definition of Primary Commodities, Semi-manufactures and Manufactures" of 2 July 1965.

<u>Group B</u>: Measures operating primarily through costs and prices:

1. Variable levies and supplementary import charges, including minimum-price régimes and tariff quotas
2. Advance-deposit requirements
3. Anti-dumping and countervailing charges
4. Credit or other restraints on imports through the financial sector
5. Tax benefits for import-competing industries
6. Direct or indirect subsidization of import-competing industries, including credit subsidization
7. Internal transport charges.

<u>Type II</u> - measures which are designed to deal with problems not directly related to commercial policy questions, but which are from time to time intentionally employed to restrict imports (import-directed) or to stimulate exports (export-directed):

<u>Group A</u>: Measures operating primarily through quantitative restraint of trade:

1. Communication-media restrictions
2. Quantitative marketing restraints

<u>Group B</u>: Measures operating primarily through costs and prices:

1. Packaging and labelling regulations, including mark-of-origin rules
2. Health and sanitary regulations and quality standards
3. Safety and industrial standards and regulations
4. Border tax adjustments
5. Use taxes and excises
6. Customs clearance procedures and related practices
7. Customs valuation procedures and related practices
8. Customs classification procedures and related practices.

Type III - measures which are consistently applied with little or no intent to protect domestic industry but which unavoidably produce certain spill-over effects in the trade sector:

1. Government manufacturing, sales and trading monopolies covering individual products
2. Government structural and regional development policy measures
3. Government balance of payments policy measures
4. Variations in national tax systems
5. Variations in national social insurance and related programmes
6. Variations in allowable depreciation methods
7. Government-financed research and development, and technology spillovers from defence and other programmes
8. Scale effects induced by government procurement
9. Variation in national weights and measures standards
10. External transport charges.1/

34. In each instance, both the general nature of the measure will be examined, as well as its particular bearing on exports of the developing countries and the prospective consequences of its elimination as an obstacle to trade. Further, the specific products affected will be identified and an effort will be made, where appropriate, to indicate possible initiatives for the liberalization of each type of non-tariff measure.

1/ The problem of discriminatory transport charges by international carriers and shipping conferences is the subject of a separate UNCTAD study.

V. QUANTITATIVE RESTRICTIONS: QUOTAS (Type I.A.1-2)

35. Among Type I measures, which operate by quantitatively restricting imports, explicit quotas are the most straightforward. As a tool of commercial policy, quotas have borne the brunt of liberalization activity among the industrial countries since the early 1950s, within the framework of the OECD, GATT and IMF. In broad terms, the heaviest incidence of quotas rests on imports of processed agricultural products and textiles, in particular cotton textiles.

36. Except for temporary applications of an emergency nature, quotas are no longer used in the developed countries for balance-of-payments control; their protective intent is very much the primary objective. In the processed agricultural products sector, the restrictions tend to be applied in support of national agricultural policies. In the case of textiles and other manufactures with a high labour content the apparent intent is to protect laggard or high-cost import-competing domestic industries.

37. Quotas may be applied at very short notice and at minimal cost, and can be kept "in reserve" on a contingency basis. In addition, the threat of quotas may be used to bring about the desired reduction of trade without their actual application, primarily through "voluntary" or self-limitation of exports. Quotas also tend to limit trade on account of their uncertainty, even if they are not filled, as a result of variability or lack of publication of the size of the quota concerned. This may be particularly burdensome for developing countries, and there is some evidence that in many cases quotas have remained unfilled. In addition, there is the problem of the issuance of "buyers' quotas", representing the apportionment of a general import quota among the various interested importers. The individual buyers' quotas that result may be so small that they are no longer interesting to the importers or result in orders that are impossible to fill economically by the foreign exporters.

38. The advantages inherent in the progressive elimination of quotas are clear. To the extent that their incidence falls disproportionately on the developing countries, these stand to gain accordingly.

39. A more detailed analysis of quotas, including data concerning the countries applying them, manufactured and semi-manufactured products or groups of products from developing countries, and also some suggestions for their liberalization are contained in document TD/B/C.2/83 and Add.1.

VI. QUANTITATIVE RESTRICTIONS: LICENSING (Type I.A.3-4)

40. Closely allied to quotas is import licensing. Generally, quotas are administered by means of licences, the issuance of which is halted as soon as a particular quota is filled. There are many cases, however, where the quota within the limits of which import licences are issued is unclear or even non-existent, and the licences are essentially released on an ad hoc basis. This may be termed discretionary licensing, and is restrictive of trade. On the other hand, licences may be issued without being based on quotas, in a relatively liberal manner.

41. The liberality of automatic import licensing varies a great deal from country to country. On the one hand, there are cases where the application of licensing to a wide variety of items appears to be intended mainly for statistical purposes and for observing market developments in the products affected. On the other hand, there are also instances where imports are covered by automatic licensing based on past trade volumes, a method which in practice favours imports from traditional suppliers. Other justifications for automatic licensing include statistical considerations, public safety, national security, collection of taxes and charges of various kinds, accounting for bilateral commitments and exchange restrictions, watching over import prices, detecting import trends, and so forth.

42. Numerous technicalities and administrative procedures substantially increase the trade-restrictive impact of liberal licensing procedures. Aside from the widely varying expenses and delays attending the securing of licences, there may be significant delays in their issuance. In some cases licences may be issued only at a specific location in the importing country, which may not be the normal place of business of the importer or the place of importation. Also, although the period of validity of import licences is normally six months, significantly shorter periods may on occasion be specified which preclude the orderly compliance with technical or health formalities and the conclusion of import contracts. Even six months may be a short period for certain types of transactions and certain foreign exporters, particularly in developing countries. In addition, licences may in certain circumstances be issued freely only on condition that the imports in question are re-exported after processing, and not sold on the domestic market. Other requirements include the identification of the end-user in the license application (so that the building of inventories of the affected imported product becomes impossible), prior certification that a similar domestic product is not available domestically, and no-resale clauses which inhibit the development of secondary markets and add to the

reluctance of buyers. Moreover, any delays in issuance of the licence may be used to apply various pressures on purchasers to "buy domestic" in certain particularly sensitive cases, where the final buyer must be identified in the licence.

43. All these factors, any one of which may or may not be applicable to a given régime of liberal import licensing - as well as the existence of "licensing" itself - serve to increase uncertainty and risk on the part of exporters, importers, participants in domestic distribution channels, and end-users, with the formulation of long-range marketing and advertising plans increasing correspondingly in difficulty. As a result, liberal import licensing is appropriately identified as a non-tariff barrier, although the trade-restrictive effect would appear to vary widely.

44. Discretionary import licensing is quite different in that no doubt exists of its role as a non-tariff barrier to trade or of the similarity of its effects to those of explicit quotas. In some ways, the restrictive effects of discretionary licensing could exceed those of fixed quotas and licences issued thereunder because of the attendant increase in uncertainty. At times, the character of the underlying import restriction remains undefined. As noted above, it may be entirely uncertain whether an implicit or explicit quota even exists, or whether applications for licences are granted or denied on a purely discretionary basis. This "undefined" character of discretionary licensing may make business planning very difficult.

45. In terms of liberalization, the adoption of a liberalized and standardized set of procedures for the issuance of licences, including precise definitions of the commodity classifications to which they are applied, would be useful. Provision might be made for the publication of the exact quantitative restrictions under which the licences are to be issued and for the reservation of an approximate share for suppliers in the developing countries.

46. A more detailed analysis of the various types of licensing at present applied by selected developed market economy countries is contained in document TD/B/C.2/83 and Add.1.

VII. OTHER IMPORT RESTRICTIONS (<u>Type I.A.5-8</u>)

47. Aside from the primary non-tariff obstacles affecting the import trade quantitatively, there are a number of secondary measures in existence that bear directly on imports: "voluntary" export restraints, general and selective embargoes, and State trading.

48. "Voluntary" or self-imposed export restraints are applied by exporting countries to their own suppliers to limit their sales to certain importing countries. In return,

the latter agree not to impose quantitative restrictions or other barriers on their imports from the affected country. In essence, the "voluntary" restriction is applied in the hope of escaping what may be harsher measures. Uncertainty may result from this kind of restriction if the definition of the desired import levels remains unclear. Such export restraints are generally settled on a bilateral basis, and the administrative arrangements for their enforcement differ from case to case. The application of "voluntary" export limitations to the trade of developing countries has thus far been limited to certain products from developing countries.

