

# CHAPTER 5

## TARIFFS

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### OVERVIEW OF RULES

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#### 1. BACKGROUND OF RULES

Tariffs are the most common kind of barrier to trade; indeed, one purpose of the WTO is to enable members to negotiate mutual tariff reductions. Before we consider the legal framework that disciplines tariffs, we must understand the definition of tariffs, their functions and their component elements (rates, classification, and valuation).

##### (1) DEFINITION OF “TARIFF”

Strictly defined, a tariff is a tax imposed on imported or exported goods.<sup>1</sup> In general parlance, however, it has come to mean “import duties” charged at the time goods are imported.<sup>2</sup> The tariff amount is calculated by multiplying the customs value, which is the basic amount, by the tariff rate.

$$\boxed{\text{Tariff Amount}} = \boxed{\text{Basic Amount (Customs Value)}} \times \boxed{\text{Tariff Rate}}$$

##### (2) FUNCTIONS OF TARIFFS

Tariffs have three primary functions: (1) to serve as a source of revenue; (2) to protect domestic industries; and (3) to remedy trade distortions (as a sanction).

The revenue function simply means that the income from tariffs provides governments with a source of tax revenue. In the past, the revenue function was indeed a major reason for applying tariffs, but economic development and the creation of systematic domestic tax codes have reduced its importance in developed members. For example, Japan generates about 0.94 trillion yen in tariff revenue per year, which represents approximately 1.7 percent of total tax revenue (based on Fiscal Year 2016). In some developing members, however, revenue generation may still be an important function of tariffs.

Tariffs are also a policy tool used to protect domestic industries by changing the competitive conditions, placing otherwise competitive imports at a commercial disadvantage. In fact, a cursory examination of the tariff rates employed by different members suggests that they reflect, to a considerable extent, the state of competitiveness of domestic industries. In some cases, “tariff quotas” are used to strike a balance between market access and protecting the domestic industry. Tariff quotas work by assigning low or no duties (in-quota duties) to imports up to a certain volume

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<sup>1</sup> With regard to the scope of general MFN treatment, GATT Article I prescribes that MFN treatment includes “customs duties and charges of any kind imposed on or in connection with importation or exportation ...” It thus deals with not only tariffs on importation but also those on exportation.

<sup>2</sup> In Article 3 of Japan’s Customs Tariff Law, a tariff is defined as follows -- “Customs duty shall be imposed on imported goods on the basis of the value or quantity thereof taken as the basis for custom valuation,”; the Law explicitly limits tariffs to importation.

and then higher rates (out-of-quota duties) are applied to imports that exceed the initial volume.

Although the WTO generally bans the use of quantitative restrictions as a means of protecting domestic industries, it permits the use of tariffs for this purpose.<sup>3</sup> The reason for this is due to an understanding that tariffs are more favorable methods to protect domestic industries than quantitative restrictions. (See “3. Economic Aspects and Significance” below.)

Tariffs as sanctions may be used to remedy trade distortions resulting from practices of companies or members found to injure the domestic industry. For example, the Antidumping Agreement allows members to use “antidumping duties” to remedy proven cases of injurious dumping; similarly, the Subsidies Agreement allows members to impose countervailing duties when an exporting member provides its manufacturers with subsidies that, while not specifically banned, nonetheless injure the domestic industry of an importing member. (See Chapters 6 and 7 for further discussion.)

### (3) TARIFF RATES

Obviously, one of the most important components of a tariff measure is the rate of the tariff. As noted in the tariff function discussion, above, additional tariffs can reduce the welfare of the world economy as a whole. Since 1947, the GATT has been the standard bearer in an on-going process of reducing tariff levels. During tariff negotiations (known as “rounds”, including the “Uruguay Round”, which finished in 1994), members set ceilings on their tariff rates for individual products and/or sectors. This is known as the “bound rate” and refers to the highest allowable rate a member may impose on imports of a specific product; the rate that is actually applied is referred to as the “applied rate.” The GATT has been successful in encouraging mutual reduction of these rates.

The Uruguay Round resulted in a final average bound rate for industrial goods (weighted average by trade volume) of 1.5 percent for Japan, 3.5 percent for the United States, 3.6 percent for the EU, and 4.8 percent for Canada. Japanese tariff rates are therefore comparatively low. In addition, since the conclusion of the Uruguay Round, there have been further efforts to reduce tariffs in specific sectors *i.e.*, Information Technology Agreement (ITA) and Duty-Free Treatment for Specified Pharmaceuticals. Figure 4-1, below, provides a detailed comparison of average bound rates under the Uruguay Round for major trading partners.

On the other hand, there are some items in the agricultural sector, for example, the tariffs of which are maintained so high that they are called “tariff peaks”; examples include peanuts in the United States, bananas in the EU, butter in Canada and manioc in Republic of Korea.