49. Total and selective embargoes or import prohibitions no longer constitute an important component of the commercial policies of developed countries. Where they do exist, they are often based on non-economic considerations, health and safety demands, etc.

50. State trading presents a more difficult problem since enterprises operating under such a régime may discriminate against imports, either selectively or in general, in the course of their day-to-day operations. The cases considered here are those where State-trading enterprises in the market economy countries are responsible for importing and exporting individual products but where domestic manufacture, distribution and retailing are not in the hands of the State.1/

51. State trading affords protection to domestic suppliers as a result of discretionary changes in import volumes by the agency according to the state of the domestic market. Moreover, the State-trading body has the power to determine mark-ups and to fix the resale prices of the imported products on the domestic market. At the same time, the State-trading enterprise can discriminate among foreign suppliers. If the spread between the average foreign offer price and the domestic resale price is large, its ability to engage in such discrimination is substantial. The relative importance of the State-trading enterprise in the domestic market is also of significance. Particular State-trading enterprises may also protect domestic suppliers of the raw materials or intermediate goods from which the State-traded product is made, by reducing the volume of imports or controlling the prices. A State-trading enterprise may also operate along strict commercial and profit-maximizing lines, but difficulties in determining precisely how much distortion is involved in any given instance leaves no alternative to the inclusion of all such operations as non-tariff measures.

1/ State-trading operations in the socialist countries of Eastern Europe are not covered in this study.

52. There is some scope for the liberalization of restrictive State-trading practices. One suggestion has been the binding of mark-ups applied by the State-trading enterprise to imports, in order to ensure that foreign products are not priced out of the market.[1/] Alternatively, a fixed quota may be assigned to foreign suppliers, to be filled in a non-discriminatory manner, which could then be gradually increased.

53. Information about State-trading and monopolies operated in selected developed market economy countries is contained in document TD/B/C.2/83 and Add.1. This information concerns the countries applying these measures as well as the products or product groups subject to State-trading and monopolies.

VIII. DOMESTIC PROCUREMENT (Type I.A.9)

54. "Buy domestic" programmes, unlike the non-tariff measures discussed thus far, generally cover all manufactures and semi-manufactures and exert an impact on broad ranges of products, rather than on individual and easily identifiable items. They can be divided into two categories for analytical purposes: (i) practices of national and sub-national government units and public authorities; and (ii) practices of business units directly or indirectly influenced by government in their procurement policies. The second group is the subject of a separate study by the UNCTAD secretariat.

55. National government procurement practices discriminating against imports are applied either explicitly or implicitly by virtually all developed market economy countries. Government procurement practices include those applied by Austria, Belgium-Luxembourg, Canada, France, Japan, Norway and the United States, in addition to the buy-domestic programmes of Denmark, the Federal Republic of Germany, the Netherlands, Sweden and the United Kingdom. As an example of explicit buy-domestic regulations the United States "Buy American" Act of 1933 instructs federal agencies generally to give preference to United States suppliers, while the Executive Order No. 10582 of 1954 specifies the margin in favour of domestic suppliers at 6 per cent, or at 12 per cent if the suppliers are small businesses or located in depressed areas.

1/ International Chamber of Commerce, Non-tariff obstacles to trade, Paris, ICC, 1969, p.41.

At the same time, Department of Defense directives since 1962 have given United States suppliers a 50 per cent margin for all of its purchases. Other developed countries apply criteria with similar intent and perhaps even greater restrictive effect, but they are often not codified or otherwise explicitly stated.

56. In many cases, offices in charge of central government procurement have wide discretion in their purchasing practices, and use this discretion to favour domestic suppliers. This treatment may be applied by means of restricted bidding, open only to domestic suppliers, or by "mutual agreement" between the procurement authorities and domestic import-competing suppliers. Other devices used are limited publication of tenders for bids, exclusion of foreign suppliers by means of technical requirements, or non-publication of contracts awarded. The first of these may be particularly burdensome for suppliers in the developing countries, who may not have access to all of the sources of information available to their competitors in developed countries, and are thereby deprived of the opportunity to compete. Moreover, the bidding times may be so short that foreign suppliers cannot react quickly enough, another aspect that may negatively affect developing countries' competitive chances to a substantial degree. Also, requirements may be placed on foreign firms that they establish legal residence in the importing country, that they work with or through domestic companies to gain access to government contracts, or that they first obtain certain permits to trade which may be issued in a highly restrictive manner.

57. In addition to such provisions favouring domestic suppliers, preference may also be shown with respect to selected foreign bidders. Although perhaps less harmful to trade than outright domestic-procurement practices, arrangements may exist within free-trade areas or common markets which favour suppliers located in member countries as compared with competitors in third countries. One example in this category is the agreement within EFTA whereby suppliers in partner countries in principle have equal access to government contracts as domestic producers. While this practice represents a logical component of the economic integration concept, it does not diminish its importance as a device favouring the area suppliers.

58. Moreover, development aid is often tied to purchases in the donor country, a practice which systematically excludes prospective low-cost suppliers in other

developed countries or in developing countries.[1] This may be particularly burdensome in the case of the supply of various capital-goods categories. As a direct result of procurement restrictions attached to development assistance grants and credits, the value of such aid to recipient countries may be materially reduced - the negative impact depending upon the cost of procurement in the donor country relative to that obtaining among the most efficient suppliers in third countries.

59. Finally, it must be noted that national purchasing agencies are not alone in their discrimination against foreign suppliers; domestic or regional procurement practices may be as restrictive - and perhaps quantitatively as important - as similar practices at the national level. To cite once again the United States as an example, many States and a large number of county, municipal and special-district agencies practice procurement which favours the national origin of the products in question.

60. The second category of discriminatory procurement - purchasing practices by business units under the influence of government agencies - may be quantitatively less burdensome but may be of specific importance in the case of selected manufactures and semi-manufactures. In addition, it is sometimes difficult to separate procurement practices instigated by government units from autonomous restrictive business practices of private enterprises in market-economy developed countries. This is the subject of another study by the UNCTAD secretariat.

61. Nationalized, government-regulated or government-influenced business units in many countries favour domestic suppliers in their procurement of selected industrial products. In some countries special incentives and rebates are given national fabricators who can prove that they have not made use of imported steel while in others certain types of manufactured products including capital goods such as electrical and telephone equipment, communications apparatus, electronic components, cargo containers, refrigeration equipment, newsprint, etc. are subject to "Buy domestic" practices.

1/ See "The tying of aid" by Jagdish N. Bhagwati (TD/7/Supp.4) and also "Costs and benefits of aid: an empirical study" by John A. Pincus (document TD/7/Supp.10) in Proceedings of the United Nations Conference on Trade and Development, Second Session, vol. IV, Problems and policies of financing, (United Nations publication, Sales No. E.68.II.D.17), pp. 45-71 and 111-140 respectively.

62. In many instances balance-of-payments pressures are employed as "moral suasion" to convince domestic manufacturers or service industries to buy at home. Government procurement practices and those induced by government in the business sector may increase in importance, in view of the growth of the public sector in developed market economy countries.

63. With respect to government procurement, standardized procedures and codification of purchasing practices at the national level would contribute greatly to liberalization of government procurement practices. For this purpose, countries which do not at present apply systematic procurement regulations might adopt standardized procedures and codified purchasing practices which could eliminate much of the arbitrariness and discretionary action that now cause uncertainty for foreign suppliers. Procurement regulations might, for example, make provision for the publication of policies, allowing to the largest possible extent for international tenders, longer duration of bidding time, etc.

64. However, there are difficulties in bringing about the liberalization of public procurement, even on a national level. In many cases intimate contacts with domestic business firms and the resulting evolution of technical specifications and designs can easily make foreign firms uncompetitive from the start. Constitutional and other legal difficulties, the multiplicity of selective purchasing devices used, as well as the precise nature of any bargaining that might lead to successful liberalization, all indicate the extent of the difficulties that will be involved. The problem is even greater with respect to domestic-procurement practices at the sub-national level, particularly where the national government has little direct authority.

IX. DOMESTIC-CONTENT REGULATIONS AND EXPORT RESTRAINTS (Type I.A. 10-11)

65. There are two further non-tariff obstacles to trade which operate in a quantitative manner: domestic-content regulations and export restrictions. The overall effect of both is relatively less restrictive, although they may have a specially restrictive effect in individual cases.

66. Domestic-content regulations include mixing, milling and other rules designed to enforce a given domestic value-added in products sold within the national customs frontiers. The intent generally is to provide import-competing suppliers with a certain share of the market and to ensure them of additional processing of imported intermediate and raw materials. In addition, such measures may be designed to protect domestic suppliers of raw materials in primary or semi-manufactured form, so that their markets are preserved in the face of foreign competition.

67. Liberalization in the case of domestic-content regulations could proceed by means of codes of behaviour, under which the participating governments would agree not to impose further regulations of this nature and to liberalize those that now exist.

68. Export restrictions, on the other hand, work quite differently. First, they may be designed to impede the development of industries abroad which would then compete with domestic suppliers of manufactures. For example, a country may have highly efficient producers of a certain semi-manufactured product, but further processing into finished goods may be highly labour-intensive and therefore more cheaply done abroad for subsequent re-import in processed form. In order to protect domestic manufacturers of the finished product, without resorting to quantitative import restraints or tariffs, export restrictions may be effective. Second, it may be desired to conserve the natural-resource base underlying certain manufactures and semi-manufactures in order to assure long-range comparative advantage or to provide for the national security. Third, export restrictions may be used to deny access to products which may be of a sensitive nature or to inflict economic hardship on other countries.

69. The fact that export restrictions are at present limited in scope does not mean that they are not of importance for the developing countries particularly in areas of production where final assembly of the products concerned is highly labour-intensive.

X. VARIABLE LEVIES AND SUPPLEMENTARY IMPORT CHARGES (Type I.B.1)

70. After the foregoing consideration of non-tariff obstacles to trade that operate primarily as quantitative impediments of imports and exports in the form of commercial-policy measures, it will be useful to examine those measures which operate with trade-restrictive effect primarily through costs. The first category of these measures - one which has gained renewed prominence in recent years - is that of variable levies.

71. The most important party applying variable levies is the EEC, which applies them as part of its common agricultural programme. The system, composed of fixed and variable elements, ensures the maintenance of high internal prices for farm products and the exclusion of imports that would threaten these price levels. As a programme oriented towards a certain degree of self-sufficiency in agriculture, the EEC system involves the determination of the percentage of self-sufficiency desired as regards particular products, the price level that will ensure attainment of the objective and the variable level necessary to maintain this price level.

72. The EEC variable levy system is of significant interest to the developing countries with respect to their exports of processed agricultural products. The system is applied to most of the basic agricultural commodities and to products processed from them.1/

73. Although the system applied by the countries of the EEC is the most notable form of the operation of variable levies, other countries also apply various types of variable levies and variable import charges to certain types of imports.

74. In addition to the protective effects attending variable levies and import charges, such restrictions may also have important side-effects. The variable elements in the levies may change frequently and abruptly with shifts in domestic market conditions, with the consequence that it becomes impossible for foreign suppliers to formulate prices or plan their future activities. Moreover, changes in levy or surcharge rates may not be announced sufficiently in advance, and consequently bear especially heavily on suppliers in developing countries. In the case of the EEC there seems to have been some difficulty arising from differing interpretations among the member countries of the regulations concerning the precise levies applicable to certain processed foods containing varying amounts of the basic commodities to which the variable levy system is applied.

75. There would appear to be some scope for the developing countries to obtain reductions in the fixed elements of the EEC variable levies as well as in the level of self-sufficiency in the EEC as regards products of export interest to them.2/

1/ For details of the system, see document TD/B/AC.5/5.

2/ In this connexion it may be recalled that the EEC has generally removed the "fixed element" of protection with respect to imports from the associated overseas developing countries and territories. Moreover, the EEC is prepared to reduce the "fixed element" of protection with respect to imports of certain processed and semi-processed agricultural products from all developing countries in the context of the general scheme of preferences (see TD/B/AC.5/24/Add.1).

XI. ADVANCE DEPOSIT REQUIREMENTS, ANTI-DUMPING DUTIES, COUNTERVAILING CHARGES AND CREDIT RESTRICTIONS (Type I.B. 2-4)

76. Apart from cost-imposing non-tariff measures involving import surcharges and variable levies, a number of the measures represent equally clear-cut examples of protective intent. This category includes practices that require importers to deposit funds with customs or other agencies well in advance of the time of import, measures to offset alleged dumping by foreign suppliers - which may be easily misused with protective intent - and credit restrictions imposed on importers or their distribution channels in order to impede purchases from abroad.

77. Advance-deposit requirements were introduced in the United Kingdom early in 1968 for a limited duration covering most manufactured and semi-manufactured imports, as a balance-of-payments control measure.1/ An amount equal to 50 per cent of the value of imports was required to be deposited, at no interest, with the Customs Office for a period of six months, a procedure that at prevailing interest rates could be considered equivalent to a general import surcharge of between 2 and 3 per cent.2/ Where financing is especially costly or difficult to obtain, these measures could impose an increased burden.

78. Somewhat different are the prior import deposits imposed by Japan, involving a deposit of between 1 and 5 per cent of value of imports upon application for a licence by the importer; these percentages are subject to variation. The system is closely tied to the Japanese licensing regime, and its object is to ensure that applications for licences actually are followed by the import of goods. At times, however, the requirements have been raised to a maximum of 35 per cent, as during the balance of payments crises of 1961 and 1964. On the other hand, these deposits yield interest at the rate of 2.555 per cent, and normally remain on deposit for only seven to 30 days.

79. Anti-dumping and countervailing measures pose a problem, because of difficulties in the definition of "dumping",3/ and in determining whether goods are being sold on the

1/ It must however be mentioned that many products of export interest to the developing countries such as preparations of meat, fish, crustaceans or molluscs, cocoa and cocoa preparations, preparations of vegetables, fruit or other parts of plants, woven fabric of jute, essential oils, etc. have been exempted from these requirements. However, some products of particular interest to the developing countries, in particular cotton textiles, are subject to the scheme.

2/ The Government of the United Kingdom announced on 20 October 1969 the decision to extend the import deposit scheme covering the same range of imports for a further twelve months from 5 December 1969. The rate of deposit was reduced from 50 to 40 per cent. The period of deposit - 180 days - remains unchanged.

3/ The GATT defines dumping as cases where "... products of one country are introduced into the commerce of another country at less than the normal value of the products..." The "normal" value may be defined as either (a) the comparable price of the product when sold for consumption or use in the exporting country; (b) the highest comparable price of the product when sold for export to a third country; or (3) the production cost of the product in the exporting country plus a reasonable margin. See General Agreement on Tariffs and Trade, Basic Instruments and Selected Documents, Vol. IV (Geneva: GATT, 1969), p.10.

home market by foreign suppliers below full cost and whether it causes or threatens material injury to domestic industries. However, import prices may well be below prices in the exporting country, both being above total cost, simply on account of a difference in the demand elasticities prevailing in the two markets and the impossibility of resale between them. This is the case of price discrimination between markets, a standard business practice. Moreover, in time of severe excess capacity, foreign suppliers may try to sell in the home market below total unit cost but above variable cost, thereby helping to cover their fixed charges and minimizing their losses.

80. Anti-dumping measures and countervailing charges may be applied on a contingency basis in all developed countries, but have been mentioned as specific trade obstacles in the case of a number of developed market economy countries.

81. Unlike the other measures discussed in this section, credit restrictions on the financing of imports are rarely applied on a contingency basis and generally embody a clearly protective intent. They are designed to render importers or purchasers of imports less able to do business by increasing the cost of obtaining credit and limiting the availability of credit from standard sources. Particularly in times of high interest rates and general monetary restraint such obstacles, by using the financial sector for trade-restrictive purposes, can be quite burdensome.