**Figure II-5-1 Changes of Average Bound Tariff Rates (Non-agricultural Products)**

		Japan	U.S.	EU	Republic of Korea	Australia	Indonesia	Thailand	Canada	Malaysia	Philippines	India
Average Bound Tariff Rate (%)	Pre UR	3.8	5.4	5.7	18.0	20.0	20.4	37.3	9.0	10.2	23.9	72.2
	Post UR	1.5	3.5	3.6	8.3	12.2	36.9	28.0	4.8	9.1	24.6	32.4
Binding ratio (%)	Pre UR	98	99	100	24	36	30	12	100	2	9	12
	Post UR	100	100	100	89	96	92	70	100	79	66	68

<sup>3</sup> GATT Article XI prescribes that “No prohibitions or restrictions other than duties, taxes or other charges ... shall be instituted or maintained by any Member”. Article XI, therefore, clearly bans quantitative restrictions while leaving the door open for tariffs.

## Notes:

1. Japanese figures are based on Ministry of Economy, Trade and Industry calculations (excluding petroleum and forestry and fishery products). Average bound tariff rates for industrial sectors including forestry and fishery products are 1.7 percent.
2. GATT Secretariat calculations (excluding petroleum) are used for other members.
3. Average bound tariff rates are based on a trade-weighted average. The average bound tariff rate is calculated as the sum over each tariff line of import value multiplied by the bound rate, divided by the total import value of bound tariff lines multiplied by 100.
4. Scope of bindings rates is the trade-weighted average. Binding ratio equals total import value of bound tariff line divided by total import value.
5. “Pre UR” and “Post UR” refer to tariffs before and after implementation of Uruguay Round commitments.

**Figure II-5-2 Tariff rates of major Members**

Names of countries and regions	Simple average bound rate (%)		Simple average applied rate (%)		Binding ratio (%)	
	Non-agricultural products	All products	Non-agricultural products	All products	Non-agricultural products	All products
Hong Kong	0.0	0.0	0.0	0.0	39.8	47.7
Japan	2.5	4.5	2.5	4.0	99.6	99.7
USA	3.2	3.4	3.2	3.5	99.9	99.9
EU	3.9	5.0	4.2	5.2	100	100
Chinese, Taipei	4.7	6.3	4.8	6.4	100	100
Canada	5.2	6.5	2.2	4.1	99.7	99.7
Singapore	6.2	9.6	0	0.0	67.3	72.0
Russia	7.1	7.6	6.5	7.1	100	100
China	9.1	10.0	9.0	9.9	100	100
Republic of Korea	9.8	16.5	6.8	13.9	94.1	94.9
Viet Nam	10.4	11.5	8.5	9.6	100	100
New Zealand	10.7	10.1	2.2	2.0	100	100
Australia	11.0	9.9	2.7	2.5	96.6	97.0
Malaysia	14.9	21.3	5.4	5.8	81.9	84.3
South Africa	15.7	19.0	7.5	7.7	95.5	96.1
Philippines	23.4	25.7	5.7	6.3	61.9	67.0
Chile	25.0	25.1	6.0	6.0	100	100
Thailand	25.6	28.0	7.7	11.0	71.4	75.2
Brazil	30.8	31.4	14.1	13.5	100	100
Argentine	31.7	31.8	14.3	13.7	100	100
India	34.5	48.5	10.2	13.4	70.5	74.4
Mexico	34.8	36.2	5.7	7.0	100	100
Indonesia	35.6	37.1	7.8	7.9	95.8	96.3
Jamaica	42.5	49.6	6.7	8.5	100	100
Kenya	57.0	95.1	11.6	12.8	2.0	14.8
Lesotho	60.1	79.9	7.5	7.6	100	100

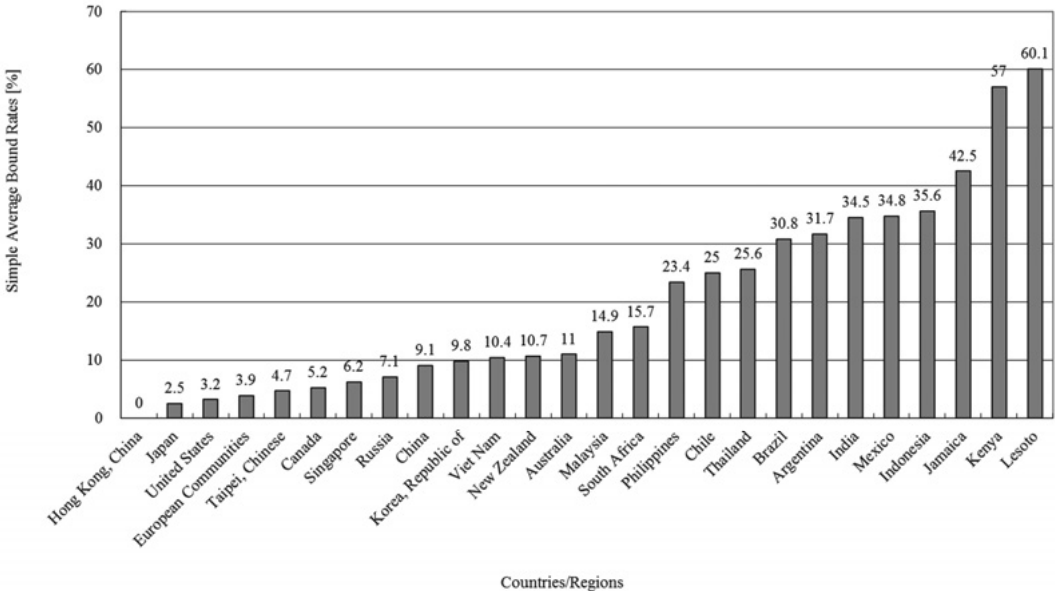
Source: World Tariff Profiles 2017

Note: 1. Figures are defined at the tariff line level.

2. Non-agricultural products are products other than those subject to the Agreement on Agriculture and include forest and

- fishery products.
3. The simple average applied rate of some countries exceeds the simple average bound rate because the number of items used to calculate the simple average applied rate and the simple average bound rate are different. The figures do not necessarily indicate that the countries actually apply tariffs that exceed the bound rates.
4. The bound rate 100.0 is 100% when rounded off to the first decimal place, and therefore 100 means that there are no unbound items.

**Figure II-5- 3 Simple average bound tariff rate of non-agricultural products**



Prepared by the Ministry of Economy, Trade and Industry based on the data of World Tariff Profiles 2017

**(4) TARIFF CLASSIFICATION**

Like tariff rates, tariff classification represents a basic component of the tariff system. The tariff schedule, which is the standard of each member’s tariff system, consists of the tariff classification numbers assigned to each product and the tariff rates applicable to each of those products. The fair administration of this process is critical for proper application of tariff rates. For example, by intentionally classifying a certain product under a classification number with a higher tariff rate, tariff reduction negotiations become practically ineffective. Therefore, tariff classification is extremely significant for administering tariffs.

The GATT contains no rules regarding tariff classification. In the past, members maintained their own systems. As trade expanded, however, members recognized the need for a more uniform classification system, which resulted in the “Harmonized Commodity Description and Coding System” or “HS” system under the auspices of the Customs Co-operation Council (CCC; now known as the “World Customs Organization” or “WCO”). The HS was implemented on January 1, 1988, by the international HS Convention.

As of February 2018, 155 countries and the EU, including Japan, the United States and the EU are Contracting Parties to the Convention. If the number of countries that are not Contracting Parties to the Convention but apply the provisions in the annex to the HS Convention (the HS nomenclature; the minimum unit is 6 digits) and others is added, a total of 209 countries/regions etc. use harmonized tariff classification numbers up to 6 digits.

Members of the HS Convention must harmonize the lists of items included in their tariff and statistical tables with the list of items found in the annex to the Convention. The tariff schedules and the export/import statistical tables attached to Japan's Customs Tariff Law and Temporary Tariff Measures Law conform to the Harmonized System.

Although the HS nomenclature is created to reflect the current state of international trade, technological advances continue to bring out new products and change the nature of international trade. The Harmonized System has been revised six times since 1988 (in 1992, 1996, 2002, 2007, 2012, and 2017) to accommodate these changes.

In 2017, some headings and sub-headings that reflect societal demands and technology innovations were added and modified as part of the 2017 HS nomenclature revision (the new HS nomenclature was approved by the WCO Council in June 2014 and took effect in January 2017).

## **(5) CUSTOMS VALUATION**

The final component of tariffs is the valuation of goods for tariff purposes.

Customs valuation is the procedure for assessing the customs value. In customs valuation, an appropriate customs value needs to be assessed in an objective manner, and arbitrary assignment of customs value would make the tariff rates meaningless. Declaring prices lower than the appropriate prices may be deemed as tax evasion, and, conversely, a customs administration assessing prices higher than the appropriate prices will be considered to be engaging in unreasonable inflation of tariff amounts. GATT Article VII and the "Agreement on Implementation of Article VII" (Customs Valuation Agreement) define international rules for valuation.<sup>4</sup> For details, see pages 326-334 of the 2017 Report on Compliance by Major Trading Partners with Trade Agreements - WTO, EPA/FTA and IIA -.

## **2. LEGAL FRAMEWORK**

The WTO bans, in principle, all quantitative restrictions, but allows the imposition of tariffs. It then attempts to reduce the barrier posed by tariffs through tariff negotiations among Members, whereby they agree to bind themselves to maximum rates inscribed in their tariff schedules ("bound rates") for individual items (generally following the tariff classification nomenclature) and negotiate their progressive reduction.

### **(1) GATT DISCIPLINES**

GATT Article II obligates members to apply tariff rates that are no higher than their bound rates. GATT Article XXVIII specifies that when Members wish to raise their bound rates or to withdraw tariff concessions, they must negotiate and reach agreements with the Members with whom they had initially negotiated. In addition, they must enter into consultations with major supplying members that have a substantial interest in any change in the bound rate.

### **(2) DISCIPLINES ON TARIFF CLASSIFICATION**

Article 3.1 of the International Convention on the HS stipulates that the signatories "shall not

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<sup>4</sup> The Customs Valuation Agreement states that, "the primary basis for customs value under this Agreement is 'transaction value' as defined in Article 1...together with Article 8...adjustments." This is an explicit affirmation that the price actually paid is to be used as the basis for customs valuation. Article 2 of the Agreement provides for the transaction prices of similar goods to be used in exceptional cases. In addition, Article 7 of the Agreement bans certain determinations of customs value (e.g., the selling prices in the member of importation of goods produced in such member and minimum customs values).

modify the scope of the sections, chapters, headings, or subheadings of the Harmonized System.” This language ensures uniform administration of the HS. However, the HS Committee regularly reviews classifications in order to keep pace with technological development. The principle is that revisions of classification should not affect tariff bindings. If the classification of a good changes in such a way as to raise its bound rate, members must enter into negotiations under the terms of GATT Article XXVIII.