82. An example of the extensive use of credit measures is the practice employed by Japan, where all long and medium-term credit arrangements come under the control of the Ministry of International Trade and Industry (MITI). In the case of consumer goods, for example, deferred payments are limited to four months, and financing of imports over periods exceeding 120 days appears to be rare. Selected credit restraints also appear to exist in other developed market economy countries.

XII. DIRECT AND INDIRECT SUBSIDIZATION (Type I.B.5-7)

83. A final group of non-tariff measures classified under Type I involves direct and indirect subsidization by governments of import- and export-competing industries in developed market economy countries which may take a variety of forms. The subsidies including the granting of tax relief, deferments, rebates, special exemption, increased tax write-offs, entitlement to proceeds of charges levied on imports, credit subsidization, expansion loans, investment grants, government finance export promotion programmes, subsidized transport rates, etc. A detailed analysis of the various forms of direct and indirect subsidization is contained in document TD/B/C.2/89 and Add.1.

XIII. QUANTITATIVE MARKETING OBSTACLES (Type II.A.1-2)

84. The second category of non-tariff obstacles to trade - including measures which are not in themselves commercial-policy devices but which may have substantially the same effect - comprises policies and practices that in many cases are considerably more difficult to identify and to liberalize than are primarily protective devices. This group of restrictions has been subdivided into two parts: those operating primarily in a quantitative manner, and those whose effects are basically exerted on prices and costs. The first of these contains only two readily-identifiable barriers, both of which fall under the heading of marketing restrictions.

85. In view of the growing importance of the communications media in general marketing efforts, restrictions of a kind that limit promotion of sales of products to the general public or to specialized consumers and users may be applied with notable effect to discriminate against foreign-produced goods. Trade in media items such as cinematograph films and television tapes may also be the object of restrictions of this kind. While presumably a cultural measure, such restrictions may be used with protective intent to stimulate the development of a domestic film industry. In view of the growing film industries in certain developing countries, such as Latin America, their interests would be served by liberalization in this area.

86. Restrictions on the use of media of communication concern consumer goods such as alcoholic beverages and manufactured tobacco products. A ban on television advertising of cigarettes is, for example, in prospect in some countries and exists in others. At the same time, alcoholic beverages are also subject to similar restrictions in some developed countries. Liberalization of advertising restraints might be difficult, especially in the case of measures related to sanitary and health purposes.

87. Apart from restrictions of this kind, other marketing controls have to do with the precise composition of the imported product or its container, or relate to mandatory technical standards and norms. In many such instances, the restrictions may be based on technical grounds (e.g., sealed-beam versus bulb-type automotive headlamps). In others, a protective intent may exist which is secondary to the primary purpose of the measure but nevertheless may play an important role in influencing trade in the affected products. Regulations as to marks of origin might also be burdensome when enforced literally and may inhibit sales of the product. Restrictive regulations specifying who may and who may not carry out marketing and advertising activities may also exist.

88. Some developed market economy countries impose strict technical standards, restrictive branch-office controls on foreign firms (which tend to limit their marketing activities) and other marketing restrictions on manufactured and semi-manufactured products from developing countries.

89. One way of liberalizing such measures may be to moderate the specific technical standards and other marketing requirements contained in government regulations controlling the sale of the items affected. Especially in the case of origin markings it would appear that a great deal could be done to restrain their trade restrictive impact. In cases where precise standards cannot be avoided, the recommendations of international standards organizations might be followed. Harmonization in this area would especially benefit the developing countries which might otherwise find it difficult or impossible to determine and accede to various foreign standards for a single line of exports. Moreover, standard publication of national regulations applied in each developed country could be of assistance to the export efforts of the developing nations.

XIV. PACKAGING AND LABELLING REGULATIONS, SAFETY STANDARDS AND HEALTH REQUIREMENTS (Type II.B.1-3)

90. Wide varieties of imported manufactures and semi-manufactures are affected by packaging and labelling regulations, safety standards and health requirements. Although some of these are hardly protective devices, many are of specific concern to the developing countries, both because the exports of the products in question account for a large share of their total exports, and because they tend to find it especially difficult to satisfy many of the regulations.

91. Packaging and labelling regulations may impose additional costs on manufacturers intending to sell their products in the country maintaining such standards. Mark-of-origin regulations and labelling requirements provide the most widely-used examples. Difficulties may be traced to the required language or languages, specifications of content, and the measurement system employed as stated on the product or its container. For exporters faced with serving a wide variety of different national markets, such requirements imply short packaging runs, various tooling costs, and other expenses. It is nevertheless reasonable that importing countries be permitted to specify that products sold in the domestic market state the origin of the merchandise, its description and its quantity in their own national language or languages. Cost reductions could be achieved through multiple-language labelling to the extent practicable and specifying contents both in metric and in English units.

92. Protective and trade-restrictive elements, however, enter the picture when requirements permit labelling only in the language of the importing country or specify that contents may be indicated only in the customary domestic measuring system. Periodic changes in these requirements may impose additional costs and uncertainties on foreign exporters. Of particular importance seems to be information specifying precisely what the relevant labelling requirements are, for without it suppliers, especially in developing countries, are faced with the risk of having shipped unacceptable merchandise and facing large losses. In the absence of such information, even with relatively innocuous and constant requirements, the trade-restrictive effect could be substantial. Lastly, marks of origin and other markings may be required that are particularly costly, such as die-stamping of metal parts, which may substantially raise costs and reduce the saleability of imports. All such measures bear an additional restrictive element if they are not imposed on domestic products, or are imposed on them in a less rigorous manner than on imports.

93. Perhaps even greater scope for cost-imposition and trade-inhibition is available to importing countries through the application of packaging regulations, which may specify the size, shape and material of the containers in which merchandise is packed. The stipulation that cans, packages and bottles must be of a certain size or shape can raise the costs of foreign suppliers considerably or drive them from the market altogether. Since the required specifications generally conform to those in standard use by import-competing producers, the effect of such requirements is often restrictive of trade. The problems of differing packaging standards is clearly more burdensome than in the case of labelling requirements because of the much greater costs involved. Again, in all these cases the availability of information about current standards, as well as the costs of meeting them, may pose disproportionate difficulties for the developing countries.

94. A number of developed market economy countries apply stringently administered and restrictive labelling regulations to a wide range of manufactures and semi-manufactures, in particular consumer goods such as prepared and preserved food products, certain types of garments and other goods and these may be relatively more burdensome for the developing countries.

95. A number of measures may be considered for reducing the trade-restrictive effects of packaging and labelling regulations affecting products of export interest to developing countries. Wider publicity might be given to the precise standards currently in force, the nature of the control and approval mechanism and any changes in such regulations. This would considerably reduce risk, would be especially useful for the developing countries and would reduce the impact of simple differences in national packaging and labelling requirements. Delays in the administration of regulations could be shortened and the costs involved in obtaining the necessary approvals reduced. Efforts could be made to harmonize existing standards and to elaborate generally acceptable labelling and packaging standards. In this connexion, consideration might be given to the establishment of more liberal standards relating to the size, shape and material of containers and to labelling in particular languages.

96. Safety requirements and standards also pose a problem, particularly in an administrative sense, because of the multiplicity of national and sub-national government agencies as well as non-governmental organizations that are involved. Particular problems arise in connexion with construction materials, electrical appliances, plumbing and heating and air conditioning equipment, owing to variations in national and local building codes, electrical standards and fire regulations. Similarly, various kinds of pressure vessels, electrical apparatus, rubber products, transport equipment and safety apparatus are subject to control by numerous public and industrial bodies responsible for setting standards. In some cases, regional variations in requirements make even internal trade difficult.

97. Costs imposed on foreign suppliers are similar to those described earlier in connexion with packaging and labelling requirements for mass-produced products, necessitating increased tooling costs, short production runs, and so forth. In many cases, the gaps in information and the costs involved in securing approval represent a problem in that foreign suppliers often find it more difficult to meet the requirements than do domestic producers. Such standards might also be used deliberately to impede imports. It should also be noted that in certain cases inspection by private or public bodies can only be carried out during manufacture or in the importing country, a requirement which may exclude foreign suppliers entirely.

98. As in the case of packaging and labelling regulations, wide publicity could be given to safety and technical standards affecting products of export interest to developing countries.

99. In view of the nature of the products subject to safety requirements and standards, the immediate gain to developing countries from such efforts might be smaller than in the case of corresponding action relating to labelling and packaging regulations, but the long-term benefits could be worthwhile.

100. Governments might agree, where practicable, to accept each other's safety and industrial certifications, either on a multilateral or on a bilateral basis, and encourage international standards organizations in their efforts towards the harmonization and elaboration of uniform standards. In cases where standards are specified in national legislation or are laid down by regulatory bodies, consideration might be given to bringing these into line with existing international norms. However, the elaboration of these measures is exceedingly complex and will take a considerable length of time.

101. Perhaps of more immediate concern to the developing countries than technical and safety standards are health regulations applicable to manufactured and semi-manufactured food products and other animal and vegetable items of which they are major suppliers. In this respect co-ordination and liberalization may be more difficult because of the nature of the products involved and the direct bearing of the regulations on the health and welfare of the public. Moreover, developing countries may be at a disadvantage in that there exists a feeling that standards prevailing in developing areas are lower and enforced with greater laxity than in the developed countries, with resulting differences in the severity of standards imposed or inspections required.

102. Of particular concern in the matter of health regulations is the inspection of production facilities, which necessarily has to be carried out on the spot, and the enforcement of penalties for the sale of substandard merchandise, which may be difficult or impossible if the supplier is located abroad. Another problem arises from the inspection process of imported products, which may be very time-consuming and costly, and could in extreme cases result in product spoilage or have other effects that may negatively influence the subsequent saleability of the product. This again

raises the question of uncertainty, since the exporter may find his products rejected on inspection even though he has met all of the health standards of which he was aware, and makes it more difficult to meet the delivery time specified in contracts with buyers. There are also considerable differences among the developed market-economy countries as to tolerable levels of bacteria content, and as to permissible content of insecticides, certain chemicals, food colouring matter and certain food additives. In certain cases there is the problem of import prohibition on public health grounds.

103. Moves in many developed countries to expand the range of consumer-protection legislation covering most food and non-food consumer goods, even if applied in a non-discriminatory manner with respect to imports, may extend the role of such obstacles to trade substantially in the future. Also, even though there is little clear-cut evidence that discrimination as between different foreign suppliers exists in the application of health standards, there appears to be some concern that psychological biases are reflected in the inspection process, especially as regards goods originating in the developing countries.

104. In evolving measures for liberalizing the trade restrictive efforts of health regulations affecting imports of export interest to developing countries, consideration might be given to the following: wide publication of existing health requirements, inspection regulations, attendant time delays and costs, clearance procedures applied in developed market economy countries and multilateral or bilateral agreement on inspection certification of processed and semi-processed food products.

105. Agreement might also be sought on standardized inspection procedures at the port of entry, costs, and time requirements, in order to reduce further the discretionary element and the risks involved. Furthermore, the developing countries themselves might take the initiative, either on a regional basis or as a group, of establishing among themselves a uniform set of health and safety standards on a product-by-product basis. Such standards could be devised in consultation with the appropriate authorities in the developed importing countries with a view to satisfying as many of the existing requirements as possible.

XV. TAX MEASURES (Type II.B.4-5)

106. Another set of measures coming within the Type II category - dealing primarily with non-trade-related problems but periodically employed for protective purposes - concerns practices involving the taxation of imported goods. A distinction is made between these measures and the tax aids to import-competitors and exporters (Type I.B.5), trade-restrictive intent of which is generally primary, and not secondary and essentially fiscal as in the present case. Two groups of fiscal levies are discussed: (i) border taxes, and (ii) excise and use taxes. The incidence of border taxes, however justified, falls specifically on imported products. The incidence of excise and use taxes falls both on home-produced and on imported products.

107. A great deal of effort has gone into the analysis of the border-tax adjustment problem, both in the GATT, the OECD, the EEC and a number of national public and private bodies[1]. In general, those developed countries which rely heavily on indirect taxes for fiscal revenue, mostly in Western Europe, maintain that the attendant system of export drawbacks and compensatory charges on imports does not constitute an important restrictive element with respect to trade. On the other hand, countries relying primarily on direct taxes and other sources of fiscal revenue - whose exports nonetheless face compensatory import charges in the former group of countries without having benefited from drawbacks, and whose imports from them do not face compensatory charges but have been subject to drawbacks - maintain that a significant distortion of trade is at least possible, and probably occurs in fact. This issue is currently under active consideration.

108. In trade among indirect-tax countries, any distortions that exist arise from overcompensation or undercompensation of the effective tax burden by means of border tax adjustments during the export-import process. Such distortions are probably minor and are likely to decrease further with the progressive adoption of value-added tax systems in the Western European countries. In trade with other countries, however, the problem is more serious and revolves around the question whether other kinds of taxes, particularly direct taxes, are or are not reflected in product prices. The problem is further complicated by the large number of direct and indirect taxes levied on producers in some of these countries by State and municipal units, at least some of which are unquestionably reflected in prices. Moreover, owing to the wide variations in tax systems in the developing countries, the exports of some of them may likewise be subject to this particular obstacle to trade.

1/ See, for example, Organisation for Economic Co-operation and Development, Border Tax Adjustments and Tax Structures in OECD Member Countries (Paris, OECD, 1968). See also document TD/B/C.2/89 and Add.1.

109. Over and above the border-tax-adjustment problem itself, there is the question relating to other types of border charges. The problem of valuation of imports for the purpose of border-tax application may also be the source of some additional difficulty.

110. Among the developed market-economy countries under discussion here, Denmark, France, the Federal Republic of Germany, the Netherlands and Sweden currently apply value-added taxes, while Belgium and Luxembourg are due to convert to this system on 1 January 1971[1/]. Austria, Finland, Ireland, Norway and Switzerland still apply single- or multiple-stage sales or turnover taxes. All undertake border tax adjustments, and only Australia, Canada, Japan, New Zealand, the United Kingdom and the United States do not apply such practices. In the case of these countries as well, all imports are subject to whatever sales taxes exist, while in most cases exports are generally exempted.

111. The valuation base for the border tax is usually the duty-paid c.i.f. import value of the products in question, subject on occasion to a discount by a fixed amount. In other instances, the countervailing charge consists of a relatively broad range of percentages, levied according to the nature of the imported product, and appears to bear no systematic relation to the domestic tax itself.

112. There are few immediate initiatives that the developing countries could take in the area of border tax adjustments. The compensatory import charges imposed by developed countries represent a potential area of liberalization for imports from the developing nations. However, if charges imposed on imported products only compensate for taxes levied on the same or similar domestic products, partial or full exemption of products from developing countries from such compensating charges would accord to these products a preference over domestic products. This will not be the case if the preference accorded concerns only the import charges in excess of taxes levied on domestic products.

113. Use taxes, excise and other charges on imports represent a more scattered problem and generally do not affect the entire spectrum of imported products. Many such levies are of a revenue-producing type, intended by the implementing government primarily to deal with matters not related to trade. Although many such levies are applied to both domestically-produced and imported items, subtle discrimination is apparent in some instances. The applicable tax rates may be steeply progressive by value or according to certain physical characteristics of the commodity in question, with the result that imports tend to fall at the high end of the tax scale and competitive domestic products at the low end.

1/ All EEC countries are scheduled to use this system. Consequently, Italy is also due to convert to this form of taxation. See document TD/B/C.2/89 and Add.1.

114. Also, the valuation base for such taxes is almost exclusively the duty-paid c.i.f. value in the case of imports, a feature giving additional potential bias depending on the individual rate of duty. In some cases the taxed products are not produced at home, while substitute items which are supplied domestically bear a lighter tax burden or none at all. Moreover, certain taxes may be inordinately high, depressing consumption of the affected products and, even in the absence of protective intent, bear unduly heavily on exports of trading partners.

115. Among the individual commodities affected, many developed market economy countries impose heavy but non-discriminatory consumption taxes on alcoholic beverages and manufactured tobacco. Perfumes, cosmetics and jewellery articles are also subject to heavy taxes. These levies are also imposed on a number of other products such as mechanical lighters, fruit flours, vegetable waxes, coffee extracts, mineral waters, motor fuels, furs, agglomerated cork, certain carpets and floor coverings and automobiles.