### **(3) THE IMPORTANCE OF “BINDING”**

It should be obvious from the discussion so far that WTO rules do not preclude Members from setting high bound rates or not binding some items. The WTO rules therefore allow Members to raise their applied tariff rates up to the level of their bound rates and to raise tariff rates at will for unbound items. However, even if the rules allow such measures, sudden raises in tariffs will undoubtedly and inevitably cause adverse effects on trade.

Moreover, non-binding tariff rates are also contrary to the spirit of the WTO, which is based on the idea of using “binding” to reduce tariffs. Thus, the importance of binding cannot be overemphasized. As a result of the Uruguay Round, binding coverage (total number of bound tariff products/total number of products, %) of Japan, the United States, the EU, and Canada is now about 100 percent. The percentage of other members and regions is somewhat lower, and in some cases substantially lower. For example: the Republic of Korea at 94.1 percent, Indonesia at 95.8 percent, Thailand at 71.4 percent, Malaysia at 81.9 percent, Singapore at 67.3 percent, and Hong Kong, China at 39.8 percent (Source: World Tariff Profiles 2017, WTO Secretariat).

When making concessions, Members should coordinate bound tariff rates and applied tariff rates wherever possible in order to improve predictability. The general practice among developing members, however, is to maintain a large disparity between bound and applied tariff rates. This practice allows a member to raise tariff rates at will up to the level of the bound rates. In terms of predictability, this poses a problem. The practice of binding tariff rates at such higher levels over the applied tariff rates must be corrected. Developed members seldom engage in this practice.

## **3. ECONOMIC ASPECTS AND SIGNIFICANCE**

This section analyses some of the basic economic issues associated with tariffs. Specifically, it examines why tariffs are preferable to quantitative restrictions and why it is desirable that they be reduced. This section then considers the importance of international tariff-reduction negotiations under the WTO.

### **(1) THE EFFECT OF TARIFFS**

The most basic effect of an import tariff is to raise domestic prices in the country imposing the tariff. In “small countries” (defined for our purposes as members that do not have an influence on world prices), the domestic prices will rise in equivalent to the amount of the tariff. In “large countries” (those that have an impact on world prices), the price increase is somewhat less than the amount of the tariff because the tariff will reduce demand, which reduces world prices.

The rise in domestic prices of the imported goods expands domestic production while at the same time, decreasing demand. Tariffs benefit competing domestic producers, but harm consumers. Obviously, the importing Member also generates tax revenues from the tariff.

Tariffs have different benefits and costs to different groups within an economy; the relative sizes of these benefits and costs create changes in the economic welfare of the importing Member as a whole. For “small members” with no influence on world prices, the imposition of a tariff

necessarily reduces economic welfare, while for “large members” a tariff can improve economic welfare because world prices are depressed, improving the terms of trade. If tariffs are sufficiently low, the improvement in terms of trade will always be greater than the costs of the tariff; there exists in theory an “optimal tariff” that will maximize economic welfare. However, an improvement in one Member’s terms of trade corresponds to a deterioration in the terms of trade of other Members and, therefore, a reduction in the economic welfare of trading partners. This may cause frustration among the trading partners.

When goods are produced using imported raw materials, the tariff rate on the finished goods by itself does not generally constitute the level of protection that the finished goods enjoy. Tariffs on the raw materials must also be considered in terms of overall trade. If the tariff on the raw materials is lower than the tariff on the finished product, the level of protection afforded the finished product is higher than the tariff rate on the finished product would suggest (protection rates that take account of tariffs on raw materials are called “effective protection rates”). It should be underscored, therefore, that even low tariff rates can provide full-fledged protection for domestic industries.

## **(2) THE EFFECT OF QUANTITATIVE RESTRICTIONS (SEE CHAPTER 3 “QUANTITATIVE RESTRICTIONS”, PART II)**

Quantitative restrictions take many forms, the most common being import quotas. Theoretically, the effect of quantitative restrictions is the same as that of import tariffs, *i.e.*, a reduction of the amount of goods imported and higher domestic prices for those goods (the “equivalence theorem”).

Quotas differ from tariffs because the importing Member’s government gains no revenue from quotas while the importers to whom the licenses are allocated obtain excessive profits (“rents”). (However, the importing Member government could obtain the same revenues as from tariffs if licenses were sold to importers by auction.)

It is generally understood that the “equivalence theorem” does not hold when the domestic market is not under perfect competition (*e.g.*, in the case of a monopoly), when the market is growing, or when there are changes in the price of the merchandise. In these cases, quantitative restrictions will usually have a more restrictive effect on the market than will tariffs.

## **(3) WHY TARIFFS ARE PREFERABLE TO QUANTITATIVE RESTRICTIONS**

As we have noted, the WTO Agreement generally bans all quantitative restrictions, but permits tariffs to be used to protect domestic industries. There are several reasons for this. Quantitative restrictions tend to lack transparency in their application (for example, decisions on license awards and their quantities may be arbitrary) compared to tariffs. Similarly, quantitative restrictions impose flat restrictions on imports regardless of changes in world prices and foreign-exchange rates. There is also no guarantee that import quota allocation will be fair. Finally, where tariffs are used, exporters can export by improving their efficiency.

## **(4) JUSTIFICATIONS FOR TARIFF REDUCTIONS**

The WTO Agreement permits tariffs as a means of industrial protection (unlike quantitative restrictions, which are generally banned), but also seeks to gradually reduce those tariffs through negotiations among members.

Reducing tariffs mitigates the “loss of efficiency” generated by the distortions to the price system that the tariff causes (the “dead weight loss”). Reducing the degree of market protection also expands the market, allowing producers and exporting members to enjoy economies of scale, bringing benefits to the economy as a whole.

There are also arguments against reducing tariffs. Tariffs have certain benefits because they improve the terms of trade for “large countries” (the “optimal tariffs” argument). Similarly, when there are domestic market failures, tariffs might be seen as a means of increasing welfare.

However, these arguments are not necessarily convincing. Any increase in welfare through an “optimal tariff” is achieved at the expense of trading partners and reduces worldwide economic welfare relative to potential results in a free trade context. Even the economic welfare of the Member imposing the tariff is uncertain because retaliatory measures imposed by trading partners may ultimately result in reduced economic welfare. Thus, domestic market failures would be better addressed directly of domestic measures than through border measures such as tariffs.

## **(5) INCOME REDISTRIBUTION AND THE IMPORTANCE OF INTERNATIONAL NEGOTIATIONS**

From an economic standpoint, it would seem reasonable to conclude that tariff reductions are basically beneficial because they increase economic efficiency and are therefore indisputably desirable. It is rare, however, for Members to eliminate their tariffs completely. In practice, Members often impose tariffs not to increase overall welfare, but to redistribute income. This is a reflection of political will, as influenced by the lobbying activities of interest groups and others.

When tariffs are imposed for politically motivated reasons, it is difficult to achieve voluntary reductions merely because they will increase the economic welfare of the society as a whole. This domestic political reality is what makes international negotiations to reduce tariffs — the basic strategy of the WTO — so important. When international negotiations are conditional upon mutual benefits, governments are more likely to consent to tariff reductions and trade liberalization.

## ***4. PREFERENTIAL TREATMENT FOR LDCs***

During the Lyon Summit of June 1996, the Director-General of the WTO advocated a tariff waiver program for least-developed members (LDCs). Subsequent Summits have also advanced declarations calling for studies on ways to improve LDCs' access to markets.

With these backgrounds, an initiative to provide duty-free and quota-free treatment to essentially all products from LDCs was proposed during the third WTO Ministerial Conference in December 1999 in Seattle. Unfortunately, an agreement could not be reached at that time.

In February 2000, the Director-General of the WTO again proposed this initiative as a confidence-building measure for developing members in preparation for the launch of the new round of negotiations. At a United Nations Conference on Trade and Development (UNCTAD) meeting in February 2000, then Japanese Prime Minister Keizo Obuchi declared his intention to promote the LDCs initiative and encourage the participation of other major members. By the end of March of that year, Japan, the EU, the United States and Canada reached an agreement that developed Members would provide least-developed Members with enhanced market access by according and implementing duty-free and quota-free treatment consistent with domestic requirements and international agreements for all essentially products originating in LDCs.

After this agreement, the initiative was formally announced by Director-General Moore at the WTO General Council in May 2000. At that time, Chile, the Czech Republic, Hungary, Iceland, the Republic of Korea, New Zealand, Norway, Slovenia and Switzerland expressed their intention to join.

The Chairman's statement in June 2000 APEC Ministerial Meeting also urged the participation of more APEC member economies in this LDC initiative. It was since then confirmed that Hong



Kong, Australia and Singapore would join.

In May 2001, the Brussels Declaration issued by the Third United Nations Conference on LDCs noted that UN members “aim at improving preferential market access for LDCs by working towards the objective of duty-free and quota-free market access for all LDCs’ products in the markets of developed members,” and a Programme of Action for LDCs was also adopted. The same course was reaffirmed in the G8 Communiqué issued by the Genoa Summit in July of the same year and in the 2001 Doha WTO Ministerial Declaration. The Brussels Declaration was also reaffirmed in: (i) the G8 Africa Action Plan adopted at the Kananaskis Summit held in Canada at the end of June 2002; (ii) the Plan of Implementation adopted at the WSSD (World Summit on the Sustainable Development) in South Africa at the end of August 2002; (iii) the Cooperative G8 Action on Trade committed at the Evian Summit in France in June 2003; and (iv) the G8 Official Document on Trade committed at the Gleneagles Summit in UK in July 2005.

In Japan, the Council on Customs, Tariff Foreign Exchange and Other Transactions submitted a recommendation in December 2002 on the revision of customs duties for Fiscal Year 2003. For the GSP scheme (Generalized System of Preferences), in particular, Japan, recognizing the discussions in the UN LDC Conference and in various summits, has substantially expanded duty-free treatment of agricultural products for LDCs (adding 198 agricultural items to the duty-free and quota-free list).