116. The developing countries stand to benefit from general liberalization in this field. They could indicate all such taxes of direct concern to them for inclusion in whatever liberalization programme might be evolved for this type of measure. In this connexion, there may be room for tax modifications in the case of individual manufactures or semi-manufactures of special interest to the developing countries.

XVI. CUSTOMS CLEARANCE, VALUATION, CLASSIFICATION AND RELATED PRACTICES (Type II.B.6-8)

117. Another set of cost-imposing obstacles to trade within the category of Type II involves customs clearance procedures and customs practices which may be used in a manner that clearly constitutes a barrier to trade[1/]. So long as tariffs prevail, customs procedures and the related costs are unavoidable. Hence their existence should not *per se* be considered a non-tariff obstacle. Yet when there is a notable divergence from "standard" procedures which results in added costs and uncertainties, longer delays, and the imposition of high customs duties, it is possible to speak of a non-tariff obstacle and to suggest the possibility for its liberalization, with attendant benefits for foreign suppliers. At the same time, customs procedures provide scope for discretionary or arbitrary action which may be used in a protective and discriminatory manner on an *ad hoc* basis, with the additional imposition of occasional high degrees of risk on traders.

1/ The GATT provisions covering these questions are contained in Articles VII and VIII.

118. Customs clearance, procedures and port charges encompass a variety of measures. Aside from the time lapse and the resulting uncertainties, significant costs may be associated with them, including expensive correction of errors, monetary penalties and fines. Lack of standardization in this respect may likewise pose problems. These problems are dealt with in the Customs Co-operation Council (CCC), and other international organizations as well as the Economic Commission for Europe to secure simplification of formalities and reductions in costs.

119. At the customs frontier itself, costs, uncertainties and customs-service delays are attributable to a number of sources. Customs offices may be understaffed or maintain short or irregular hours. Certificates of origin may be required either as standard practice, in the case of certain products, or sporadically, on occasion apparently in the discretion of the officials in charge. Customs invoices are required in a number of instances, demanding thorough familiarity on the part of the exporter with valuation regulations. Incidental fees or taxes may be required to be paid on importation, or customs stamps may have to be purchased. These costs appear to arise particularly in connexion with the endorsement of certificates of origin, the levying of landing or traffic taxes, and so forth. There may also be provisions which prevent the return of duties paid on items found to be defective and subsequently re-exported, or the duty-free importation of goods destined for re-export may be prohibited. Moreover, there may be the danger of disclosure of business secrets in cases where exporters are required to indicate the process of manufacture of products and prices paid, information which subsequently may come to the knowledge of the foreign importer or final purchaser.

120. Each of these practices represents a source of costs, delays, uncertainties and other negative influences, including problems involved in contracting for firm delivery times, possible losses through spoilage of perishables, and increased difficulties in formulating intermediate-range marketing plans. Apart from explicit customs matters, inadequate port and warehousing facilities, or high transfer costs and similar port considerations - to the extent that they are under the control of the government - may also be considered under this category of non-tariff obstacles.

121. Practices applied to imports in the developed market-economy countries include regular customs-invoice requirements, regular certificate-of-origin requirements, sporadic demands for origin certificates and endorsement fees, traffic and landing taxes and periodic customs service delays. These, of course, apply also to manufactured and semi-manufactured imports from developing countries.

122. There are a number of possible avenues for the liberalization of consular formalities, customs procedures, and other transfer costs. So far as consular and customs formalities are concerned, simplification and standardization provide the best solution. Efforts currently being made to reduce the variety and complexity of required documentation will doubtless continue. Even more promising is the standardization of documentation and of the procedural aspects of customs clearance, including the elimination of documents such as certificates of origin and their replacement with far simpler though equally effective devices. Similar simplification may be possible for customs invoices.

123. All such measures hold some promise of gain for the developing countries, since the incidence of customs complexities may well be unusually great for their exporters. But all parties concerned are likely to gain from procedural simplification, including those imposing the measures, as a result of reduced operating costs and greater efficiency. The reduction and standardization of fees and other costs would yield similar benefits. Lastly, the adequacy of port and customs facilities, though their inadequacy is sometimes an important barrier to imports, is probably best handled on an *ad hoc* basis.

124. Perhaps somewhat more serious are customs valuation practices and procedures, which vary considerably from country to country and which sometimes allow for a great deal of discretionary action on the part of customs officials. Such procedures may affect all imports, or they may bear especially on individual products or product groups.

125. There are a number of problems related to valuation as applied by developed market economy countries. First is that of c.i.f. versus f.o.b. valuation; variations in transport charges and insurance costs affect the valuation and hence the customs charge if goods are valued on a c.i.f. basis but not if valued on an f.o.b.

basis. Second, in the case of contractual ties between buyers and sellers, many countries, including those subscribing to the Brussels Convention on the Evaluation of Goods for Customs Purposes, replace the invoice value of the goods in question with a "normal" value - to reflect the price of the goods in the absence of such contractual ties - for purposes of applying the customs charge. This leads to discretionary actions in defining both "contractual ties" and "normal value", and appears to bear particularly on trade-marked products and on industries where close close ties between buyers and sellers represent standard practice.

126. Systematic or sporadic "uplifts" may be applied to invoice prices on a regular basis in certain countries as a standard practice for raising customs valuation, with a great deal of latitude sometimes allowed to customs officials in determining the amount of the uplift. The timing of protective pressure and the application of uplifts in many cases indicate that a commercial-policy function is being performed. Even in countries which apply the Brussels definition of value (BDV), de facto uplifts are sometimes achieved by basing customs value on the domestic sales price of the imported product minus a given margin, while other countries simply raise the invoice value by a set percentage figure.

127. The existence of a wide variety of valuation methods in countries not applying the BDV poses a serious problem. In some cases, valuation is based on prices of comparable domestic products or, a valuation which has a still more distorting effect on the basis of what domestic suppliers say they would sell a product for if they produced it - in the case of products not presently supplied by import-competing manufactures. In others, customs valuation may be based on the normal sales price of the imported product in the country of origin or the export value, whichever is higher, with the consequence that differences in costs and margins which naturally exist between the two values are not taken into consideration. Because foreign values are often difficult or impossible to determine with accuracy, considerable discretion and arbitrariness may be involved.

128. Valuation may also be based on other more or less arbitrarily determined values, variously termed "fair" values, "constructed" values, and so on. Special valuation practices affect individual products in cases where the physical characteristics of

the product, such as the degree of alcoholic content or the strength of dyestuffs, determine the establishment of the customs value. An additional element of uncertainty is involved when foreign-market values are verified ex post facto and the importer is subsequently liable for supplementary charges arising out of the investigation.

129. There is ample scope for the liberalization of customs classification practices. The existence of tariff schedules and nomenclatures differing from the BTN leads to complications and uncertainties, simply because of their differences. Additional problems arise out of the greater complexity of systems that do not employ the BTN classification and from periodic changes and amendments in schedules. These problems are often attributable to the difficulty, especially for supplier developing countries, of determining beforehand precisely what the applicable tariff rate for a given product will be, and to discretionary classification by individual customs agents.

130. Furthermore, the classification may vary according to whether or not the imported product is produced at home - for example, under the "made in Canada" régime - and whether or not a given product is a substitute for another product on which a higher rate of duty is imposed - for example, under Australia's "substitute notice" system. Packaging can also be used as a characteristic of discrimination in classification: different tariff rates may be applied to the same import according to whether it is shipped in bottles or barrels, or in large or small packed quantities.

131. Aside from being subject to the application of nomenclatures differing from the BTN, manufactures and semi-manufactures subject to discriminatory classification practices include textiles, chemicals, alcohols and glycerol, certain alcoholic beverages and various other manufactures. Among these, textiles and food products are of especial export interest to the developing countries and probably represent those most exposed to this type of non-tariff obstacles to trade.