In December 2005 the Council on Customs, Tariff and Foreign Exchange and Other Transactions submitted a recommendation that East Timor, Djibouti, and Comoros be added to Japan’s LDC preference system after Fiscal Year 2006.

Before the WTO Ministerial Conference in Hong Kong, Japanese Prime Minister Junichiro Koizumi introduced “Japan's Development Initiative” which included duty-free and quota-free market access for essentially all products from all LDCs, as well as certain capacity building initiatives.

The Hong Kong Ministerial Declaration provides that developed Members shall provide duty-free and quota-free market access on a lasting basis for all products, or at least 97% of all items in case of difficulty, originating from least developed countries. In addition, Members reached an agreement with respect to raw cotton and other S&D (Special and Different Treatment) measures for LDCs. Accordingly, Japan believes that the WTO Hong Kong Ministerial Conference achieved success in advancing meaningful results for developing countries.

In December 2006 the Council on Customs, Tariffs and Foreign Exchange and Other Transactions issued a recommendation for the expansion of duty-free and quota-free market access treatment for LDCs, as called for by the WTO Hong Kong Ministerial Declaration for the further support of LDCs. Based on this recommendation, the ratio of LDCs’ products treated as duty-free and quota-free increased to approx. 98% from approx. 86% at number of products base since April 1, 2007.

In addition, at the 9th WTO Ministerial Conference held in Bali, Indonesia, in December 2013, developed country Members, which did not achieve the ratio of 97% of the product base, agreed to make improvements by the time of the 10th WTO Ministerial Conference meeting. The Conference also agreed on a guideline for preferential rules of origin for LDCs to make the identification of LDC products easier and improve the application of preferential treatment. In response to requests from LDCs, Japan simplified preferential rules of origin under Generalized System of Preferences for HS61 (knit apparel) from April 1, 2015. With the amendment, products classified in Chapter 61 are qualified as originating goods when the products are manufactured from fabrics.

At the 10th WTO Ministerial Conference meeting in Nairobi, Kenya, in December 2015, an

agreement was reached on a ministerial decision indicating detailed directions for specific issues regarding preferential rules of origin for LDCs, based on the guideline agreed at the 9th Ministerial Council meeting (See Chapter 10 “Rules of Origin,” Part II).

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## STATUS OF NEGOTIATIONS

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### ***1. DOHA ROUND NON-AGRICULTURAL MARKET ACCESS (NAMA) NEGOTIATIONS***

#### **(1) BACKGROUND OF THE DISCUSSION**

Trade in non-agricultural products (industrial goods and forestry and fishery products) accounts for 90% of world trade. Improvement in market access of non-agricultural products is the key to revitalization of the world economy. As a result of the past several rounds of GATT and WTO negotiations, although high tariffs remain on some items, tariffs in developed countries as a whole have come to a low level. On the other hand, many developing countries have high tariffs.

In the Doha Round negotiations have been carried out since 2001 for the reduction or elimination of tariff and non-tariff barriers to further improve market access.

Regarding tariff negotiations, the two issues of flat tariff reduction and elimination of tariffs by sectors have been addressed. Flat reduction of tariffs is the method of applying reduction (formula) uniformly to all items. There was disagreement between developed and developing countries regarding the core factors in the negotiation (coefficient of the formula, flexibility applied to developing countries, inflation of items free of tariff bindings), but in the fourth revised text of the Chairman of December 2008, a consensus was reached on many factors.

On the other hand, because the tariffs in emerging nations could not be sufficiently reduced by the formula, with the aim of further reduction in tariffs, negotiations were carried out for elimination of tariffs on products in specific sectors. These negotiations were intended to identify specific industrial sectors and eliminate tariffs in excess of those achieved by way of a formula-cut approach. Currently, 14 sectors, including electronics and chemicals etc., have been proposed. Recognizing the sensitivity and export interest of each country, negotiations have sought to establish flexible conditions for each product field. Discussions have been carried out with the aim of attaining the required critical mass (a portion of the world trade) agreeing to tariff elimination in a sector, but at this time, no tariff elimination proposal by sector has been agreed upon.

In addition, simultaneously with the sectoral tariff elimination negotiations, discussions on the elimination of non-tariff barriers (NTBs) were carried out. In the fourth revised text of the Chairman of December 2008, 13 proposals related to non-tariff barriers are discussed in the Annex. “Sectoral” proposals regarding national regulations, harmonizing conformity assessment procedures, and strengthening of transparency and “Horizontal” proposals that define the procedures to promote bilateral talks for the reduction of non-tariff barriers are included.

#### **(2) CURRENT STATUS**

Flat reduction of tariff has been discussed since the start of the Doha Round negotiations in 2001, and, the results were reflected in the fourth revised text of the Chairman of December 2008. Since then, discussions mainly have dealt with sectoral elimination of tariffs and non-tariff barriers. However, no conclusion has been reached.

Because of this situation, in order to maintain confidence in the multilateral trading system of the WTO, negotiations are underway outside the framework of the Doha Round negotiations to improve market access for sectors for which there is strong demand from industry. One of them is the Information Technology Agreement (ITA) expansion negotiation.