XVII. OTHER NON-PROTECTIVE MEASURES (Type III. 1-11)

132. There are a number of policies, programmes and practices applied by the developed market economy countries that undoubtedly have a bearing on imports and exports but that exhibit no discernible protective intent. In view of their possible impact on the trade of developing countries, and the meagre or non-existent prospects for modifying them or mitigating their presumed trade-restrictive effects, a brief discussion will suffice to indicate at least their existence and general character.

133. One measure in the category of Type III which can be readily identified and the incidence of which can be determined is the use of government monopolies. These generally possess the exclusive right to sell and/or manufacture individual products either nationally or regionally within a country. Their existence is usually justified on social security, or fiscal grounds, and their activities in the import-export field are simply extensious of their predominantly national activities. A distinction is thus drawn between government or government-sanctioned monopolies of production and distribution on the one hand, and State-trading enterprises which are active exclusively in the international area, on the other hand. In the latter case, some commercial-policy intent is present and prospects for modification of restrictive practices may exist. In the former case, any trade-restrictive actions may be incidental to the monopolies' primary functions.

134. State monopolies may affect trade in ways very similar to those characterizing restrictive business practices. Sales monopolies may buy or not buy from whomever they choose, whether domestic or foreign suppliers, and preferences may be shown to domestic products. Moreover, in the case of most sumptuary sales monopolies, the purchasing policies are often closely governed by the nature of consumer or user demand. Production monopolies will, of course, favour their own products and import only whatever is needed to make up deficiencies in output or satisfy a particular demand - in which case the imported product may be so priced as to be non-competitive with the domestic item.

135. In various developed market economy countries, State monopolies prevail in the following product groups: cereal meal and flours, alcoholic beverages, antibiotics, vaccines and medicaments, certain yarns and cordage, various fertilizers, vegetable alcaloids, smokers' supplies, ethyl alcohol, and tobacco products.1/ It is virtually impossible to estimate the trade-restrictive effect of such monopolies on the trade in and sales of manufactures, which undoubtedly might vary greatly from one case to another.

1/ For a detailed analysis, see document TD/B/C.2/83 and Add.1.

Whereas there may be little chance of a major change in monopoly legislation for reasons of trade liberalization, it would be possible for monopolies in developed market economy countries to give consideration in their policies to suppliers from developing countries.

136. Beyond this, there are a variety of government measures that affect trade. Regional industrialization and other structural policies implemented by the developed countries may affect the trade sector to a greater or lesser degree. Taxes based on location, and financial and transport incentives, may affect both imports and exports, as may public procurement that discriminates as between regions. Efforts to assist various disadvantaged population groups, particularly through the artificial stimulation of labour-intensive industries, may have an important bearing on imports in high-labour-cost countries.

137. Perhaps of greater overall importance are balance of payments policy measures which can have various effects on the trade sector and even differential effects on different products, depending on domestic and foreign supply and demand conditions. Domestic economic restraints for balance-of-payments purposes tend to affect all imports, but affect some more than others, depending on how the restraint is brought about. Measures intended to encourage a switch in expenditures, through non-tariff and other measures especially in emergencies, may leave the trade sector vulnerable as compared with the case of direct interference in the financial sector. Even devaluation will have differential effects on trade in individual products, depending on the responsiveness of foreign and domestic suppliers and consumers or users to price changes.

138. Trade may be affected by differences in national tax systems, quite apart from the border tax question discussed earlier. There is little question, for example, that direct tax systems and rates of tax applied to business firms affect their future price and quality competitiveness in the international marketplace through their ability to reinvest earnings. Likewise, the nature of depreciation schemes and other tax write-offs can have an important long range effects as can - in the more immediate context of relative cost levels - the nature of the national social insurance programme and other producer-borne charges and variations therein.

139. Somewhat different are spillovers of government military or civilian procurement programmes. Much of the government-sponsored research and development work in the military and related fields can be and in fact is easily applied in business and may have an important export or import-competing impact. Similarly, government purchases of certain items may provide the necessary volume of production to render export or

import-competing production feasible and to lower costs and prices. In some cases, capital equipment financed by the government may be used for subsequent non-government production, while the public sector itself may take the initiative in the formation of consortia and in financing the design stages of products that could not otherwise be produced.

140. It may also be appropriate to consider differences in national weights and measures standards as an obstacle to trade in that such standards impose certain costs and have been shown to be amenable to change. Transport rates and policies by international carriers may also have effects on trade. These are the subject of separate UNCTAD studies.

XVIII. FREQUENCY OF DIFFERENT TYPES OF NON-TARIFF BARRIERS

141. Annex I summarizes information about different types of non-tariff barriers that are itemized in Annex II. Individual measures have been counted at the level of five or four-digit SITC and four-digit BTN headings or sub-headings, as they are given in Annex II. Each measure listed has been counted as one, irrespective of whether it covers all or only part of the relevant SITC or BTN heading. The limitations of Annex II naturally apply also to Annex I; it is based on available information, which is more complete for some types of non-tariff barriers than for others. The types of barrier for which the most complete information is available are import quotas, licencing requirements, and State trading. Relatively incomplete information exists for "voluntary" export restraints and domestic procurement practices.

142. It should be noted that the number of non-tariff barriers of a particular type is not intended to be an index of the over-all quantitative effect of that type of barrier. However, it gives some indication of the number of items involved.

143. There are a number of sub-groups of non-tariff barriers of which no examples are given in Annex I. In most of these cases, the type of barrier in question is such that it is generally applied across the board, not just to selected products. This is true of sub-groups IA7, IB2, III2, III3, III4, III5 and III6. A small number of other sub-groups concern relatively intangible types of barriers which are difficult to relate specifically to particular products (III7 and III8) or which do not result from specific governmental actions (III9 and III10). For none of these sub-groups are restrictions listed in Annex II or Annex I, but their absence from the list should not be taken to imply that the barriers concerned do not exist, or that their effects are unimportant.

144. It may be seen from Annex I that Type I measures - those specifically designed to protect domestic producers or assist domestic exporters - are numerically the most important, accounting for 1,900 out of a total of 3,000 restrictions listed, or about 62 per cent. Most of the remaining restrictions are of Type II, and only 83 Type III restrictions are listed.

145. Within Type I, Group A measures, consisting of those operating primarily through quantitative restraints on trade, are predominant and account for over 90 per cent of the total. The largest sub-group here is IA5 - export restraints of a "voluntary" nature - 444 of which are listed, most of them bilateral. Global quotas (IA1) are next in importance with 313 restrictions listed, followed by selective or bilaterally administered import quotas (IA2).under which heading 273 restrictions are listed. There are also 219 examples of discretionary and restrictive licensing (IA3) and 203 cases of liberal licensing (IA4). State trading and domestic procurement practices (IA8 and IA9) each account for fewer than 100 restrictions, although the latter group may be under-reported, since a number of countries appear to apply domestic procurement practices to virtually all public sector purchases (see paragraph 55).

146. Within Group B, over 65 per cent of the restrictions listed are variable levies, supplementary import charges and similar measures (IB1).

147. Of the Type II measures - those intentionally employed from time to time to restrict imports or assist exports, though designed primarily for other purposes - almost all the measures listed operate primarily through costs and prices, and hence are in Group B. Those listed most frequently are safety and industrial standards and regulations (IIB3), of which there are 379 cases. Customs classification procedures (IIB8) and customs valuation procedures (IIB7) are also important, with 246 cases and 187 cases listed respectively. The other major sub-group is that of health and sanitary regulations and quality standards (IIB2), under which 126 measures are listed. Packaging and labelling regulations, including mark-of-origin rules (IIB1), use and excise taxes (IIB5) and customs clearance procedures (IIB6) are numerically fairly unimportant.

148. Most Type III measures - those involving spillover effects on the trade sector - are of the sort that either applies across the board to all imports, or are relatively difficult to identify. The only sub-group which is relatively easy to identify, and for which cases have been listed is III1 - government manufacturing, sales and trading monopolies. Eighty-three cases covering individual products are given in Annex I.