In the following, along with the summary of the Agreement, the status of expansion negotiations will be explained.

## **2. INFORMATION TECHNOLOGY AGREEMENT (ITA) PRODUCT EXPANSION NEGOTIATION**

### **(1) BACKGROUND**

At the WTO Singapore Ministerial Conference in December 1996, 29 member countries (83% of world trade share) agreed to eliminate tariffs on information technology (IT) products and the ITA (Information Technology Agreement) went into effect in 1997. Currently, 82 WTO members (Figure II-5-4) are participating in the ITA, though, because of the MFN principle the effect of tariff elimination will be applied to all member countries under the WTO agreement.

The ITA has contributed to the elimination of tariffs on 15 percent of the total world trade of applicable items. Initially when ITA was launched in 1996, the target trade volume was \$1.4 trillion and by 2013, it expanded about 3.7 times to \$5.3 trillion. The ITA contributes to the increase in productivity and growth of economies through IT by trade expansion of IT products. In particular, the international supply chain has developed most in the electrical and electronics sectors, the significance of its multilateral trade liberalization under the WTO is large.

### **(2) STATUS OF THE NEGOTIATIONS**

#### ***(a) History from the launch to conclusion of ITA expansion negotiations***

Technological advancements are rapid and every year new IT products are being released. However, no review of ITA products has been undertaken ever since the ITA came into effect in 1997. For this reason, there has been strong demand from the industry of each country to expand the list of applicable ITA products to include new products that have been released due to technological advancements. More specifically, in March 2011, 39 hi-tech industry groups from 17 countries and regions including Japan (later in May 2011, 41 groups from 18 countries) issued a joint statement requesting expansion of the ITA.

Encouraged by the views of the industry, Japan and the U.S. led the launch of ITA expansion negotiations in mid-2011.

At the symposium of the 15th anniversary of the ITA held at the WTO in Geneva in May 2012, taking into account the fact that there was a strong demand from industries for the ITA expansion negotiations, a majority of the countries and regions strongly supported the joint proposal by Japan, the U.S. and other members on ITA expansion. The ITA Committee official meeting held on the next day resulted in the commencement of substantial negotiations.

Following the successive negotiations, at a meeting in Geneva in July 2015, the members participating in the negotiations agreed on the expansion 201 products list (including new-type semiconductors, semiconductor manufacturing equipment, digital multifunction machines and printers, digital AV devices, and medical devices). In the same month, a declaration on the agreement on tariff elimination periods, implementation schedules, etc. as well as the 201 products was reported and published at a meeting of the WTO General Council.

From September 2015, Japan chaired the ITA expansion negotiations, dealing with tariff elimination periods for each product and other matters. At the 10th WTO Ministerial Conference meeting in Nairobi, Kenya, in December 2015, the negotiations were concluded while Mr. Motoo Hayashi, Minister of Japan's Economy, Trade and Industry, served as chairman.

### **(b) Current Status**

As of February 2018, 55 members (see Figure II-5-4; Georgia began to participate in November 2017) covering more than 90% of the world trade value for the 201 covered products are participating in the ITA expansion. The world trade value for the 201 products has reached approximately \$1.3 trillion per a year, accounting for about 10% of the total value of world trade. Examples of high tariff items that Japan has large exports include digital video cameras (maximum tariff rate of 35%), photoresist for producing semiconductors (maximum tariff rate of 20%), flat panel display production equipment (maximum tariff rate of 10%), etc. The value of the 201 covered products exported from Japan to the world is estimated to be approximately 9 trillion yen, and the reduced amount of tariffs paid to countries to which the products are exported is estimated to be approximately 170 billion yen.

Tariff elimination for these products gradually started from July 1, 2016, and about 90% of relevant tariffs are to be eliminated by July 2019. By January 2024, tariffs on the 201 products will have been completely eliminated for all 54 members. As of February 2018, 50 out of 55 members started elimination of tariffs (see each chapter of Part I for detailed information on each member). On April 21, 2017, the Japanese Diet approved written confirmation of modifications and corrections to the WTO Schedules of Concessions to eliminate tariffs. On May 16, tariffs on five items included in the subject items were immediately eliminated ([1] adhesive films for touchscreens, [2] plastic for small electronic components, [3] solid inks, including those for printers, [4] adhesive circular polishing pads for semiconductor wafer manufacturing devices, and [5] plastic boxes, containers, etc. used for the transportation and packaging of semiconductor wafers, etc.).

**Figure II-5-4 Participating Members to ITA and ITA Expansion as of February 2018**

ITA participating WTO members (Total: 82 members)				
ITA expansion participating WTO members (Total: 55 members (underlined))				
* The number of members includes the 28 EU members.				
Afghanistan	<u>European Union</u>	<u>Republic of Korea</u>	Oman	<u>Singapore</u>
<u>Albania</u>	<u>Georgia</u>	Kuwait	Panama	<u>Switzerland</u>
<u>Australia</u>	<u>Guatemala</u>	Kyrgyz Republic	Peru	<u>Liechtenstein</u>
Bahrain	Honduras	<u>Macao, China</u>	<u>The Philippines</u>	Tajikistan
<u>Canada</u>	Hong Kong, China	<u>Malaysia</u>	Qatar	<u>Thailand</u>
<u>China</u>	<u>Iceland</u>	<u>Mauritius</u>	Russian Federation	Turkey
<u>Colombia</u>	India	Moldova	Saudi Arabia	Ukraine
<u>Costa Rica</u>	Indonesia	<u>Montenegro</u>	Seychelles	United Arab
<u>Dominican</u>	<u>Israel</u>	Morocco	<u>Separate Customs</u>	Emirates
<u>Republic</u>	<u>Japan</u>	<u>New Zealand</u>	<u>Territory of Taiwan,</u>	<u>United States</u>
Egypt	Jordan	Nicaragua	<u>Penghu, Kinmen,</u>	Viet Nam
El Salvador	Kazakhstan	<u>Norway</u>	<u>and Matsu</u>	

### **3. ENVIRONMENTAL GOODS AGREEMENT (EGA) NEGOTIATION**

#### **(1) BACKGROUND**

The launch of negotiations on “the reduction or, as appropriate, elimination of tariff and non-tariff barriers to environmental goods and services” and establishment of the Committee on Trade and Environment Special Session (CTESS) was included in the Doha Ministerial Declaration of 2001. At CTESS, discussions on a list of environmental goods subject to reduction/elimination of tariffs have been taking place (see Addendum-1 “Negotiation Progress on Doha Development Agenda”, Part II for details).

Subsequently, while the Doha Round negotiations were stagnating, discussions on reduction/elimination of tariffs on environmental goods took place within the framework of APEC. At the APEC Summit meeting in Honolulu in November 2011, it was agreed to reduce the applied tariff rate of environmental goods to 5% or lower by the end of 2015. At the APEC Summit meeting in Vladivostok in September 2012, it was agreed that 54 items should be subject to that reduction.

#### **(2) STATUS OF THE NEGOTIATIONS**

##### ***(a) History until the launch of Environmental Goods Agreement negotiations***

In response to the agreement made at APEC with regard to tariff reduction on 54 items of environmental goods, discussions on how to proceed with negotiations on liberalization of environmental goods in the WTO were initiated in Geneva in November 2012 by “Environment Friends” countries, comprised of countries promoting trade liberalization of environmental goods (Japan, the United States, the EU, the Republic of Korea, Chinese Taipei, Singapore, Canada, Australia, New Zealand, Switzerland and Norway).

In June 2013, the United States released the “President’s Climate Action Plan”. In this Plan, the United States expressed its intention to launch negotiations at the WTO towards global free trade in environmental goods, including clean energy technologies such as solar, wind, hydro and geothermal, based on the APEC list of environmental goods, and to work towards securing participation of countries which account for 90% of global trade in environmental goods over the next year, etc.

It was then agreed at the APEC Summit meeting in Bali in October 2013 to seek opportunities to proceed with accelerated discussions at the WTO based on the APEC list of environmental goods. In January 2014, on the occasion of the unofficial WTO Ministerial Council meeting in Davos, at the initiative of the United States, 43 willing members (Japan, the U.S., the EU (including the 28 EU members), China, the Republic of Korea, Chinese Taipei, Hong Kong, Singapore, Canada, Australia, New Zealand, Switzerland, Liechtenstein, Norway, and Costa Rica) made a statement supporting the launch of WTO Environmental Goods Agreement (EGA) negotiation.

In July 2014, 43 willing members launched EGA negotiation and affirmed their intention to aim at tariff elimination on a broader range of products than the 54 products agreed at APEC.

##### ***(b) Current status of the negotiations***

From July 2014, the members met every one or two months in Geneva, discussing products as requested by each member. In this process, they consulted with experts from international organizations, government agencies, academic societies, industry, etc.

From April 2015, the members narrowed down the list of products discussing from the

viewpoints of environmental credibility and each member's sensitivity.

At the meeting in November 2015, the members negotiated toward reaching agreement on products list at the 10th WTO Ministerial Conference meeting in Nairobi, Kenya, in December 2015. However, the EGA negotiation failed to conclude and carried over till 2016.

In the Leaders' Declaration of the G20 Hangzhou Summit in September 2016, G20 leaders welcomed the "landing zone" achieved in the negotiations (the list of candidate products subject to tariff elimination was narrowed down to 304 products), and committed to doubling their efforts to conclude EGA by the end of 2016. In December of the same year, the EGA Ministerial Meeting hosted by the U.S. and the EU was held with the aim of concluding EGA by the end of the year based on the Leaders' Declaration of the G20 Hangzhou Summit. However, at the meeting, gaps in the participants' viewpoints regarding subject products could not be bridged and an agreement was not reached.

Israel joined the EGA negotiations in January 2015, followed by Turkey and Iceland in May in the same year. As of February 2017, 46 members are participating in the negotiations.

Although the future negotiation schedule is still unknown, Japan has been putting some efforts into creating momentum for the early recommencement of the negotiation process, such as holding the EGA Beijing Symposium at METI's initiative in August 2017. Japan will continue to cooperate with other relevant countries and make active efforts in promoting these negotiations to strengthen the competitiveness of Japanese industries, contribute to global environmental issues, and revitalize the WTO as a negotiation venue, seeking to conclude the negotiations as early as possible.