A NOTE ON SOME ALTERNATIVE APPROACHES FOR DESCRIBING THE INCIDENCE OF NON-TARIFF BARRIERS

1. Annex II (columns 21 and 22) indicates roughly the incidence or frequency of application of the various types of non-tariff measures taken together on products or product groups of export interest to the developing countries. The figures given in the above-mentioned columns are intended to provide only an ordinal ranking, and no significance should be attached to their absolute levels. More refined and reliable indicators of the incidence or restrictiveness of the measures may be devised, but lack of the required information did not allow their use in the present study.1/

2. There are a number of ways of describing the incidence of non-tariff barriers. These include the degree of intensity with which non-tariff measures are applied by individual importing countries (cross-country comparisons of non-tariff use); the degree of vulnerability to such barriers of individual exporting countries; the susceptibility of individual products or product groups to the imposition of non-tariff measures; and the intensity with which individual types of non-tariff barriers are applied as instruments of commercial policy relative to other types of trade measures, including tariffs. Each of these has its own merits and limitations, and the choice of any one of them depends to some extent upon the objective for which an analysis of incidence is being sought and on the availability of the required information and data.

3. Columns 21 and 22 of Annex II attempt to describe, in rather crude terms, the incidence of the non-tariff barriers covered by the present study, on the basis of the number of non-tariff barriers encountered. Two methods were chosen because of their relative simplicity and also because the data required for their application are more readily available. Furthermore, they give some indication of which products or product groups appear to be more heavily subject to non-tariff barriers - information which would be useful in the consideration of these measures as applied to exports of interest to the developing countries.

4. The methods used for estimating the incidence of barriers are based on indices designed to reflect the intensity of non-tariff barrier applications to individual products or product groups, such that: (i) the more countries apply non-tariff

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1/ The inventory of non-tariff measures is not intended at this stage to cover each and every type of non-tariff measure nor all the products affected by such measures.

barriers on a product, the greater is the incidence of non-tariff measures on that product, and (ii) the more frequently countries apply multiple non-tariff barriers to a product, the greater is the incidence.

5. To arrive at the figures in column 21, the number of non-tariff barriers in selected developed market economy countries applied to a product was counted.1/ This sum may be used to reflect the incidence of barriers2/ in comparison with corresponding values for other products, or it may be divided by a constant to produce an unweighted index which may be compared with other types of indices constructed subsequently. The figures in column 21 of Annex II represent such an index and the constant used is the number of developed market economy countries including the EEC applying the non-tariff barriers.3/

6. Since it is reasonable to assume that the size of the market protected by non-tariff barriers is relevant in the consideration of the incidence of the barriers, e.g. that a Type I.A.1 measure applied by a large economic unit or market to a product

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1/ As mentioned earlier, there are a number of non-tariff barriers generally applied to all types of imports and not just to selected products. These are not covered in these estimates.

2/ The assumptions are: homogeneity of non-tariff measures; no redundancy as between individual non-tariff measures in the case of multiple applications; the degree of redundancy between these measures and tariff is zero; the size of the market is of no importance for the incidence of the application of non-tariff measures.

Some of these assumptions may be relaxed; for instance, all the non-tariff measures may be ranked according to restrictiveness and weighted accordingly, or possible redundancy of non-tariff measures may be adjusted by means of the reciprocal of the applicable tariff rates in each instance.

3/ The index V_j given for product j in column 21 was defined as:

$$V_j = \frac{N_1 + N_2 + \dots N_n}{I}$$

Where V_j represents the unweighted incidence of non-tariff barriers applied by selected developed market economy countries including the EEC to product j,

N_i represents the number of non-tariff barriers of type i applied by selected developed market economy country or economic unions (EEC), (N equals 1 to 38), and,

I represents the total number of countries or economic unions under consideration (I equals 20).

tends to have a greater impact on exports of developing countries than the same measure applied by a smaller economic unit or market, some adjustments to the index would be desirable. In this case, some indicator of market size would have to be integrated into the calculation of the incidence of barriers, so that heavier weight is given to cases of non-tariff protection of large markets and less weight to its application to smaller markets. Such an indicator might simply be derived from a rank-ordering of countries or the gross national products of the various countries applying the non-tariff barriers. The latter was used in arriving at the figures in Column 22 of Annex II since data for gross national product are readily available.

7. The figures in Column 22 were calculated as follows: the gross national product of each developed market economy country, including the EEC, applying the non-tariff barrier was multiplied by the number of non-tariff measures imposed by it, the results summed over all 20 applying units, and the total divided by a constant made up of the combined GNPs of all the units applying non-tariff barriers. The figures in Columns 21 and 22 may be compared for an indication of the influence of market size, as measured by gross national product, on the results. The figures in Column 22 give an ordinal comparison of the incidence of non-tariff measures on the various products or product groups. The larger the index number, the greater is the incidence of non-tariff barriers applied to that product, adjusted for the market size of the applying units.1/

1/ In the equation, this took the form:

$$wj = \frac{N_1 (Y_1) + N_2 (Y_2) + \ldots N_n (Y_n)}{\sum_{i=1}^{n} Y_i}$$

Where W_j represents the (weighted) incidence of non-tariff barriers applied by developed market economy countries including the EEC to product j adjusted for the market size of the applying country or customs union,

N_i represents the number of non-tariff barriers by country or customs union i, N equals 1 to 38,

Y_i represents the gross national product of each developed market economy country or customs union as an indicator of market size (for customs union, combined GNP of member countries), and,

$\sum_{i=1}^{n} Y_i$ represents the combined GNP of all countries or customs unions under consideration.

8. Some additional insight might be obtained into the incidence of non-tariff barriers by applying trade data and estimating trade-weighted incidence rates on the basis of one- or two-digit major SITC product groups. For example, for each one- or two-digit product group the percentage of individual products subject to non-tariff measures could be calculated for each country or customs union and for all the developed market economy countries combined.

9. Also, the percentage of the country's imports entering under non-tariff barriers might be illuminating, and this could be calculated in respect of major commodity groups or total imports for individual developed market economy countries and customs unions and for the combined developed market economy countries. The resulting index would show the over-all volume of imports into developed market economy countries that is subject to non-tariff barriers and its importance relative to their total imports.

10. As mentioned earlier, the methods employed in describing the incidence of barriers are an attempt merely to give some rough indication of the susceptibility of individual products or product groups to non-tariff measures or which product or product group tends to be subject to a high degree of application of such measures. They are not intended to indicate the degree of intensity with which these barriers are applied, the degree of vulnerability to such measures of individual developing exporting countries or the restrictiveness of the non-tariff measures.

11. Ideally, it may be desirable to move away from the concept of the incidence of barriers to a description of the restrictiveness of the non-tariff measures applied to products of export interest to developing countries. Subject to the availability of the necessary information and trade data, it might be useful to attempt some estimates which involve the calculation of a hypothetical trade volume or one that would be achieved in the absence of non-tariff barriers, which could be compared with the actual trade volume in the presence of these restrictions. This could be done in a number of ways.

12. For instance, prices of products prevailing within the country or region protected by non-tariff barriers may be related to comparable prices prevailing outside the country or area which, in this case, might ideally be the c.i.f. price of the lowest-cost suppliers plus the applicable tariff. This would yield net domestic-external price differentials, and approximate values representing demand elasticities might be applied to determine the hypothetical trade volume and the degree of restrictiveness of the non-tariff barriers as calculated. Alternatively, hypothetical trade volumes

may be derived directly from imports by analysing the import structure of countries that do not apply, or apply only very few, non-tariff restrictions, adjusting for differences in the economic variables between countries which apply and those which do not apply non-tariff barriers and for differences in tariff levels. Another possibility might be to determine the reaction of a country's imports to the imposition of a particular non-tariff barrier and to estimate its restrictive effect, after accounting for changes in other relative variables.

13. The first approach would yield a net price difference attributable to the non-tariff barrier, which could be converted into a tariff equivalent. The other two methods would yield volume effects which can in turn be converted into tariff equivalents by applying appropriate values for the price elasticity of demand. These tariff equivalents of non-tariff restrictions could then be combined with the applicable tariff rates in order to work out composite estimates of tariff and non-tariff protection. The net domestic-external price differentials, unadjusted for the applicable tariff rates, could provide the composite protective rates.

14. Any of these analytical techniques could result in a detailed product-by-product analysis of non-tariff barriers to imports of export interest to developing countries, but its usefulness would depend on meaningful price comparisons, accuracy of the elasticity values applied, and other factors.

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